Jurnal YUDISIAL

jurnal.komisiyudisial.go.id
E-ISSN: 2579-4868; P-ISSN: 1978-6506
Vol. 17 No. 2 Agustus 2024

THE ANOMALY OF PRETRIAL AUTHORITY IN INDONESIAN LAW ENFORCEMENT

An Analysis of Decision Number 24/PID/PRA/2018/PN.JKT.SEL

ANOMALI KEWENANGAN PRAPERADILAN DALAM UPAYA PENEGAKAN HUKUM DI INDONESIA

An Analysis of Decision Number 24/PID/PRA/2018/PN.JKT.SEL

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Received: 7 September 2022; last revised: 23 Juli 2024; accepted: 12 September 2024

DOI: 10.29123/jy/v17i2.553

ABSTRACT

Pretrial Decision Number 24/PID/PRA/2018/PN.JKT.SEL, issued on 9 April 2018, became crucial in the Bank Century corruption scandal. In its ruling, Single-Judge Effendi Mukhtar ordered the Corruption Eradication Commission to continue the investigation or, if necessary, transfer the case to the police and the prosecutor's office for further handling. It also clarified the legal status of senior officials, including former Bank Indonesia Governor Boediono, Deputy Governor Muliaman D Hadad, and former Secretary of the Financial System Stability Committee Raden Pardede. The decision sparked controversy due to the unclear legal status of certain defendants. This study employs a normative legal research method with a literature review using legislative, conceptual, and case-based approaches. This analysis is descriptive-prescriptive, examining legal sources and previous rulings. The result shows that the pretrial decision has sparked controversy and attracted significant legal attention. It extends pretrial authority by designating suspects not directly involved in the case. The ruling is assumed to exceed jurisdictional limits set by Article 1 point 10, Article 82 of the Criminal Procedure Code, Supreme Court Regulation Number 4 of 2016, and Article 53 of Law Number 48 of 2009, which may lead to injustice and undermine legal certainty for the defendant. Therefore, addressing this issue requires revising pretrial procedures, training judges and law enforcement, developing consistent guidelines, and strengthening oversight to ensure fairness and transparency.

Keywords: pretrial authority; judicial overreach; legal certainty; judicial review; legal reform.

ABSTRAK

Putusan Praperadilan Nomor 24/PID/PRA/2018/PN.JKT.SEL yang dikeluarkan pada 9 April 2018 menjadi titik perhatian dalam skandal korupsi Bank Century. Dalam putusannya, Hakim Tunggal Effendi Mukhta memerintahkan Komisi Pemberantasan Korupsi untuk melanjutkan proses penyidikan atau melimpahkan kasus tersebut kepada kepolisian dan kejaksaan untuk penanganan lebih lanjut. Putusan ini juga menetapkan status hukum pejabat senior, seperti mantan Gubernur dan Deputi Gubernur Bank Indonesia Boediono dan Muliaman D Hadad, serta mantan Sekretaris Komite Stabilitas Sistem Keuangan Raden Pardede. Putusan ini kontroversial karena status hukum beberapa terdakwa tidak jelas. Penelitian ini menggunakan metode hukum normatif dengan pendekatan studi kepustakaan, perundang-undangan, konseptual, dan kasus. Penelitian ini bersifat deskriptif dan preskriptif dengan menganalisis berbagai sumber hukum serta putusan-putusan pengadilan sebelumnya. Hasil penelitian mengungkapkan bahwa putusan praperadilan tersebut menimbulkan kontroversi dan memicu perhatian hukum yang signifikan. Putusan ini memperluas kewenangan praperadilan dengan memerintahkan penetapan tersangka terhadap individu yang tidak terlibat langsung dalam peradilan. Hal ini melampaui batas kewenangan yang diatur dalam Pasal 1 angka 10 dan Pasal 82 Kitab Undang-Undang Hukum Acara Pidana, Peraturan Mahkamah Agung Nomor 4 Tahun 2016, serta Pasal 53 Undang-Undang Nomor 48 Tahun 2009. **Keputusan yang berlebihan** ini memiliki implikasi yuridis yang signifikan, yang berpotensi menimbulkan ketidakadilan dan melanggar kepastian hukum bagi para tersangka. Untuk mengatasi masalah ini, perlu dilakukan perumusan kembali prosedur praperadilan, pelatihan yang komprehensif bagi hakim dan penegak hukum, pengembangan pedoman yang konsisten, serta penguatan mekanisme pengawasan untuk memastikan keadilan dan transparansi dalam proses praperadilan.

Kata kunci: kewenangan praperadilan: *judicial overreach*; kepastian hukum; *judicial review*; reformasi hukum.

I. INTRODUCTION

A. Background

Indonesia is a state of law (*rechtsstaat*), as affirmed in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia (Fernando, 2020a). According to Herman J. Pieterson, the concept of law, translated from the English term "law," is a normative construct. In this sense, law is understood as an instrument of the polis aimed at justice and is composed of rules of conduct that regulate human behavior (Pujirahayu, 2021). Crime grows and evolves along with the development of society (Herlambang et al., 2022). The more advanced and developing human civilization, the more diverse and complex the forms of crime appear (Fernando, 2020b). Still, in its development, new types of complex crimes appear along with the development of the community, for example (Fernando, 2020a). The law integrates and coordinates conflicting interests in society, aiming to minimize collisions through established frameworks and regulations (Rahardjo, 2021). If studied more deeply, understandings like this are inseparable from the constitution's role and function as a basic rule (foundation) and a buffer for the establishment of an independent country and towards a fair and prosperous country. So, to achieve this, order in a society where these rules are made through authorized institutions is necessary (Fernando., Pujiyono., & Rochaeti, 2022).

Pretrials serve as a unified system, as the criminal justice process in Indonesia consists of interconnected stages that cannot be separated. The stages are interconnected, with each stage influencing the others. According to Cesaroni & Peterson-Badali (2016), in Indonesia's criminal

justice system, the police have the authority to conduct investigations, while judges hold the power to prosecute (Jaholden, 2021).

The author thoroughly analyzes a contentious ruling in several pretrial decisions, explicitly focusing on the Decision Number 24/PID/PRA/2018/PN.JKT.SEL related to the Century Bank case. This case serves as a critical example for examining established norms and rules. The South Jakarta District Court granted the pretrial lawsuit regarding the alleged corruption case at Bank Century filed by the Indonesian Anti-Corruption Society (MAKI) against the Corruption Eradication Commission. The Pretrial Decision Number 24/PID/PRA/2018/PN.JKT.SEL, read by single-judge Effendi Mukhtar in 2018, was controversial. Some people find the contents of the decision to be unusual for a pretrial lawsuit. In one of the decision points, the judge ordered the Corruption Eradication Commission to name the former Governor of Bank Indonesia, Boediono, along with other parties, as suspects. The main issue is whether the judge's decision violated existing norms or rules or represented a legal breakthrough (*rechtsvinding*) considering the disarray in the legal system in this country.

