

## **POLICIES RELATING TO CRIMINAL ECONOMIC LAW TO OVERCOME THE COVID-19 PANDEMIC IN INDONESIA**

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### **Abstrak**

The legal vacuum (*leemten in het recht*) surrounding Criminal Economic Law in Indonesia amid the unprecedented Covid-19 pandemic necessitates the formulation of appropriate legal policies to address this novel phenomenon. This study aims to elucidate the existing legal policies pertaining to Criminal Economic Law in Indonesia and to propose policies specifically tailored to mitigate the impact of the Covid-19 pandemic. Adopting a normative legal research approach with a legislative and conceptual focus, the study examines both substantive and procedural legal aspects. The findings reveal two main categories of policies: those of substantive law and procedural law. These policies strive to strike a balance between providing deterrence against economic crimes while considering the unique challenges posed by the Covid-19 pandemic. In conclusion, the study underscores the importance of formulating legal policies that reflect proportional justice, effectively deterring economic crimes while considering the context of the ongoing public health crisis.

**Keywords:** Economic Criminal Law, Criminal Law Policy, Covid-19 Pandemic

### **Introduction**

Corona Virus Disease 2019 has become a world pandemic which causes various risks throughout the world (Taufiqurrohman et al., 2021). According to data from WHO in June 2021, the number of global Covid-19 virus cases exceeded 175.5 million infections and the death toll reached almost 3.8 million cases (Solihin & Verahastuti, 2020). The history of Covid-19 began with the first report of the Covid-19 outbreak originating from a group of human pneumonia cases in the city of Wuhan, China, since the end of December 2019. The earliest date for cases to appear was December 1, 2019, with patients who had symptoms of fever, dry cough and shortness of breath which was diagnosed as a symptom of viral pneumonia infection (Firdaus & Pakpahan, 2020). Initially the World Health Organization or WHO named the new virus the 2019 novel coronavirus (2019-nCoV), and then officially changed its name to Corona Virus Disease (Covid-19) on February 12 2020 (Sukmana & Yuniarti, 2020).

In Indonesia, the Covid-19 virus first entered on Monday, March 2 2020 (Pradita et al., 2022). The virus that causes COVID-19 in Indonesia started with two Indonesian citizens in the city of Depok, West Java, who were a mother (64) and her daughter (31). After that, this virus spread more and more in Indonesia (Wahyu et al., 2021). Covid-19 was then declared a pandemic, for the first time on March 31 2020, through Decree Of The President Of The Republic Of Indonesia Number 11 Of 2020 On Stipulation Of Public Health Emergency Of Corona Virus Disease 2019 (COVID-19) (Decree Of The President Of The Republic Of Indonesia 11/2020) (Fitri, 2020).

In the Decree Of The President Of The Republic Of Indonesia 11/2020 it is explained: "To establish: Decree Of The President On The Stipulation Of Public Health Emergency Corona Virus Disease 2019 (COVID-19). FIRST: Establish the Corona Virus Disease 2019 (COVID-19) as a type of disease that causes a Public Health Emergency. SECOND: Establish that the Public Health Emergency Corona Virus Disease 2019 (COVID-19) in Indonesia must be mitigated in accordance with the provisions of the laws and regulations. THIRD: This Decree of the President comes into force from the date of its promulgation." From these provisions, it can be understood that there are 2 (two) important things stipulated by the Indonesian Government: 1) Establish the Corona Virus Disease 2019 (COVID-19) as a type of disease that causes Public Health Emergency; 2) Establish that the Public Health Emergency Corona Virus Disease 2019 (COVID-19) in Indonesia must be mitigated in accordance with the provisions of the laws and regulations (Telaumbanua, 2020).

The existence of the Decree of the President of the Republic of Indonesia 11/2020 which later became legitimacy, that Indonesia was in a state of emergency, due to Covid-19, so that many aspects of Indonesia were affected and had to be adjusted, for example related to social life, the economy, law and so on (Syarifudin et al., 2021). This is why the Indonesian government must create regulations and policies in a responsive, structured and comprehensive manner to change these things (Nugraha, Izzaty, et al., 2019). The government cannot use the old rules and policies, because the Covid-19 pandemic means people can no longer carry out activities like before, because the Covid-19 disease spreads easily (Azmi Sitorus & Firdaus Rahmadi, 2021).

