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Repositioning BPK as a One Gate System for Determining State Losses: A Study of the Constitutional Court's Decision in 2026

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Abstract: The determination of state losses in corruption cases in Indonesia has historically been a major source of legal uncertainty. This is due to multiple interpretations of authority between audit institutions and law enforcement officials, which often lead to jurisprudential clashes. The Constitutional Court Decision Number 28/PUU-XXIV/2026, handed down in early March 2026, is here to redefine the investigative audit architecture fundamentally. Through this ruling, the Constitutional Court established the Financial Audit Agency (BPK) as the sole authority to calculate, validate, and declare state financial losses in every corruption case. This doctrine is known as the *one-gate system*. This journal critically examines the BPK's repositioning by analyzing the philosophical foundations of the constitution, the juridical anatomy of the decision, and the paradigmatic consequences for the judicial system and the government bureaucracy. Through a normative juridical analysis supported by an institutional sociological approach, it was found that this decision confirmed corruption as an absolute material crime. In other words, state losses must be actual and real, not just potential. This decision also restores the function of criminal law as the ultimate remedy after administrative mechanisms, such as Claims for Damages, are exhausted. But on the other hand, the monopoly of the interpretation of state losses by one institution actually gives birth to a serious threat in the form of the erosion of the judge's epistemic authority in the courtroom. Judges risk being reduced to a mere stamp of legitimacy for audit figures fabricated outside the judicial system. In addition, the BPK's institutionally limited capacity creates a bottleneck effect, stalling thousands of corruption cases as they await audit results. This study recommends a limited revision of the Law on the Eradication of Corruption Crimes. The revision should not focus on the struggle for the institution's stamp but on establishing a standard methodology for calculating state losses that applies nationally, openly, and accountably. With clear standards, any technical entity can perform the calculations, and the judge again holds sovereignty over the final judgment.

Keyword: Audit Board, State Losses, Constitutional Court.

INTRODUCTION

Long, tiring discursive debates and jurisprudential polemics have always marked the construction of law enforcement for corruption crimes in Indonesia. This debate mainly concerns the core element of the crime of corruption itself, namely the element that is detrimental to the state's finances or the state's economy. State financial losses are one of the parameters in corruption crimes, but not all parties have the right to calculate these losses. (Syahawaluna et al., 2023). Actually, it takes an institution with absolute authority to declare, calculate, and determine the exact figure of state losses. But this has triggered persistent and never-ending institutional tensions. On the one hand, there is an urgent need for law enforcement officials to process cases quickly and efficiently to pursue the target of eradicating corruption, which is an extraordinary crime. On the other hand, there is a constitutional imperative that demands legal certainty, objectivity, and accountability in every step of law enforcement, especially when it comes to the deprivation of citizens' liberty and the return of state assets.

This dialectical tension reached its culmination with the promulgation of Law Number 1 of 2023 concerning the Criminal Code, hereinafter referred to as the National Criminal Code. The National Criminal Code, which codifies various criminal provisions, including articles on corruption, was then materially tested at the Constitutional Court. This material test gave birth to the Constitutional Court Decision Number 28/PUU-XXIV/2026, which was read in early March 2026. This decision not only addresses the request for norm testing but also revolutionarily reconfigures the relationship of authority among state institutions in the realm of state loss auditing.

Before this ruling, the contemporary criminal law landscape had undergone a fairly dramatic paradigm shift. For more than a decade, law enforcement in Indonesia has relied on the concept of formal deliction. Under this regime, the phrase could be detrimental to state finances and is freely interpreted by investigators. This practice has sparked widespread criticism because it is considered to go beyond the bounds of legal certainty and opens the door to arbitrary criminalization. Consequently, potential losses are considered sufficient to ensnare a person in the criminal justice process, regardless of whether the state has actually lost its financial assets. This condition indicates legal uncertainty in interpreting state losses under criminal law principles. (Temo, Arsel, 2017).

The wave of criminal law reform then came through a series of Constitutional Court rulings. Starting with the Constitutional Court Decision Number 25/PUU-XIV/2016, which was affirmed in Decision Number 142/PUU-XXII/2024, the Court gradually abandoned the doctrine of formal crimes and fully transformed corruption crimes into material crimes. With the aim that state losses must be understood as real and definite losses, not just potential (Isnain, 2023). In foreign terms, it is called *actual loss*. The implication is that the need for forensic accounting evidentiary standards is born of a very rigid and undeniable requirement in the courtroom. This is the central role of the audit body with the highest technical credibility.