The Decision Number 24/PID/PRA/2018/PN.JKT.SEL was issued on 9 April 2018. This pretrial case was handled by Single Judge Effendi Mukhtar. The instructions in Judge Effendi's decision were clear: the Corruption Eradication Commission asked to continue the investigation into the Century Bank corruption or hand over the case to the police and the prosecutor's office. The decision also ordered the Corruption Eradication Commission to name former Bank Indonesia Governor Boediono, former Bank Indonesia Deputy Governor Muliaman D Hadad, and former Secretary of the Financial System Stability Committee Raden Pardede. The decision calls for imposing penalties on Boediono, Muliaman D Hadad, Raden Pardede, and others, as noted in the ruling associated with Budi Mulya. Budi Mulya, who formerly held the position of Deputy Governor of Bank Indonesia, has been convicted for his involvement in the corruption case concerning Century Bank and sentenced to 15 years in prison.

In his ruling, the pretrial judge firmly addressed the Century Bank case, specifically regarding several defendants whose processing was incomplete and whose legal status was ambiguous. The authoritative evidence in question is the Decision Number 21/PID.SUS/TPK/2014/PN.JKT.PST, dated 16 July 2014, concerning the defendant, Budi Mulya. The pretrial judge considered mentioning that specific individuals had not been named as suspects in the corruption case. Corruption Incident Report Number LK TPK-18/KPK/11/2012, reported by Arry Widyatmoko, showed alleged acts of corruption by Bank Indonesia officials. The pretrial judge considered Saut Situmorang's statement that he would not investigate Century and BLBI to be subjective and contradictory to the previous report. The pretrial judge argued that Corruption Eradication Commission should be more active in eradicating corruption and utilize its authority as a super body institution. The pretrial judge considered that Saut Situmorang, as a Corruption Eradication Commission Commissioner, needed to be more balanced and counterproductive to the findings and reports of previous Corruption Eradication Commission investigators. According to the Contrarius Actus principle, the Bank Indonesia Governor is responsible for the violations. The pretrial judge advised Corruption Eradication Commission to accelerate the investigation process and refer the case to the public prosecutor or the police.

The pretrial judge's consideration of the Century Bank case contains essential information on several aspects, including:

1) Court Decision: The Central Jakarta Corruption Court issued a ruling, Number 21/PID. SUS/TPK/2014/PN.JKT.PST, dated 16 July 2014, involving the defendant Budi Mulya.

2) Legal Status of Several Individuals: The pretrial judge noted that several individuals' legal status is unclear and that they have not been named suspects in the corruption case.

3) Incident Reports: Arry Widyatmoko reported a report with Number LK TPK-18/ KPK/11/2012 alleging corruption by Bank Indonesia officials.

4) Saut Situmorang's Statement: Saut Situmorang, named a Corruption Eradication Commission Commissioner, stated that he would not investigate Century and BLBI. The judge viewed this statement as subjective and contradicted previous reports.

5) Judges' assessment of the Corruption Eradication Commission: The pretrial judge argued that the Corruption Eradication Commission should be more active in combating corruption and use its authority to the fullest.

6) Liability of Bank Indonesia Governor: By referring to the principle of Contrarius Actus, the pretrial judge mentioned that the Governor of Bank Indonesia should also be held responsible for the violations in this case.

7) Judge's Suggestion: The pretrial judge suggested that the Corruption Eradication Commission accelerate the investigation process and then transfer the case to the public prosecutor or the police.

The ruling in Decision Number 24/PID/PRA/2018/PN.JKT.SEL, read out by Single Judge Effendi Mukhtar, became controversial because it was considered unusual for a pretrial lawsuit. The judgment for Decison Number 24/PID/PRA/2018/PN.JKT.SEL was rendered on 9 April 2018. This pretrial matter was presided over by Single Judge Effendi Mukhtar. In the decision, the judge ordered the Corruption Eradication Commission to summon former Bank Indonesia Governor Boediono and other parties as suspects. This decision raises the question of whether the judge's action violates applicable norms or rules or whether this is a legal breakthrough (rechtvinding) given the complex legal situation in Indonesia. On the one hand, some argue that this decision violates pretrial rules because the judge is considered intervening in the Corruption Eradication Commission's investigation and determining who should be a suspect. This is considered to exceed the authority of judges in pretrial and could threaten the independence of the Corruption Eradication Commission. On the other hand, this ruling could be considered a legal breakthrough. In this view, the judge may overcome legal flaws and provide justice to the parties involved. However, this view remains controversial as it could set a dangerous precedent and blur the line between pretrial and investigative powers.

B. Problem

Is it appropriate for the pretrial judge's consideration in Decision Number 24/PID/PRA/2018/PN.JKT.SEL?

C. Goals and Usage

To analyze whether the judge's consideration is appropriate in Decision Number 24/PID/PRA/2018/PN.JKT.SEL.

D. Literature Review

1. Court Decision Review

According to Soeparmono (2005), a verdict is a statement by a judge as a state official who carries out the duties of the judicial power and who is authorized to do so, which is pronounced at the trial and aims to resolve the case. Mertokusumo (Widagdo, 2012) interprets the judge's decision as "… a statement by a judge who has the authority from his status as a state official to pronounce in a trial and aims to end or settle a case between the parties."

Based on the provisions contained in Article 1, Number 11 of the Criminal Procedure Code, it is stated that:

> "A court decision is a judge's statement pronounced in an open court session, which can be in the form of punishment or free or free from all legal claims in terms of and according to the method regulated in this law."

This is based on the provisions contained in Article 195 of the Criminal Procedure Code, which reads as follows:

> "All court decisions are only valid and have legal force if they are pronounced in a trial open to the public."

Law Number 48 of 2009 concerning Judicial Power in Article 50, paragraphs (1) and (2) states that:

> Paragraph (1): "A court's decision must not only contain the reasons and basis for the decision, but it must also contain certain articles of the relevant legislation or unwritten legal sources used as the basis for adjudicating."
>
> Paragraph (2): "Every court decision must be signed by the chairman and the judge who decides and the clerk who participates in the session."

There are three kinds of court decisions that are regulated in the Criminal Procedure Code, namely: in Article 191 paragraph (1) and (2), Article 193 paragraph (1). The forms of court decisions are as follows:

a) Free Verdict

A decision that acquits the defendant of the indictment (*vrijspraak*), or what is known as an acquittal. Article 191, paragraph (1) of the Criminal Procedure Code states: "If the court thinks that from the results of the examination at trial, the guilt of the defendant for the actions he is accused of is not legally and convincingly proven, then the defendant is acquitted."

b) Release Decision
An acquittal is a decision containing the defendant's release from all lawsuits (*onstlag van alle rechtsvervolging*). It is regulated in Article 191 paragraph (2) of the Criminal Procedure Code, which states that "If the court thinks that the act that has been charged against the defendant is proven, but the act does not constitute a criminal act, then the defendant is dismissed from all lawsuits."

c) Sentencing Decision
A sentencing decision contains a sentence (*veroordeling*). The judge will decide if the defendant's actions prove he committed the offense he charged. This is regulated in Article 193 paragraph (1) of the Criminal Procedure Code, which states: "If the court is of the opinion that the defendant is guilty of committing the crime he is accused of, the court shall impose a sentence."