One of the things that must be changed in a structured, fast and comprehensive manner by the Indonesian Government is related to existing legal policy (Hartini, 2022). In general, in Indonesia legal policy is a policy area that is difficult to experience changes in a responsive, structured and comprehensive manner, for at least 3 (three) reasons: 1) The main source of law in Indonesia is based on statutory regulations, because Indonesia uses the Civil Law System, so that in order for a legal policy to change, it must create new laws and regulations which of course have long procedures that must be followed, so a rule cannot be changed immediately (Nugraha et al., 2022); 2) There needs to be the will and approval of the legislators; and 3) When changing a legal policy, you cannot just change 1 (one) type of rule, there needs to be other related laws and regulations that must also be changed. This is why in law, there is even an old legal maxim: "het recht hink achter de feiten aan" which, when translated, means: "the law is always left behind with society or things to be regulated." (Nugraha, Murti, et al., 2019).

In order to deal with the conditions of the Covid-19 Pandemic to adapt to existing conditions, the Indonesian Government issued several regulations, including:

1. Circular Of The Chief Of The Tax Court Number Se-06/Pp/2020 Of 2020 On The Third Amendment To Circular Of The Chief Of The Tax Court Number Se-03/Pp/2020 On Guidelines For Adjusting The Implementation Of Trials And Administrative Services During The Prevention Of The Spread Of Corona Virus Disease 2019 (Covid-19) Within The Tax Court
2. Task Force For The Handling Of Covid-19 Circular Number 4 Of 2020 On Health Protocols For Personal Travel During The Corona Virus Disease 2019 (Covid-19) Pandemic
3. Circular The Minister Of Trade Number 12 Of 2020 The Resumption Of Trading Activities During The Corona Virus Disease 2019 (Covid-19) Pandemic And The New Normal

4. Circular Of The Head Of Task Force For The Handling Of Covid-19 Number 2 Of 2021 On Health Protocols For International Travel During The Corona Virus Disease 2019 (Covid-19) Pandemic
5. Circular Of The Minister Of Agrarian Affairs And Spatial Planning/The Head Of The National Land Agency Number 1/Se-100.Hr.01.01/Ii/2021 Of 2021 On The Ease Of Services In The Stipulation And Registration Of Land Titles During The Corona Virus Disease 2019 (Covid-19) Emergency Response Period
6. Circular Of The Minister Of Industry Number 4 Of 2020 On The Implementation Of Factory Operations During The Period Of Public Health Emergency Of Corona Virus Disease 2019
7. Circular Of The Minister Of Industry Number 7 Of 2020 On Guidelines For The Submission Of Applications For Industrial Activity Implementation Permits During The Period Of Public Health Emergency Of Corona Virus Disease 2019 (Covid-19)
8. Circular Of The Minister Of Industry Number 8 Of 2020 Reporting Obligation For Industrial Companies And Industrial Areas Companies With Operational And Mobility Permits For Industrial Activities
9. Circular The Minister Of Transportation Number Se 16 Of 2023 On Health Protocols For Travelers By Air Transportation During The Coronavirus Disease 2019 (Covid-19) Endemic Transition Period
10. Circular The Minister Of Transportation Number Se 17 Of 2023 On Health Protocols For Travelers By Railway Transportation During The Coronavirus Disease 2019 (Covid-19) Endemic Transition Period

One type of legal policy that is needed to undergo significant changes in dealing with the Covid-19 problem is legal policy related to criminal economic law (Dongmei & Jiahui, 2022). As is known, even though there is the Covid-19 Pandemic, it does not mean that the occurrence of criminal economic law has decreased, precisely because the Covid-19 Pandemic has caused many people to be dismissed from their jobs so quickly; it becomes increasingly difficult to monitor crime, resulting in many criminals committing criminal acts; More and more people need income, to buy Covid-19 medicine which is not cheap, and so on, thus causing many people to commit crimes. This can be seen from the increase in criminal acts from 2021-2022 (two thousand twenty-one to two thousand twenty-two).

**Table 1. Number of Crimes from 2021-2022**

Region	Number of Crimes Based on Regional Police Data	
	2021	2022
Aceh	6651	10137
North Sumatra	36534	43555
West Sumatra	5666	7691
Riau	7512	12389
Jambi	3701	5359
South Sumatra	13037	11453
Bengkulu	3493	3613
Lampung	9764	11022
Kep. Bangka Belitung	1566	2072
Kep. Riau	2481	3358
Metro Jaya	29103	32534
West Java	7502	29485
Central Java	8909	30060
In Yogyakarta	4774	10591

Region	Number of Crimes Based on Regional Police Data	
	2021	2022
East Java	19257	51905
Banten	3434	5038
Bali	2404	6304
West Nusa Tenggara	6296	5296
East Nusa Tenggara	4909	5991
West Kalimantan	4048	3975
Central Kalimantan	2399	3189
South Kalimantan	4973	5016
East Kalimantan	4564	4221
North Kalimantan	971	1280
North Sulawesi	6215	9618
Central Sulawesi	5139	5453
South Sulawesi	14636	28679
Southeast Sulawesi	2431	3828
Gorontalo	2445	2488
West Sulawesi	1500	2027
Maluku	3139	2383
North Maluku	1008	1220
West Papua	2784	4083
Papua	6236	7584
<b>Total Crime in Indonesia</b>	<b>239481</b>	<b>372897</b>