The Constitutional Court Decision Number 28/PUU-XXIV/2026 stands as a monument of jurisprudence that redefines the investigative audit architecture in the Indonesian criminal justice system, where investigative audits are a crucial instrument because of their proactive nature and are directed at proving fraud by turning audit evidence into legal evidence of corruption. (Mulyadi & Hakim, 2025). Further in the decision, the Constitutional Court expressly mandates and confirms the BPK's position as the final determinant and the only authoritative institution authorized to calculate state losses. The court referred to this system as *a one-gate system*. The Court attributed this exclusive authority to the interpretation of Article 603 of the National Criminal Code, which is directly rooted in the mandate of Article 23E paragraph 1 of the 1945 Constitution of the Republic of Indonesia. Normatively, this ruling is claimed to aim to eliminate multiple interpretations, narrow the space for law-

enforcement subjectivity, and provide a guarantee of fair legal certainty for citizens, so that they are not criminalized solely based on uncalibrated estimates or assumptions about losses. The results of the Constitutional Court's decision are final and binding. The final nature aims to ensure that justice seekers obtain legal certainty immediately, without further legal proceedings. (Sulistyowati et al., 2023).

Although the Constitutional Court Decision offers a phase of normative certainty that is greatly missed in the discourse of constitutional law and administrative law, its presence in the empirical realm actually triggers structural turbulence that is no less complex. The affirmation of the BPK as the sole authority is not spared from fundamental criticism. This decision indirectly delegitimizes the historical role of internal supervisory institutions, such as the Financial and Development Supervisory Agency (BPKP), which has been the backbone of law enforcement efforts to dismantle corruption megascandals. Furthermore, the monopoly on interpreting state losses held by a single institution poses a latent threat to the epistemic authority of judges in the courtroom. In the new system, judges' risk being reduced to a mere stamp of legitimacy on audit figures fabricated outside the judicial system, without the ability to substantively test the methodology used by auditors.

In the bureaucratic and operational dimensions of law enforcement, the absolute necessity of referring to the BPK has created a severe bottleneck. BPK, as the institution authorized to examine state finances, continues to strive optimally to achieve the best performance in supporting the acceleration of corruption eradication (Elisa; Liwaul; Alam, 2023). BPK's limited institutional capacity, in terms of both the number of forensic auditors and technical infrastructure, means it has to handle thousands of investigative audit requests from across the archipelago. The requests came from the resort police, regional police, district attorney's office, high prosecutor's office, National Police Criminal Investigation Department, Attorney General's Office, and the Corruption Eradication Commission. The delay in issuing the Investigation Report or LHP directly clashes with the deadline for suspect detention, which the Criminal Procedure Code strictly limits. On the other hand, the shadow of criminalization of any administrative policy deemed detrimental to the state by auditors has given rise to a phenomenon of structural fear that leads to decision-making paralysis among public bureaucratic officials. Officials who make commitments and hold the power of attorney prefer not to execute the budget to avoid future criminal risks.

Given this complex background, the problem formulation in this study comprises two main questions. First, what is the philosophical basis and juridical analysis of the Constitutional Court Decision Number 28/PUU-XXIV/2026, which stipulates the BPK as a one-gate system that determines state losses? Second, what are the paradigmatic consequences of the monopoly of the interpretation of state losses and the accompanying practical problems in law enforcement of corruption crimes? By answering these two questions, this journal aims to provide academic contributions and policy recommendations for post-decision regulatory harmonization efforts.

METHOD

This research uses a normative juridical method with legislative, conceptual, and case approaches, particularly through an analysis of the Constitutional Court Decision Number 28/PUU-XXIV/2026 regarding the Financial Audit Agency's authority to determine state losses in corruption cases. The research is also supported by an institutional sociological approach to examine the empirical impact of decisions on the judicial system and relations between state institutions. Data were obtained through literature studies of primary, secondary, and tertiary legal materials and were analyzed qualitatively using descriptive-analytical methods.