2. Pretrial Review

Pretrial is an action or effort given by the district court institution to carry out or examine as well as decide on the validity of arrests, detentions, termination of investigations, termination of prosecutions, and deciding requests for compensation and rehabilitation whose criminal cases cannot be continued before the trial in the requested district court. The suspect who has become a defendant, the complainant, his family, and the suspect's legal counsel may submit a pretrial request (Anwar, 1989). With the dynamics and problems of cases that are increasingly diverse, resulting in Judges as representatives of God on earth also innovating in giving pretrial decisions, however, the innovations in pretrial decisions given by Judges are not following their authority or can be said to exceed the authority (*ultra vires*) given by the Criminal Procedure Code. Moreover, the decision of the pretrial judge who has exceeded his authority (*ultra vires*) cannot be requested for legal remedies, both appeals which are prohibited in the Constitutional Court Decision Number 65/PUU-IX/2011, cassation in Article 45A of the Supreme Court Law Number 5 of 2004 and re-approved in the Supreme Court Circular Letter Number 3 of 2014 (Nanda & Jaya, 2019).

According to Article 1 number 10 of the Criminal Procedure Code, pretrial is the authority of the judge to examine and decide, by the provisions stipulated in the law regarding:

a) Whether or not an arrest or detention is legal at the request of the suspect or his family or another party under the authority of the suspect;

b) Whether or not the termination of investigation or prosecution is legal at the request for the sake of upholding law and justice;

c) A request for compensation or rehabilitation by the suspect, his family, or another party on his behalf whose case was not brought to Court.

The pretrial is presided over by a single judge appointed by the head of the district court and assisted by a clerk (Article 78 paragraph [2] of the Criminal Procedure Code). The pretrial examination procedure is explained in Article 82, paragraph (1) of the Criminal Procedure Code, namely as follows:

a) Within three days after receipt of the request, the appointed judge determines the day of trial;

b) In examining and deciding whether or not an arrest or detention is legal, whether or not the termination of an investigation or prosecution is legal, a request for compensation and or rehabilitation as a result of an illegal arrest or detention, as a result of the legal termination of an investigation or prosecution and confiscated objects that are not included as evidence, the judge hears the statements of both the suspect or the applicant as well as the authorized official;

c) The examination is carried out in a fast manner, and no later than seven days, the judge must have rendered his decision;

d) If a case has already begun to be examined by a district court while the examination regarding a request to pretrial has not been completed, then the request is dismissed;

e) A pretrial decision at the investigative level does not rule out the possibility of the public prosecutor holding another pretrial hearing at the examination level if a new request is made for this purpose.

3. Explanation of Pretrial After the Constitutional Court Decisions

In recent years, the landscape of pretrial proceedings in Indonesia has undergone significant changes due to several pivotal decisions by the Constitutional Court. These decisions have clarified the scope and procedural aspects of pretrial mechanisms, fundamentally altering how pretrial processes are conducted and perceived. Key Constitutional Court decisions, including Decision Number 21/PUU-XII/2014, Decision Number 109/PUU-XIII/2015, Decision Number 102/PUU-XIII/2015, and Decision Number 130/PUU-XIII/2015, have addressed various aspects of pretrial proceedings, thereby enhancing the protection of suspects' rights and ensuring greater judicial oversight. Constitutional Court Decision Number 21/PUU-XII/2014 significantly broadened the scope of pretrial review. Before this decision, pretrial proceedings were limited to arrest, detention, and the legality of searches and seizures.

However, the Court ruled that the scope should also include the validity of suspect designation, thus providing suspects with an additional legal avenue to challenge their status before a full

trial. Constitutional Court Decision Number 109/PUU-XIII/2015 refined the pretrial process by clarifying the procedures and standards for pretrial applications. The Court emphasized the need for clear and transparent processes, ensuring that suspects could effectively contest the legality of their arrest, detention, and suspect designation. This decision aimed to prevent arbitrary actions by law enforcement and to reinforce judicial oversight. In Constitutional Court Decision Number 102/PUU-XIII/2015, the Court addressed the issue of evidence admissibility in pretrial proceedings. The decision highlighted that evidence to designate a suspect must meet specific legal standards and that any procedural violations in collecting evidence could be grounds for invalidating the suspect designation. This ruling underscored the importance of due process and the integrity of evidence in pretrial proceedings.

Constitutional Court Decision Number 130/PUU-XIII/2015 expanded on the rights of suspects during pretrial hearings, ensuring that suspects have adequate access to legal representation and the opportunity to present their case comprehensively. The Court stressed the necessity of fair and impartial pretrial proceedings, which are crucial for upholding the principles of justice and human rights. These Constitutional Court decisions collectively represent a significant shift towards enhancing judicial oversight and protecting the rights of suspects in Indonesia's legal system. By expanding the scope of pretrial review and clarifying procedural standards, these rulings aim to ensure that pretrial proceedings are conducted fairly, transparently, and in accordance with the rule of law. Consequently, these decisions have profoundly impacted the practice of pretrial proceedings, providing a more robust framework for safeguarding individuals' legal rights before a full trial commences.

4. Judge's Review

The judge's consideration is a stage where the assembly the judge considers the facts revealed during the trial proceedings (Wicaksana, 2018). The judge's considerations are among the most critical aspects in determining the value of a judicial decision. These considerations encompass justice, certainty in the law, and benefits for the parties involved. Therefore, a judge's reasoning must be approached thoughtfully, kindly, and carefully (Hakim & Kurniawan, 2022). A higher court may overturn a decision made by a judge if it lacks thoroughness, care, and thoughtful consideration. According to Arto (2004), the quality of a judge's decision is crucial, as inadequate deliberation can lead to cancellation by the High Court or a superior court. Elucidation of Article 1 point 1 of Law Number 48 of 2009, namely:

> "Judicial power is the power of an independent state to administer the judiciary to enforce law and justice based on Pancasila and the 1945 Constitution of the Republic of Indonesia for implementing the State of Law of the Republic of Indonesia."

The judge's consideration is the most important aspect in realizing the value of a judge's decision, which contains justice (*ex aequo et bono*), legal certainty, and benefits for the parties concerned (Arto, 2004).

5. Concept of Anomalies in Pretrial

The concept of anomaly in pretrial proceedings refers to situations where there is a deviation or inconsistency between legal theory and the practice that should occur in the pretrial process (Muryawan, 2021). This anomaly often arises when there is a misalignment between existing legislation and its implementation by law enforcement officers (Hapsari., Iskandar., & Jamba, 2023)even though they cannot be calculated mathematically (certainly. For example, in pretrial proceedings, an anomaly may occur if a pretrial ruling supposed to provide legal protection for a suspect or defendant is ignored or not adequately enforced by the police or prosecution. This can be caused by various factors, such as a lack of legal understanding among officers, interference from certain parties, or corrupt practices. Anomalies in pretrial proceedings can lead to injustice for the involved parties and undermine public trust in the existing judicial system. Anomalies in pretrial proceedings are prevalent in various legal systems, including Indonesia's. These deviations can manifest in several forms, such as the unlawful detention of suspects, improper handling of evidence, or procedural errors that compromise the fairness of the trial process. For instance, a suspect might be detained beyond the legally permissible period without sufficient grounds, or evidence that should have been excluded due to procedural violations is considered in the pretrial hearing.

Moreover, such anomalies may be exacerbated by systemic issues like bureaucratic inefficiency, lack of accountability, and inadequate training for law enforcement personnel. In some cases, external pressures from influential individuals or entities may lead to biased or unjust outcomes in pretrial decisions. These situations create a significant disparity between the intended legal protections provided by the law and the reality experienced by individuals within the judicial process. Efforts to address these anomalies require comprehensive reforms, including strengthening oversight mechanisms, enhancing the transparency of pretrial proceedings, and ensuring that all legal actors are adequately educated and trained in their roles. By addressing the root causes of these anomalies, the legal system can better uphold justice and maintain public confidence in its processes.