*Source: Bps.go.id*

The legal problem that arises is a legal vacuum (*leemten in het recht*) related to the form of legal policy regarding Criminal Economic Law To Overcome The Covid-19 Pandemic In Indonesia, considering that a pandemic like this is something new in Indonesia that has never happened before. Therefore, it is necessary to have an appropriate legal policy description. The legal policy description must reflect proportional justice, which must provide a deterrence effect, but on the other hand must also pay attention to the conditions of the Covid-19 Pandemic.

Based on the description above, the problem formulation in this article is: 1) How are Policies Relating to Criminal Economic Law in Indonesia? 2) How do Policies Related to Criminal Economic Law to Overcome the Covid-19 Pandemic in Indonesia?

To ensure the novelty of this article, several articles that are similar and different from this article will be described; (1) Estella Baker's article entitled: "The Crisis that Changed Everything: Reflections of and Reflections on COVID-19" was published in the European Journal of Crime, Criminal Law and Criminal Justice Volume 28, Number 4, 2020. In this article, the focus of the discussion is related to handling criminal acts during the Covid-19 Pandemic in Europe (Baker, 2020). From this, it can be understood that the difference with this article is that this article will explain the handling of economic crimes during the Covid-19 Pandemic in Indonesia, and (2) Article from Alberto Aziani et.al., with the title: "COVID-19 And Organized Crime: Strategies Employed By Criminal Groups To Increase Their Profits And Power In The First Months Of The Pandemic" published in the Journal Trends in Organized Crime, Volume 26 , Number 2, 2023. In this article the focus of the discussion is related to the exploitation of the Covid-19 situation by criminals to gain massive profits (Aziani et al., 2023). From this, it can be understood that the difference with this article is that this article will explain the handling

of economic crimes during the Covid-19 Pandemic in Indonesia. Thus, this study aims to elucidate the existing legal policies pertaining to Criminal Economic Law in Indonesia and to propose policies specifically tailored to mitigate the impact of the Covid-19 pandemic

### **Research methods**

This research is legal research. Legal research is the process of finding legal rules, legal principles and legal doctrines to answer the legal issues faced (Kurniawan et al., 2020). The approaches used in this research are the statute approach and the conceptual approach. Statute approach is an approach taken by reviewing all laws and regulations that are related to the legal issue being handled (Kurniawan et al., 2022). In this research, the laws and regulations analyzed are those related to the Formulation of Policies Related to Criminal Economic Law to Overcome the Covid-19 Pandemic. Conceptual approach is a typ

e of approach in legal research that provides an analytical perspective on solving problems in legal research seen from the aspect of legal concepts and the doctrine behind them, or can even be seen from the values contained in the norming of regulations relating to these concepts. concepts and doctrines used (Jeremiah Setiawan et al., 2023). The legal concepts and doctrines used are related to the Formulation of Policies Related to Criminal Economic Law to Overcome the Covid-19 Pandemic.

In this article use primary and secondary materials for analysis. The primary and secondary legal materials selected are legal materials to answer legal issues related to the Formulation of Policies Related to Criminal Economic Law to Overcome the Covid-19 Pandemic (PJ Setiawan et al., 2021). The primary legal materials used are the regulations related to Formulation of Policies Related to Criminal Economic Law to Overcome the Covid-19 Pandemic. Meanwhile, the secondary legal materials used are research results or journals related to the discussion.

### **Results and Discussion**

#### **Policies Relating to Criminal Economic Law in Indonesia**

In order to resolve economic criminal disputes in Indonesia in Indonesia, they must be classified into 2 (two), namely settlements related to material law and formal law (Winarsi et al., 2021). Material law is a branch of criminal law that focuses on the part or substance of criminal offenses (Nugraha et al., 2021). Material criminal law is also a branch of law that regulates acts of violation of criminal law and can regulate sanctions that will be given to violators. Formal criminal law, law that regulates ways to punish someone who violates criminal regulations (is the implementation of material criminal law) (P. Setiawan et al., 2020). With this, it can be understood holistically, related to the substance and procedures for implementing Criminal Economic Law in Indonesia.