RESULTS AND DISCUSSION

The Philosophical and Anatomical Foundations of the Constitutional Court Decision Number 28/PUU-XXIV/2026 concerning BPK as the Only Determinant of State Losses

To comprehensively understand the repositioning of BPK as a one-gate system, an analysis must be drawn to the ontological roots of the state's financial meaning and its supervisory governance design in the constitutional system of the Republic of Indonesia. State finance is not merely a mathematical entity recorded on the balance sheet of the State Revenue and Expenditure Budget, or State Budget. More than that, state finance is an essential instrument for the realization of state goals that are loaded with the mandate of people's sovereignty. A permissive culture of bribery and abuse of authority often arises not only from the perpetrators but also becomes increasingly difficult to eradicate if law enforcement officials are involved in these unethical actions (Kandia et al., 2026). State money comes from taxes paid by all citizens, from natural resources managed for the common good, and from debts and grants that must be accounted for transparently. Transparency is the main pillar to ensure that state finances are managed effectively (Kamila & Pangestoeti, 2025). Therefore, Indonesia's constitutional law designed a multi-layered system of financial supervision, which is taxonomically divided into the realm of executive internal oversight and the realm of independent external audit.

Indonesia's post-amendment constitution provides a very respectable and independent place for the state's financial audit function. Article 23E, paragraph 1 of the 1945 Constitution explicitly and imperatively states that to examine the management and responsibility of state finances, an independent Financial Audit Board shall be established. The phrase "free and independent" in the Constitution is an absolute requirement for establishing a checks-and-balances mechanism between the executive branch, which spends state money, and the auditing entity that evaluates spending. This independence provides BPK with immunity from political intervention and bureaucratic pressure, ensuring that the audit results have the highest degree of objectivity and legitimacy in the eyes of the law. Basically, the law and its institutions function as a forum for solving problems, aiming to minimize them, even though they do not completely resolve conflicts and may handle them with a sense of justice. (Sulistyowati; Salim, Agus; Eriyani, Puspa; Mastoah, 2023).

The hierarchical position of the BPK sets it in direct contrast to other audit institutions, especially the BPKP and the inspectorate general at the ministerial and institutional levels. In institutional genealogy, BPKP is an institution established by presidential decree, which classifies it as a non-ministerial government institution. As an instrument of the Government Internal Supervisory Apparatus (APIP), BPKP is under the President and directly responsible to the President. Meanwhile, the BPK is responsible to the House of Representatives, not to the president. In carrying out its duties, BPK is not influenced by government power and does not hold a position above the government. (Pradana, Setya, Ardynata, Novian; Subekti, Satria, Arif; Prakoso, Harjo, 2019). So that its position is on par with other state high institutions. This institutional characteristic places BPKP as an organic part of the executive power system itself. Its main functions are coaching, early warning systems, and governance assistance to help it remain within the compliance corridor. BPKP is not an external auditor responsible for evaluating the state's final responsibility. This is a difference in principle that is often ignored in law enforcement practices so far.

In recent decades, the absence of rigid normative limits under Law Number 31 of 1999, in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption, has allowed law enforcement officials to be more pragmatic. The criminal law on corruption at that time did not require the institution to calculate state losses exclusively. Investigators at the Corruption Eradication Commission (KPK), the Attorney General's Office, and the Police often prefer to cooperate with the BPKP. This institution is considered to have greater bureaucratic flexibility, evenly distributed human resources across regions, and the ability to

conduct investigative audits at a pace commensurate with investigations. This practice of institutional pragmatism has even received constitutional ratification through the Constitutional Court Decision Number 31/PUU-X/2012. At that time, the Court legitimized the practice of multi-agency coordination by stating that the KPK or the Prosecutor's Office could coordinate not only with the BPK but also with other agencies, including the BPKP, or even prove the state's financial losses by inviting independent public accounting experts into the courtroom. The 2012 decision was based on the consideration that multi-stakeholder coordination does not eliminate the constitutional authority of the BPK but is aimed solely at supporting the effectiveness and accelerating the prosecution of a corruption crime classified as an extraordinary crime.

However, this dualism of authority often gives rise to troubling jurisprudential anomalies. It is not uncommon for there to be a clash between BPK's Audit Report or LHP, which states that the finding is only an administrative violation that leads to a recommendation for a Claim for Compensation or TGR. At the same time, BPKP's investigative audit, or the investigator's count, concludes that there is a state loss stemming from criminal acts of corruption. This kind of conflict of conclusions puts judges in corrupt courts in a dilemma. The judge must choose between basing the decision on BPK's constitutional authority and on the pragmatic reality that the BPKP is more familiar with the technicalities of the investigation. On the other hand, this dualism creates a wide gap of legal uncertainty for legal subjects, both state administrators and private parties that are partners of the government. A person can be found guilty based on the BPKP audit at one judicial level but acquitted on appeal because the judge relies more on the BPK LHP, which reaches a different conclusion.