6. A Study of Pretrial Arrangements in Indonesia and Its Problems

The Criminal Justice System has several essential functions, including:

a) Prevent crime;
b) Take action against the perpetrators of criminal acts by providing an understanding of the perpetrators of criminal acts where prevention is not adequate;
c) Reviewing the legality of prevention and enforcement measures;
d) Court decisions to determine the guilt or innocence of the detained person;
e) The appropriate disposition of a person found guilty;
f) Correctional institutions by state tools approved by the community for their behavior that has violated criminal law (Plangiten, 2013).

In the Criminal Justice System, eight principles must be laid down, which are called principles of legality, namely:

a) A legal system must contain regulations. The point here is that it must not contain only temporary decisions;

b) The regulations made must be announced;
c) There must be no retroactive rule because if it is not rejected, then the regulation cannot be used as a code of conduct;
d) Regulations must be formulated in an understandable formula;
e) A system must not contain rules that conflict with one another;
f) Regulations must not contain demands that exceed what can be done;
g) There should be no habit of changing the rules frequently to cause one to lose orientation;
h) There must be a match between the regulations promulgated and their daily implementation (Rahardjo, 2021).

So, pretrial regulation must be in line with the above legal principles. According to Article 1 Number 10 of the Criminal Procedure Code, pretrial is the authority of the district court to examine and decide according to the method regulated in this law regarding:

a) Whether or not an arrest and or detention is legal at the request of the suspect or his family or other parties in the suspect's power;

b) Whether or not the termination of the investigation or the termination of the prosecution is legal at the request of upholding law and justice;

c) Requests for compensation or rehabilitation by the suspect, his family, or other parties on their behalf whose cases have not been submitted to the Court.

As regulated in the Criminal Procedure Code, especially Article 77 in Chapter X of the Court's Authority to Judge Part One concerning pretrial, which reads as follows:

> The district court has the authority to examine and decide, by the provisions stipulated in this law, regarding:
> 1) Whether or not the arrest, detention, termination of investigation, or termination of prosecution is legal;
> 2) Compensation and/or rehabilitation for a person whose criminal case is terminated at the level of investigation or prosecution.

The one who exercises the authority of the pretrial is the district court, which is led by a single judge as stated in Article 78 of the Criminal Procedure Code:

1) Those who exercise the authority of the district court, as referred to in Article 77, are pretrials;
2) Pretrial is led by a single judge appointed by the head of the district court and assisted by a clerk.

The district court's authority to examine and decide on a pretrial is the legality of arrest, detention, termination of investigation or prosecution, compensation, and rehabilitation. According to Article 1 point 20 of the Criminal Procedure Code, an arrest is carried out by a team of investigators where the defendant or suspect is temporarily detained to facilitate the investigation process to collect evidence (Widyastuti., Dewi., & Sugiartha, 2020).

Furthermore, Article 79 of the Criminal Procedure Code explains that a request for an examination regarding the legality of an arrest or detention is submitted by the suspect, his family, or his proxies to the

head of the district court by stating the reasons. Article 80 of the Criminal Procedure Code explains that a request to examine the validity of a termination of an investigation or prosecution may be submitted by an investigator, public prosecutor, or a third party with interest to the head of the district court by stating the reasons. Likewise, Article 81 of the Criminal Procedure Code stipulates that requests for compensation and/or rehabilitation due to illegal arrests or detentions or due to legal termination of investigations or prosecutions are submitted by suspects or third parties with interest to the head of the district court by stating the reasons.

Proceeding mechanisms related to pretrial can be seen in Article 82 of the Criminal Procedure Code, which regulates the following:

1) The pretrial examination procedures for matters as referred to in Article 79, Article 80, and Article 81 are determined as follows:
   a) Within three days after receipt of the request, the judge appointed shall determine the trial day;
   b) In examining and deciding whether or not an arrest or detention is legal, whether or not the termination of an investigation or prosecution is legal, a request for compensation and/or rehabilitation is due to an illegal arrest or detention as a result of the legal termination of an investigation or prosecution, and there are confiscated objects that are not included as evidence, the judge hears information from both the suspect or the applicant as well as from the competent authority;
   c) The examination is carried out quickly, and within seven days, the judge must have rendered his decision;
   d) In that case, something has already started. Examined by the District Court, while the examination of the request to the pretrial has not been completed, then the request is void;
   e) The pretrial decision at the investigation level does not rule out the possibility of holding another pretrial examination at the level of examination by the public prosecutor if a new request is submitted for this purpose.
2) The judge's decision in the pretrial examination on matters as referred to in Article 79, Article 80, and Article 81 must clearly state the basis and reasons;
3. The contents of the decision, in addition to containing the provisions as referred to in paragraph (2), also contain the following:
   a) If the decision determines that an arrest or detention is illegal, the investigator or public prosecutor at their respective level of the examination must immediately release the suspect;
   b) If the decision determines that the termination of an investigation or prosecution is invalid, the investigation or prosecution of the suspect must be continued;
   c) If the decision determines that an arrest or detention is illegal, the decision shall include the amount of compensation and rehabilitation provided, whereas if termination of an investigation or prosecution is valid and the suspect is not detained, the decision shall include rehabilitation;
   d) If the decision stipulates that the confiscated objects are not included as evidence, it shall state that the goods must be returned to the suspect or from whom they were confiscated.
4) Compensation can be requested, including matters in Articles 77 and 95.

Pretrial developments in Indonesia highlight vital controversies surrounding the authority of pretrial institutions. One significant case is Decision Number 04/PID.PREP/2015/PN.JKT.SEL, where Judge Sarpin Rizaldi partially granted Budi Gunawan's request and ruled that his suspect status was

invalid, thereby expanding the scope of pretrial reviews. Another important case involved Setya Novanto, the Chairman of the DPR-RI, where Pretrial Decision Number 97/PID.PREP/2017/PN.JKT.SEL, led to the annulment of his suspect status in a corruption case (Dinda., Usman., & Munandar, 2021). These rulings underscore the ongoing debate over pretrial authority in Indonesia.

Several things highlight the public's attention from the decision and must be studied more deeply. *First*, to what extent is the pretrial judge's authority in deciding a case? *Second*, what legal consequences will arise if the judge exceeds the authority given? *Third*, what mechanisms can the relevant law enforcement officers take if it turns out that the pretrial decision has been wrong in deciding the case? (Trisia, 2015).

In 2014, the Constitutional Court of the Republic of Indonesia, through Decision Number 21/PUU-XII/2014, expanded the authority of the pretrial, which is regulated in Article 77 of the Criminal Procedure Code, which regulates the examination and decides whether or not the determination is valid. Suspect, search, confiscation. The decision of Constitutional Court Number 21/PUU-XII/2014 is a big hope for the people and justice seekers in the Republic of Indonesia to work on good law enforcement (Afandi, 2016). The Constitutional Court has determined the expansion of the object of pretrial, namely regarding whether or not the determination of suspects, searches, and seizures is legal. The Constitutional Court determined the suspect as one of the objects of pretrial, which was not previously regulated in the Criminal Procedure Code (Dinda., Usman., & Munandar, 2021).

Pretrials have historically been used to protect human rights, especially the human rights of the suspect of a crime, at the stage of investigation and prosecution. In the pre-independence era, the rules in strafvordering (RV) stated that the pretrial function as we know it today was formerly carried out by commissioner judges. In Law 8 of 1981, concerning the Criminal Procedure Code, pretrial, which we now know is the authority of the district court. Its function is as a control agency for law enforcement officers under it (Trisia, 2015). This Decision Number 21/PUU-XII/2014 protects legal subjects who experience an erroneous or misguided legal process when the legal subject is a suspect. Article 8 of Law Number 39 of 1999 concerning Human Rights follows this. Human rights, which reads: "Protection, promotion, enforcement, and fulfillment of human rights are primarily the responsibility of the government."

The Constitutional Court Decision Number 21/PUU-XII/2014 is a significant effort to protect legal subjects who experience erroneous or misguided legal processes when they are named as suspects. This decision reflects Indonesia's commitment to protecting human rights in the legal process. Article 8 of Law Number 39 of 1999 on Human Rights states that protecting, promoting, enforcing, and fulfilling human rights are primarily the government's responsibility. The government is responsible for upholding human rights throughout the legal process, regardless of whether an individual is a suspect. Decision Number 21/PUU-XII/2014 underscores the importance of a fair and transparent legal process and protecting the rights of individuals accused of criminal offenses. The decision supports the government's efforts to respect and protect human rights in this context. In addition, this decision can also encourage improvements in Indonesia's legal system and legal process. By ensuring that legal proceedings are conducted properly and fairly and providing protection to individuals subjected to erroneous or misguided legal proceedings, Indonesia can continue to advance human rights and maintain fairness in the legal process.

To illustrate a good pretrial system, we can compare pretrial systems in several countries. The examples presented showcase effective pretrial systems within the US legal framework. The pretrial process unequivocally encompasses critical stages such as arrest, interrogation, investigation, detention, and trial preparation. Judges oversee this process and ensure that all actions are carried out following the law and take into account human rights. As part of the pretrial, the suspect also has the right to be represented by an attorney. The UK legal system also offers a good pretrial, which includes stages similar to the US system. However, the UK has an adversarial legal system, where prosecutors and defense lawyers compete to convince judges and juries of the guilt or innocence of the accused. Pretrial in the UK involves the examination of evidence, investigation, and preparation for trial, all supervised by a judge. Germany has a continental or civil legal system differs from the adversarial legal system used in the UK and the US. In the German legal system, pretrials involve an investigation by a prosecutor and a judge, who work together to gather evidence and prepare the case for trial. German pretrial proceedings are designed to ensure a fair and transparent process and protect the rights of the accused. Sweden also follows a continental or civil law system. A pretrial in Sweden involves an investigation conducted by the prosecutor with the assistance of the police. During the pretrial process, the judge ensures that the investigation is conducted fairly and in accordance with the law. Sweden is known for having a pretrial system that is efficient and effective in protecting the rights of the accused.

Good pretrial systems in different countries have several things in common, such as involving fair and transparent investigations, respecting human rights, and giving judges a significant role in overseeing the process. While each country's legal system may differ, the same basic principles apply to ensure fair and effective pretrial proceedings.

II. METHODS

This article was conducted by examining library materials or secondary data, which can be called normative legal research or research library law (Marzuki, 2005) Normative legal research is in the form of library research (Fernando., Pratiwi., & Putra, 2021). In this paper, as stated by Marzuki, a study and an analysis were carried out using the statute, conceptual, and case approaches (Fernando, 2020c). In research with a descriptive-prescriptive nature, research is carried out with two main objectives: describing and analyzing existing phenomena or situations (descriptive) and providing recommendations or suggestions for improvement or improvement of the situation (prescriptive) (Fernando, 2020b).

III. RESULT AND DISCUSSION

A. Review Pretrial Decision Number 24/PID/PRA/2018/PN.JKT.SEL in Law Enforcement Efforts in Indonesia

In 2018, the South Jakarta District Court decided on the pretrial Decision Number 24/PID/PRA/2018/PN.JKT.SEL (better known as the pretrial decision of the Century Bank case) was read by the sole judge, Effendi Mukhtar. The pretrial decision gave birth to a new norm whereby the pretrial

judge can order the respondent (the investigator) to determine a suspect against someone who is not a litigant in the case (Trisia, 2015).

Public Relations of the South Jakarta District Court, Achmad Guntur, confirmed the judges in his institution: Effendi Mukhtar issued a decision ordering the Corruption Eradication Commission to continue investigating Century Bank corruption. The case concerns granting the Short Term Funding Facility and the bailout for Century Bank (Taher, 2018). It is essential to explore the significant case adjudicated by the South Jakarta District Court, identified as Number 24/PID/PRA/2018/PN.JKT. SEL. This case commands the attention of academics, practitioners, and the public, offering invaluable insights and lessons that demand careful consideration and analysis.

1) The extent to which the pretrial judge's authority in deciding a case or case that he is trying as the sole judge;
2) The extent to which the legal consequences will arise if the judge exceeds the authority in deciding pretrial cases. This can have legal consequences if pretrial judges exceed their decision-making authority. Decisions made by judges who exceed their authority may be declared invalid or void. As a result, the ongoing legal process may be disrupted and delayed. In addition, decisions that exceed a judge's authority can lead to public distrust of the judicial system and weaken the integrity of judges and judicial institutions;
3) What mechanism can related law enforcement officials (APH) take if it turns out that the pretrial decision Number 24/PID/PRA/2018/PN.JKT.SEL, in the Century Bank case above, made a mistake in deciding the case. In terms of positive law, it has exceeded the limit of pretrial authority (Trisia, 2015).

The author thinks that in the pretrial case of the Century Bank case, the sole judge who tried the trial did not comply with the rules set out in Article 82 of the Criminal Procedure Code, Supreme Court Regulation Number 4 of 2016, and Article 53 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power. Which stipulates that: "In examining and deciding cases, the judge is responsible for the decisions and decisions he makes." The arrangements as referred to in Article 53 paragraph (1) are further limited in Article 53 paragraph (2), which stipulates that: "The stipulation and decision as referred to in paragraph (1) must contain the judge's legal considerations based on the right and correct reasons and legal basis."

Article 53 paragraph (1) confirms that judges have responsibility for the determinations and decisions they make, which is then limited by Article 53 paragraph (2), which requires judges to make legal considerations based on precise and correct legal reasons and bases. In the context of the Bank Century pretrial case, there are concerns that the single judge did not comply with these rules. The assessment arose because the judge ordered the Corruption Eradication Commission to name several individuals as suspects without considering the existence of two sufficient pieces of evidence as stipulated in Criminal Procedure Code. This polemic illustrates the importance of correctly understanding the authority and responsibility of judges in pretrial proceedings. According to existing rules, judges should be within the limits of their authority and must make legal considerations based on precise and correct legal reasons and bases.