Responding to this hermeneutic chaos, the state tries to centralize authority through sectoral legislation instruments. Law Number 15 of 2006 concerning the Financial Audit Agency, specifically in Article 10, paragraph 1, began to pioneer a monopoly by vesting the authority to determine state losses arising from unlawful acts solely with the BPK. But resistance on the ground persisted because the law did not explicitly state that the results of other institutions were invalid for use in criminal proceedings. Finally, the state carried out comprehensive criminal law reform by codifying the National Criminal Code in Law Number 1 of 2023. In an authentic explanation of Article 603 of the National Criminal Code, the lawmakers deliberately and consciously used the phrase "financial audit state institution," specifically referring to the institution mandated by the 1945 Constitution, namely the BPK. This construction will then become the epicenter of the fight at the Constitutional Court in 2026.

Case Number 28/PUU-XXIV/2026 was filed by citizens directly affected by the ambiguity of the norms. The first applicant is a woman named Bernita Matondang, a business actor who routinely runs contracts for the procurement of goods and services with government agencies. The second applicant is Vendy Setiawan, a law school student who represents a generation of prospective legal practitioners and prospective judges. Both postulated that the phrase "detrimental to state finances" in Articles 603 and 604 of the National Criminal Code is contrary to the principle of fair legal certainty as guaranteed in Article 28D paragraph 1 of the 1945 Constitution. The petitioner's argument highlights that the lack of clarity about which party has the right to determine state losses has created a situation in which investigators can, at any time, use unilateral counts to accuse private parties of harming the state, in the absence of a standard.

The Constitutional Court held a hearing and, on March 2, 2026, read out a verdict rejecting the petitioners' application in its entirety. However, the revolutionary substance of this decision does not lie in its rejection but in the legal reasoning, or ratio decidendi, developed by the Constitutional Panel of Judges. The court provides a binding constitutional

interpretation, definitively addresses the applicant's concerns, and overhauls the procedure for proving corruption.

The Constitutional Court's legal considerations in this decision contain several basic principles. The first principle is the affirmation of corruption as an absolute material crime. The Court emphasized that Articles 603 and 604 of the National Criminal Code are codifications of Article 2, paragraph 1, and Article 3 of the existing Corruption Crime Law. Referring to the consistency of jurisprudence, the Court stated that the legal rationality of previous decisions, especially Decision No. 25/PUU-XIV/2016 and Decision No. 142/PUU-XXII/2024, applies mutatis mutandis to the articles of the National Criminal Code. This means that a state's financial loss should no longer be interpreted as a potential loss or possible loss in the future. The loss must be calculated materially, actually, and concretely as an empirical fact that has occurred at the time the legal process is carried out.

The second principle is the establishment of the BPK as the sole authoritative constitutional institution. Responding to the petitioner's complaint regarding the absence of specific references to the auditor institution, the Court adopted a very strict interpretation. Citing the Explanation of Article 603 of the National Criminal Code, the Court declared that the state institution that has the legitimacy to audit and declare the existence of state financial losses is the BPK, as mandated by Article 23E paragraph 1 of the 1945 Constitution. This affirmation means that, in the hierarchy of proof of corruption, the results of the BPK audit are not just one of the pieces of evidence that align with the estimates of other institutions. The results of the BPK are the ultimate authority and the main benchmark standards that law enforcement officials must meet before bringing the case to court. In other words, without an Audit Report from the BPK, a case of alleged corruption cannot meet the formal requirements to proceed to the prosecution stage.

The third principle is the demarcation of criminal law and administrative law. The Court rejected the petitioner's argument that the existence of Articles 603 and 604 positions criminal law as the primary instrument, or primum remedium, for resolving every form of state loss. On the contrary, the Court fosters harmony within the legal system by affirming the applicability of Law Number 30 of 2014 on Government Administration. The Court is of the view that any alleged state losses arising from abuse of authority by government officials, administrative carelessness, or mismanagement must first be resolved through administrative instruments such as Compensation Claims. This approach reflects the principle of state administrative law that places accountability at the basis of government administration, ensuring accountability for every policy and action taken by government officials. (Sulistyowati; Dewi, Maharani et al., 2024). If the testing process legally establishes the existence of a criminal factor aimed at illicit profit, then the criminal instrument of corruption can be activated. This construction restores the dignity of criminal sanctions as the ultimate remedium. Thus, abuse of authority needs to be clearly distinguished from ordinary administrative errors. (Dewi, 2019).