In the pretrial of the Century Case, the judge exceeded his authority by ordering the respondent (investigator) to assign a suspect to the former Vice President of the Republic of Indonesia, who

is also the former Governor of Bank Indonesia Boediono, and former Deputy Governor of Bank Indonesia Muliaman D. Hadad and former Secretary of the Financial System Stability Committee Raden Pardede, without being tested with two pieces of evidence that are sufficient in determining the suspect. Strangely, the determination of the suspect is only based on the applicant's argument, which states that the Corruption Eradication Commission investigators have stopped investigating the Century Bank corruption case. The applicant submitted the argument at the pretrial hearing without referring to the formal evidence required by law. Therefore, it is necessary to test whether the decision is a legal breakthrough and/or legal discovery (rechtvinding) (Trisia, 2015). Theoretically, legal discovery (rechtvinding) can be made when a judge examines a case that requires an answer to a legal vacuum.

Meanwhile, it is related to the Century Bank pretrial case. In that case, there is no need for a legal discovery by the judge because the rules regarding legal remedies in pretrial decisions are regulated, so there is no legal vacuum (Adelia, 2019). In reflecting on the countries of the European continent, it is crucial to note institutions such as pretrials, which primarily conduct preliminary examinations (Khechumyan & Margaryan, 2014). Take the example of the Netherlands and France. The function of the rechter-commissaris in the land of the windmills of the Netherlands and the judge's instruction in the French fashion state can be called a real pretrial because apart from determining whether or not an arrest, detention, or confiscation is legal, there is also a preliminary examination of a case. or case. The rechter-commissiaris or judge instruction exists as an embodiment of the activity of judges. For example, the rechter-commissaris is authorized to assess the validity of an arrest, detention such as pretrial, and judge whether or not the prosecutor legalizes a confiscation (Sumadi, 2021).

The pretrial authority is a horizontal supervisory agency and a control tool for law enforcement officers in carrying out their duties and authorities (Tajudin, 2015). In this context, pretrials have a vital role in overseeing the actions of law enforcement officers, such as arrest, detention, search, seizure, and determination of suspects, so that they are carried out under the applicable law and regulation. Pretrials also serve to protect human rights, avoid abuse of power, and ensure justice for every individual involved in the legal process. In Indonesia, regarding pretrials, several decisions of the Constitutional Court affect future pretrials that need to be observed and discussed, namely Constitutional Court Decision Number 21/PUU-XII/2014 relating to Pretrial Authority for Determination of Suspects, Constitutional Court Decision Number 109/PUU-XIII/2015 relating to the Scope of Pretrial Material Law, Constitutional Court Decision Number 102/PUU-XIII/2015 relating to the Loss of Pretrial Application, Constitutional Court Decision Number 130/PUU-XIII/2015 relating to SPDP. Theoretically, the Constitutional Court, in enforcing the law, stated that the court could not allow itself to be shackled by procedural justice alone but also by substantial justice (Taghupia et al., 2022).

Seeing the phenomenon of the Constitutional Court Decision above, understanding the law can be done using various perspectives. Generally, there are three perspectives in understanding law: philosophical, normative, and sociological. The philosophical perspective views law as values, ideas

of truth, and justice. The normative perspective on the law is a set of norms and rules arranged systematically and logically. From the social perspective, the law is interpreted as a social phenomenon of social institutions interacting with other social institutions in a broader social system (Pujirahayu, 2021).

In the consideration of the pretrial decision read out by the single judge Effendi Mukhtar, several essential points form the basis of his decision, which the author summarizes as follows:

1) the judge asked the Corruption Eradication Commission, as a law enforcer, to be fair and continue the investigation and completion. This shows that the judge wants the Corruption Eradication Commission to uphold justice by processing all parties involved in the case;

2) the judges considered that the Corruption Eradication Commission should process all names in the charge despite the risks involved. This is a logical consequence of the Corruption Eradication Commission's role in upholding the law and avoiding violations of principles and principles in criminal law theory;

3) the judge also considered the Corruption Eradication Commission's case handling length. The Corruption Eradication Commission stopped handling the Century Bank case, although not explicitly. Since Budi Mulya's case was settled at the cassation level in 2015, there has yet to be a Corruption Eradication Commission effort to re-investigate the case;

4) Judge Effendi emphasized that if the Corruption Eradication Commission has not issued SP3 because it does not have the authority to issue it, there must be a legal explanation regarding the status of a person mentioned in the charge in conjunction with Article 55 of the Criminal Code;

5) the judge believed that pretrial, as a horizontal control institution of every law enforcement action, is important to maintain the rule of law and justice. The pretrial motion in this case was considered premature, and the Corruption Eradication Commission's exception was unwarranted and should be rejected. From the judge's reasoning, the decision was based on the premise that the Corruption Eradication Commission must continue to investigate and resolve this case by upholding the principles of justice and law enforcement. The judges considered that the pretrial institution is vital in ensuring that the Corruption Eradication Commission exercises its authority fairly and transparently.

The legal consequences stemming from Pretrial Decision Number 24/PID/PRA/2018/PN.JKT.SEL appears unjust and undermines legal certainty for those involved, specifically Boediono, Muliaman D. Hadad, and Raden Pardede. If Boediono, Muliaman D. Hadad, and Raden Pardede were designated as suspects through this pretrial decision, it would violate their human rights and the principles of legal justice. This is because the process for determining an individual's status as a suspect must adhere to the regulations set forth by law, specifically the Indonesian Criminal Procedure

Code, as well as the established protocols of the Corruption Eradication Commission for officially naming someone as a suspect (Adelia, 2019).

This situation will also lead to new problems, allowing Boediono, Muliaman D. Hadad, and Raden Pardede to submit another pretrial application concerning the determination of the suspect. If Pretrial Decision Number 24/PID/PRA/2018/PN.JKT.SEL serves as the basis for this determination; any efforts to appeal against pretrial decisions through cassation are prohibited under Article 45 A of the Law of the Supreme Court Number 5 of 2004. A pretrial review is not allowed except when indications of legal smuggling are found. Based on Article 4 of the Supreme Court Regulation Number 4 of 2016 concerning the Prohibition of Reviewing Pretrial Decisions, the Supreme Court can give instructions, warnings, or warnings to judges who make such deviant decisions (Pujirahayu, 2021).

The pretrial decision of the single judge of the South Jakarta District Court Effendi Mukhtar regarding the alleged corruption of the Century Bank handled by the Corruption Eradication Commission and filed by the Indonesian Anti-Corruption Society (MAKI) has indeed caused controversy and polemics. This is primarily due to the need for more clarity in Indonesia's pretrial procedural law. One of the main issues in the verdict was that single judge Effendi Mukhtar ordered the Corruption Eradication Commission to summon former Bank Indonesia Governor Boediono and several other parties as suspects. This was considered to exceed the authority of pretrial judges, as the determination of suspects should be the authority of investigators, not pretrial judges. The need for more clarity in pretrial procedural law has long been a problem in Indonesia.

Several factors have contributed to this need for clarity, including: (1) need for clear and detailed rules on pretrial procedure. The pretrial procedure law is regulated in the Criminal Procedure Code, but the existing rules are insufficient to address various problems in practice; (2) differences in judges' interpretation and understanding of pretrial authority. This often results in different pretrial decisions depending on the judge deciding the case; (3) lack of supervision and control mechanisms over pretrial decisions. As a horizontal control institution, other equal institutions should supervise pretrial decisions, but this supervision mechanism has yet to be effective. To overcome this lack of clarity in pretrial procedural law steps such as revising the existing rules in Criminal Procedure Code, developing guidelines and standards for judges in deciding pretrial cases, and strengthening supervision and control mechanisms over pretrial decisions are needed. Thus, it is expected that future pretrial decisions will be more consistent, fair, and follow the authority of pretrial judges.