The fourth principle is the protection of good faith through proof of malicious intent or *mens rea*. To protect private business actors operating in the civil realm, the Court provides conceptual protection by focusing on the need to prove malicious intent. The Court emphasized that the assessment of whether there was intentionality or bad faith is entirely within the authority of independent judges in the courtroom. The appearance of financial losses in the state treasury cannot necessarily be used as a legitimacy to imprison individuals or corporations. Law enforcement officials are obliged to prove beyond a reasonable doubt that the actions causing the harm are based on intentional acts to commit evil, enrich themselves corruptly, or actively harm the state's finances. If the third party is proven only to have committed a civil default due to economic fluctuations, without bad faith, they are free from the criminal snare of corruption.

Paradigmatic Consequences and Practical Problems of Monopoly Interpretation of State Losses

Apart from the charm of legal certainty promised by the Constitutional Court Decision Number 28/PUU-XXIV/2026, the implementation of the one-gate system doctrine based on the BPK has provoked deep critical discourse among judicial practitioners and legal academics. One of the sharpest and most structured criticisms came from an ad hoc judge in corruption cases, Dr. Ukar Prijambodo. He analyzed that the ruling actually maintains the status quo of epistemological freeze in law enforcement. In contrast to the mainstream narrative that celebrates this verdict as a victory of legal certainty, Ukar dissects this ruling as an instrument that legalizes the monopoly of the interpretation of state losses, which slowly but surely reduces the role, independence, and sovereignty of the panel of judges in the courtroom.

This fundamental criticism is rooted in the concept of *epistemic authority*, the power to determine what is recognized as truth by judicial institutions. In the judicial ecosystem of corruption crimes after this verdict, the state's loss figure, calculated and ratified by the BPK, is no longer treated solely as a fragment of letter evidence that can be confronted and tested for methodological validity. On the contrary, the figures from the BPK underwent procedural purification. They entered the courtroom as an absolute, clean, objective, and seemingly sterile empirical fact, free from subjective intervention or calculative bias.

The reality behind the forensic accounting process is far from absolute. The figure for state losses printed in bold in the BPK Audit Report is essentially a product of auditors' subjective interpretation of the complexity of economic reality. The determination of the figure is built on a series of specific economic hypotheses, the selection of accounting assumptions, the method of partial document sample extraction, the simplification of macroeconomic variables, and the probability calculation model specially designed by the audit body. Once the audit document is submitted to the Public Prosecutor and presented as an indictment, all the methodological complexities, internal debates of the auditor, and the margin of error behind it become close to the view of the panel of judges and the legal advisory team. In fact, good state administration requires a supervisory mechanism capable of ensuring transparency and accountability in every exercise of state authority (Sulistyowati; Maharani, Dewi Nadya; Husin, 2025).

This situation gives rise to a judicial anomaly known as *borrowed certainty*. Judges, who are doctrinally supposed to act as active and independent fact-checkers, are instead forced to be passive and to rely on beliefs fabricated in advance by actors outside the judicial structure. The independence of judges is an illusion of mere formality. Judges are indeed free to decide cases, but this freedom operates on the stage of facts whose boundaries have been fully fenced off by BPK auditors. This Constitutional Court decision was criticized for failing to address the urgency of methodological transparency. The ruling does not establish a standard that compels the BPK to disclose its methodological record at trial, does not affirm protection for judges to reject the BPK's conclusions substantially, and does not pave the way for a plurality of interpretations of economic truth in the courtroom.

The fatal danger of simplifying this systemic reality becomes all too clear when confronted with mega-corruption scandals directly linked to capital market volatility and global crises. In the case of the Jiwasraya Insurance corruption mega-scandal, the state loss figures released by the audit body are presented as an absolute and unshakable conclusion. The forensic audit approach adopted tends to be deterministic and mechanistic, in which the auditor calculates losses solely as the difference between the value of the capital injected and the value of the assets remaining at that time. This calculative approach completely ignores macro capital market fluctuations, the collapse of the composite stock price index, the inherent weaknesses in mutual fund risk management regulations, and the systemic pressures on the financial industry in times of crisis. The court is hardly given a discursive loophole to

dissect and fairly separate which percentage of the trillions of rupiah in losses is the direct result of a malicious conspiracy, and which percentage is, in fact, purely an excess arising from the vulnerability of the economic system that is far beyond the control of the defendants.

Similarly, in cases of corruption in the procurement of social assistance or social assistance during the COVID-19 pandemic. In a pandemic situation that is categorized as a global force majeure, where social panic, absolute logistics shortages, disruption of the world supply chain, and massive pressure to immediately distribute aid to prevent national security instability from occurring simultaneously, the audit of state losses is carried out with a very rigid peacetime compliance instrument. Auditors calculate state losses using a linear mathematical method, simply hunting for the difference between vendors' prices and margin management fees, ignoring the cost of crisis risk. The context of a state emergency, where the boundary between the administrative discretion to save human lives and procedural irregularities becomes very blurred, is ignored. This complex sociological reality is easily overshadowed and flattened by context-blind mathematical calculations.

The hegemony of a single institution in determining losses is also intertwined with the latent constellation of power relations among auditors, law enforcement officials, and the national political landscape. BPK auditors do not work in a soundproof room. They operate in a bureaucratic vortex fraught with institutional pressures, institutional budget interests, and public expectations. On the other hand, law enforcement officials always need justification in the form of significant and definitive state losses to build a strong prosecutorial narrative and secure social legitimacy, including increasing the prestige of institutions in eradicating corruption. This interdependence creates invisible psychological pressure on auditors to consistently generate losses deemed sufficient to satisfy the prosecution's appetite. The political reality of this kind of law enforcement has completely failed to be constructed by the Constitutional Court.

Furthermore, a derivative consequence of this single-interpretation hegemony is the strengthening of the threat of overcriminalization that encroaches on the realm of public administration. A professor of criminal law at the University of Padjadjaran, Prof. Romli Atmasasmita, has long highlighted the danger of giving the phrase "detrimental to state finances" an overly expansive and monopolistic interpretation by state audit instruments. This uncontrolled expansion stimulates the birth *of structural fear* that paralyzes the joints of the government apparatus from the center to the countryside. When every budget discrepancy, innovative project failure, auction administration procedure error, and reasonable investment loss from SOEs or BUMDs can be easily converted by BPK auditors into instruments of state losses with criminal implications, the bureaucracy will react defensively. Commitment-making officials, Budget User Authors, and national strategic project leaders will tend to suffer from decision-making paralysis syndrome. They will choose not to execute the budget, postpone the auction, or refuse to take the slightest administrative discretion, because passive action is considered much safer and more lifesaving than taking progressive steps that could at any time potentially be counted as state losses by the CPC. This sociological phenomenon is at odds with the ideals of a welfare state, which requires bureaucratic agility to execute economic development. In fact, from a good governance perspective, the principle is necessary to prevent the abuse of authority in public administration. (Sulistyowati; Subagyo et al., 2022). Good governance is a system of government administration that emphasizes transparency, accountability, participation, effectiveness, and the rule of law in every decision-making process. (Wahyudi et al., 2026)

In terms of practical problems, shifting the emphasis in proving corruption crimes from absolute terms to the shoulders of the BPK gave rise to two critical issues that plagued the judicial ecosystem after the verdict. The first issue is the bottleneck-effect crisis and the principle of speedy justice. Requiring the BPK as the sole entity with a constitutional