Analyzing the juridical implications, this pretrial decision may lead to injustice and violate legal certainty for Boediono, Muliaman D. Hadad, and Raden Pardede. If they were designated as suspects through this pretrial ruling, it could infringe upon their human rights and legal justice since the mechanism for determining a suspect's status did not follow the legal process outlined in Criminal Procedure Code. Moreover, the potential for these individuals to submit another pretrial application, challenging their suspect status, highlights the decision's procedural flaws. Comparing this to European pretrial mechanisms, such as the "rechter commissaris" in the Netherlands and "judge instruction" in France, which include preliminary examinations alongside determining the

legality of arrests, detentions, and confiscations, underscores the inadequacies in Indonesia's pretrial procedural law. These European models exemplify a more comprehensive approach to pretrial oversight, providing a benchmark for improving Indonesia's pretrial system. The pretrial authority in Indonesia is intended as a horizontal supervisory body to oversee law enforcement actions, ensuring they align with applicable laws, protecting human rights, and preventing abuse of power.

Constitutional Court decisions like Number 21/PUU-XII/2014, which expanded pretrial authority to include suspect designation, and subsequent decisions that clarified pretrial scope and procedures emphasize the need for substantial justice over mere procedural adherence. Reflecting on the theoretical perspectives-philosophical, normative and sociological of understanding law, it is clear that the judge's decision in the Century Bank pretrial case did not align with the normative perspective, which requires systematic and logical legal norms. The decision undermines the principles of justice and judicial integrity by overstepping the legal bounds and not adhering to the requirements of sufficient evidence and legal procedures.

In the future, arrangements relating to pretrial cannot be separated from the framework of the legal structure itself. The part that cannot be separated from observation is the aspect of law enforcement, at least in the sense of law enforcement in a broad sense, namely encompassing the implementation and application of the law against every violation or legal deviation committed by legal subjects and in a narrow sense is an action against every violation or violation of the law-deviations from the laws and regulation (Usman, 2008). The pretrial process for law enforcement efforts is a series of processes that describe the values of ideals that are pretty abstract and turn them into concrete legal goals, such as the purpose of the law, or legal ideals containing moral values such as justice and truth. These values must be firmly established in our reality (Rahardjo, 2009).

Four indicators become a factor in determining whether future pretrial arrangements can be much better. The first is legal knowledge, understanding legal substance, attitude, and behavior (Pujirahayu., Rahayu., & Faisal, 2020). Conceptually, law enforcement, through the pretrial route, must place and harmonize the relationship of values embodied in existing rules and manifest attitudes and actions as a series of final-stage value translations to create justice. In addition, factors that influence the effectiveness of pretrials must also be considered, such as the legal factor itself, law enforcement factors, facilities factors, community awareness factors, and legal culture factors. From the various factors mentioned above, it can be seen that legal and law enforcement factors are two of the five factors that greatly determine the effectiveness of law enforcement in the pretrial process. Because making the rule of law is as important and perhaps as difficult as enforcing it (Pujirahayu., Rahayu., & Faisal, 2020).

Processing these other actors is critical. This is not only to enforce the principle of equality before the law (equality before the law) but also to ensure that the actions committed by the convict are not independent or independent but are done together with other actors (Mudzakkir, 2018). The reasons why it is vital to process other perpetrators in a legal case are:

1) In a legal case, especially one involving multiple perpetrators, prosecuting all parties involved will create a sense of justice in the community. Ensuring that each perpetrator receives a punishment proportionate to their actions will demonstrate the commitment of the government and law enforcement officials to uphold justice;

2) Deterrence, by processing other perpetrators, the government and law enforcement officials show no impunity for criminals. This will create a deterrence effect for other perpetrators who may commit similar acts;

3) Breaking the chain of crime: in many cases, crimes are committed in a structured manner and involve many parties. By processing other perpetrators, law enforcement officials can break the chain of crime and reveal the wider crime network;

4) Enforcing the legal system's accountability principle, everyone involved in a crime must be responsible for their actions. Prosecuting all perpetrators in a legal case will uphold the principle of accountability and ensure that each perpetrator receives the appropriate punishment;

5) Case reconstruction, processing other perpetrators in a legal case will assist law enforcement officials in conducting a thorough case reconstruction. This will make it easier for law enforcement to uncover the crime's motive and modus operandi and assess its impact on the victim and the community.

In order to uphold the law and create a sense of justice, law enforcement officials need to process all perpetrators involved in a legal case. This will demonstrate the commitment of the government and law enforcement officials in upholding justice and protecting people's rights. Processing other perpetrators in the same case is important for several reasons:

1) Upholding the principle of equality before the law
   In a just legal system, everyone involved in a crime should be treated equally in the eyes of the law, regardless of social status, wealth, or position. By processing all perpetrators involved, the law demonstrates no preferential treatment or discrimination in law enforcement.

2) Ensure fairness and shared responsibility.
   In many cases, crimes are committed by a group of people working together. By processing all perpetrators, the legal system ensures that each individual is accountable for their role. This will create a sense of justice for victims and the general public.

3) Prevent impunity
   If only some perpetrators are tried and convicted, this can create the impression that some perpetrators go unpunished. This impunity can undermine public trust in the legal system and serve as a trigger for other crimes.

4) Uncover additional facts and evidence.
   In investigations and trials, prosecuting all perpetrators can help uncover additional facts and evidence that may not be revealed if only some perpetrators are brought to justice. This can help strengthen the case and create a better understanding of how the crime occurred.

By ensuring that all perpetrators involved in a crime are tried and convicted, the legal system can uphold the principle of equality before the law, ensure justice for victims and communities, and help prevent impunity and future crimes. If other actors are still alive and well (except those who are dead, they cannot be prosecuted), and these perpetrators are deliberately not further processed by investigators who have handled the Century Bank corruption case (investigating and investigating and prosecuting) and include in their indictments the names of the following: the names of the other actors (meaning that there is a minimum of two pieces of evidence), there are two alternatives (Mudzakkir, 2018):

1) Implementing the pretrial decision mandate, namely:

   a) Carry out further legal proceedings by applicable laws and regulations regarding the alleged corruption crime of Century Bank, in the form of conducting an investigation and establishing suspects against Boediono, Muliaman D Hadad, Raden Pardede, et al. (as stated in the indictment on behalf of the defendant Budi Mulya) or

   b) You are delegating it to the police and/or the prosecutor's office to continue with the investigation, investigation, and prosecution in the Central Jakarta Corruption Court trial process.

2) Carry out legal remedies for Budi Mulya through extraordinary legal remedies, namely conducting a review (PK) with new reasons or evidence that the Corruption Eradication Commission has never further processed other actors, which means that no other perpetrators have been terminated and have permanent legal force as perpetrators others who jointly committed a crime with Budi Mulya and, therefore, Budi Mulya was declared unproven and acquitted of the charge of committing a criminal act of corruption together with other perpetrators.

In the long term, a legal rule that specifically regulates pretrial matters is needed, particularly regarding the technical procedural law for examining pretrial cases. These technical rules are necessary because, to date, many pretrial cases have been examined using ordinary examination procedures. This means that the examination of evidence in pretrials is no longer limited to formal examinations but has encroached upon the substantive material of the case itself. A concrete example can be seen in Pretrial Decision Number 24/PID/PRA/2018/PN.JKT.SEL, which demonstrates that pretrial examinations have extended into the substantive aspects of the criminal case. From a legal theory perspective, this situation raises discussions about pretrial proceedings' primary function

and purpose. According to legal theory, pretrial proceedings should function to control unlawful or procedurally incorrect law enforcement actions.

The legal theory also emphasizes that pretrial proceedings should be formalistic, meaning they only examine the formal aspects of suspect determination, detention, arrest, or seizure and not the substance of the alleged criminal offense. However, reality shows a shift in the function of pretrial proceedings, where they start to address the substance of the case, which could negatively impact the effectiveness and efficiency of law enforcement. From a philosophical, legal perspective, this phenomenon can be analyzed through the lens of justice theory and the theory of legal certainty. From the viewpoint of justice theory, the expanded scope of pretrial examination can be seen as an effort to ensure substantive justice for the suspect or defendant, providing a broader opportunity to defend oneself and challenge the allegations more thoroughly. However, from the viewpoint of the theory of legal certainty, this could be seen as diminishing the clarity and procedural certainty that underpin the legal system.

Balancing substantive justice and legal certainty becomes a philosophical dilemma that must be resolved through more precise and detailed regulation. In the context of Decision Number 24/PID/PRA/2018/PN.JKT.SEL, it is crucial to note that the court, in this decision, exceeded the formal limits of pretrial proceedings by examining evidence relevant to the substance of the case. This indicates an urgent need to improve the legal framework of pretrial proceedings to prevent overlap between formal and substantive criminal case examinations. Detailed and precise technical regulations are necessary to ensure that pretrial proceedings remain on track as a formal control mechanism without blurring the lines with substantive criminal case examinations. Therefore, this comprehensive analysis indicates that revising and refining the technical regulations of pretrial proceedings is a long-term solution urgently needed to address the current shortcomings and functional shifts. This is essential to ensure that the primary purpose of pretrial proceedings, which is to protect the rights of suspects and ensure law enforcement actions comply with procedural requirements, can be achieved without causing legal uncertainty and inefficiency in the criminal justice system (Trisia, 2015).

To create a better and more effective pretrial procedure law, the following steps can be considered:

1) Reformulate the rules of pretrial procedure in Criminal Prosedure Code or create a separate law that explicitly regulates pretrial proceedings.
   Reformulating the rules of pretrial procedure within Criminal Procedure Code or through a separate law is crucial for ensuring that pretrial regulations are detailed, clear, and comprehensive. This reformulation should address the procedural ambiguities highlighted in Pretrial Decision Number 24/PID/PRA/2018/PN.JKT.SEL, where the lack of precise guidelines allowed pretrial proceedings to encroach upon the substantive aspects of the case. By establishing clear boundaries and procedures, the reformulated rules can prevent such overreach, ensuring that pretrial proceedings remain focused on procedural legality rather than the substantive merits of the case.

2) Conduct socialization and training for judges, law enforcers, and other legal practitioners on pretrial matters.

Socialization and training are essential to ensure that all judicial actors have a unified understanding of pretrial authority and procedures. In the context of Pretrial Decision Number 24/PID/PRA/2018/PN.JKT.SEL, this step would help judges and law enforcers understand the proper scope of pretrial examinations, preventing the kind of procedural missteps observed in the case. By providing thorough training, legal practitioners can better appreciate the importance of adhering to procedural limits and ensuring that pretrial decisions do not delve into the substance of criminal charges.

3) Develop guidelines and standards for judges in deciding pretrial cases, including the limits of their authority and duties.

Developing clear guidelines and standards for judges ensures consistency in pretrial decisions. In Pretrial Decision Number 24/PID/PRA/2018/PN.JKT.SEL, the lack of such guidelines allowed the judge to stay within the intended scope of pretrial proceedings. The judiciary can ensure uniformity and predictability in pretrial rulings by establishing specific standards and limits on judicial authority. These guidelines would clarify the boundaries within which judges must operate, helping to maintain the formalistic nature of pretrial examinations and preventing them from becoming substantive reviews.

4) Strengthen supervision and control mechanisms over pretrial decisions, including through supervision by peer institutions or higher courts.

Strengthening supervision and control mechanisms is crucial to prevent the abuse of power and protect the rights of parties involved in the pretrial process. In the case of Pretrial Decision Number 24/PID/PRA/2018/PN.JKT.SEL, enhanced oversight could have identified and corrected the procedural overreach that occurred. Supervision by peer institutions or higher courts can serve as a check on judicial discretion, ensuring that pretrial decisions adhere to established procedural norms and do not infringe upon substantive issues prematurely. This measure will safeguard against potential misuse of pretrial authority and ensure that decisions are fair and just.

By implementing these measures, Indonesia's pretrial procedure law will become more apparent, fairer, and more effective in addressing the various problems that arise in practice. The comprehensive approach ensures that the legal framework supports theoretical principles and practical necessities, creating a robust system that can withstand the complexities of modern judicial processes.

IV. CONCLUSION

The Pretrial Decision Number 24/PID/PRA/2018/PN.JKT.SEL, known as the Century Bank pretrial decision, has sparked significant legal debate. Judge Effendi Mukhtar's ruling expanded the traditional scope of pretrial authority by ordering the designation of suspects not directly involved in

the litigation. This expansion exceeds the authority granted to pretrial judges under Article 1 number 10 and Article 82 of the Criminal Procedure Code, Supreme Court Regulation Number 4 of 2016, and Article 53 of Law Number 48 of 2009 on Judicial Power. The judge's decision lacked proper legal reasons and evidence, leading to potential injustice and legal uncertainty for those designated as suspects, including Boediono, Muliaman D. Hadad, and Raden Pardede. Comparisons to European pretrial mechanisms, such as the "rechter commissaris" in the Netherlands and the "judge instruction" in France, highlight the deficiencies in Indonesia's pretrial procedural law. It is essential to reformulate pretrial procedures, provide training for judges and law enforcers, develop consistent guidelines, and strengthen supervision over pretrial decisions to address these issues. These reforms will help ensure fair, transparent, and lawful pretrial proceedings, upholding justice and public confidence in the judicial system.

V. SUGGESTION

1) Formulate laws or regulations governing pretrial procedural law in a more detailed and comprehensive manner, including the duties and authority of judges, as well as clear limitations in deciding pretrial cases;

2) Conduct extensive socialization with the public and law enforcers regarding pretrial procedural law so that a correct and consistent understanding can be achieved;

3) Conduct training and competency development for judges and related law enforcers in pretrial procedure so that they are better prepared to face pretrial cases and decide fairly and wisely;

4) Apply best practices from other countries that have practical and fair pretrial systems and make adjustments to the Indonesian legal and cultural context;

5) Increase transparency in the pretrial process, for example, by facilitating access to information about pretrial decisions to the public and related parties;

6) Conduct periodic evaluations of pretrial practices, identify weaknesses and areas for improvement, and engage with legal experts, academics, and other parties with a stake in the pretrial system;

7) Improve coordination between various law enforcement and related agencies in handling pretrial cases to prevent conflicts of authority and misunderstandings;

8) Encourage research and comparative studies on pretrial practices in other countries so that they can be adopted and applied in Indonesia to improve pretrial effectiveness.

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