mandate to determine the value of state losses is tantamount to forcing water from a giant dam through a single small pipe. Demographically and juridically, the Indonesian state has thousands of law enforcement work units. Starting from resort police at the district and city levels, regional police, district attorney's office, high prosecutor's office, Directorate of Corruption Crimes of the National Police Criminal Investigation Branch, Attorney General of the Republic of Indonesia, to the Corruption Eradication Commission. All of these institutions issue thousands of warrants to investigate suspected corruption cases every year. The empirical impact of this repositioning is very felt in the regions. A prosecutor or police investigator in a remote district handling a case of alleged corruption in infrastructure procurement worth billions of rupiah faces a very strict limit on the detention period for suspects. The Criminal Procedure Code only provides a limited time; for example, there are 60 days remaining before the suspect must be released for the sake of the law. To complete the case file, the investigator sent a request letter to the BPK provincial representative office to audit the state loss investigation. However, the reality of BPK's bureaucratic capacity is as follows: the queue for implementing investigative audits averages 120 working days. In the capital, a team of investigators at the same level as the Corruption Eradication Commission also faced complications due to slow work rhythms, which were not much different when dealing with the final validation from the BPK. The asymmetrical situation between the demands of judicial speed and limited human resources, the lack of a ratio of forensic auditors, and administrative logistical obstacles within the BPK have the potential to endanger the entire law enforcement system. Thousands of corruption cases across various regions are threatened with bankruptcy or suspension without certainty; suspects are forced to be released because the detention period has expired; the potential for perpetrators to eliminate evidence is growing; and public trust in corruption eradication has declined sharply.

The second issue is the dualism of interpretation and internal guidelines of law enforcement. Institutional resistance to the consequences of *this bottleneck then manifests as* the birth of interpretive dualism in the field. On the one hand, the Constitutional Court Decision and the Explanation of Article 603 of the National Criminal Code affirm the BPK as the sole authority. On the other hand, the encouragement of pragmatism in case resolution has led law enforcement agencies to issue internal regulations that seem to circumvent or soften the Constitutional Court's decision. A phenomenon was observed in which institutions, such as the Attorney General's Office of the Republic of Indonesia, were found to compile and issue internal circular guidelines whose substance still relaxes audit requirements. The circular still leaves gaps and leeway for agencies outside official institutions, such as BPKP or affiliated public accountants, to continue calculating state losses for the sake of initial filing. The existence of this contradictory institutional circular triggered a strong reaction from the legislature and academia because it was seen as giving rise to double interpretations among law enforcers and subtly undermining the spirit of the BPK's constitutional exclusivity, which had been declared final and binding by the Constitutional Court. The existence of this double interpretation undermines the guarantee of legal certainty that the Constitutional Court sought to establish from the beginning.

In an effort to overcome the chaos of disharmony in judicial practice amid this transition, the Supreme Court of the Republic of Indonesia took the initiative to assume a balancing role through an internal administrative instrument, namely the Supreme Court Circular Letter Number 2 of 2024. Many parties mistakenly believe that this circular is intended to annul or compete with the Constitutional Court Decision. This assumption is wrong in the legislative hierarchy. The Constitutional Court's decision is a judicial product that directly arises from the protection of constitutional norms and absolutely binds all branches of state power. In contrast, the Supreme Court's circular is merely an instrument of internal technical guidelines for the panel of judges. The circular was actually drafted to interpret the Constitutional Court's decision in a contextual, realistic, and harmonious manner

to prevent the trial from stagnating. These two documents, from different normative jurisdictions, converge to crystallize the same doctrine: the BPK is recognized as having exclusive authority to determine the calculation of state losses officially. However, the Supreme Court's circular provides breathing room for corruption court judges, so they do not get caught up in document puritanism. The judge is still ordered to test the materiality of the results of the BPK audit, trace its causality to the defendant's malicious intentions, and be given the flexibility to consider additional investigative documents from other institutions solely as secondary references to enrich the perspective of proving malicious intent, even though the BPK remains irreplaceable in its position as the primary actual loss parameter.

CONCLUSION

The Constitutional Court Decision Number 28/PUU-XXIV/2026 is an important step in updating the system of proving corruption crimes in Indonesia. By this decision, the Financial Audit Agency is designated as the institution with primary authority to calculate and determine state losses. The verdict provides clearer legal certainty, emphasizing that corruption must be based on real, actual state losses, not just conjecture or potential losses. In addition, this decision shows an effort to treat criminal law as the ultimate remedy, so that administrative policies not accompanied by malicious intent are not necessarily criminalized. In practice, the centralization of authority at the BPK also poses several challenges. The interpretation of state losses that only relies on one institution has the potential to reduce the space for judges' independence in assessing evidence at trial. In addition, the BPK's limited institutional capacity can slow the handling of corruption cases because many cases have to wait for audit results. Therefore, it is necessary to harmonize regulations through a limited revision of the Law on the Eradication of Corruption by emphasizing the establishment of an open, objective, and accountable standard methodology for calculating state losses. Thus, the evidentiary process can still run fairly without reducing the independence of judges in realizing substantive justice.

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