In Indonesia, regarding related material law Policies Relating to Criminal Economic Law, generally qualify into 2 (two), namely criminal acts regulated in the Indonesian Penal Code (KUHP) and criminal acts regulated outside the Criminal Code or commonly referred to as special criminal acts (Mulyadi, 2021). In the Criminal Code there are several material regulations related to criminal acts related to the economic sector or criminal acts that have an economic motive, such as the offense of fraud listed in Articles 378 to Article 481 of the Criminal Code. The following are several descriptions of the classification of economic crimes in the Criminal Code:

**Table 2. Classification of Economic Crimes in the Criminal Code**

Number	Chapter	Classification of Crimes	Chapter
1.	Chapter X	Counterfeiting Currency and Banknotes	244-252 of the Criminal Code
2.	Chapter XI	Forgery of Seals and Brands	253-262 of the Criminal Code
3.	Chapter XII	Letter Forgery	263-276 of the Criminal Code
4.	Chapter XVII	Unlocking Secrets	322-323 of the Criminal Code
5.	Chapter XXII	Theft	362-367 of the Criminal Code
6.	Chapter XXIII	Blackmail and Threats	368-371 of the Criminal Code
7.	Chapter XXIV	Embezzlement	372-377 of the Criminal Code
8.	Chapter XXV	Fraudulent Acts	378-395 of the Criminal Code
9.	Chapter XXVI	Actions that harm debtors or people who have rights	396-405 of the Criminal Code
10.	Chapter XXVII	Destroying or Damaging Items	406-412 of the Criminal Code
11.	Chapter XXVIII	Malfeasance	413-437 of the Criminal Code
12.	Chapter XXIX	Shipping Crimes	438-479 of the Criminal Code
13.	Chapter XXIX A	Aviation Crimes and Crimes Against Aviation Facilities/Infrastructure	479a-r of the Criminal Code
14.	Chapter XXX	Publishing and Printing Protection	480-485 of the Criminal Code

*Source: Indonesian Penal Code (KUHP)*

In the Criminal Code, some of these offenses are no longer valid, because they have been specifically regulated (*lex specialis*) in separate laws or are usually referred to as special criminal offenses. This special law also regulates material criminal law specifically, so that when there is a conflict between the Criminal Code and special rules, the special rules are used, in accordance with the principle of *lex specialis derogat legi generali* (Wicaksana, 2021) For example, in relation to brands regulated in Law Of The Republic Of Indonesia Number 20 Of 2016 On Marks And Geographical Indications Law Of The Republic Of Indonesia Number 20 Of 2016 On Marks And Geographical Indications, Law Of The Republic Of Indonesia Number 31 Of 1999 On Eradication Of The Crime Of Corruption Jo. Law No. 20/2001 on Amendment To Law No. 31/1999 On Corruption Eradication, etc.

One of the laws outside the Criminal Code which is often said to be the main source regarding Criminal Economic Law policies in Indonesia is the Emergency Law of the Republic of Indonesia Number 7 of 1955 concerning the Investigation, Prosecution and Trial of Economic Crimes. In fact, in view. In fact, there are parties who interpret criminal acts in the economic sector in a narrow sense as only all actions listed in the Emergency Law of the Republic of Indonesia Number 7 of 1955 concerning Investigation, Prosecution and Trial of Economic Crimes (Ramdania, 2021). According to this view, economic crimes are criminal acts that qualify under Article 1 of the Emergency Law of the Republic of Indonesia Number 7 of 1955 concerning Investigation, Prosecution and Trial of Economic Crimes. Here are the complete settings:

What is called an economic crime is:

1e. violation of a provision in or based on: a. "Ordonnantie Gecontroleerde Goederen 1948" ("Staatsblad" 1948 No. 144), as amended and supplemented by

"Staatsblad" 1949 No. 160; b. "Prijsbeheersing-ordonnantie 1948" ("Staatsblad" 1948 No. 295); c. "Hoarding of Goods Act 1951" (State Gazette 1953 No.4); d. "Rijsterdonnantie 1948" ("Staatsblad" 1948 No. 253); e. "Emergency Law on rice milling obligations" (State Gazette of 1952 No.33); f. "Deviezen Ordonnantie 1940" ("Staatsblaad" 1940 No. 205).

2e. the criminal acts referred to in articles 26, 32 and 33 of this emergency law;

3e. violation of a provision in or based on another law, simply the law calls the violation an economic crime."

Thus, according to this narrow view, criminal acts outside the qualifications contained in the Emergency Law of the Republic of Indonesia Number 7 of 1955 concerning Investigation, Prosecution and Trial of Economic Crimes do not qualify as economic crimes.

According to the author, this view is not entirely correct, because apart from the Emergency Law of the Republic of Indonesia Number 7 of 1955 concerning the Investigation, Prosecution and Trial of Economic Crimes, there are other laws that regulate economically motivated criminal acts, even in the Criminal Code alone, as described above also exists. However, the Emergency Law of the Republic of Indonesia Number 7 of 1955 concerning the Investigation, Prosecution and Trial of Economic Crimes can be said to be the central law that regulates Economic Crimes in Indonesia (Ramdania, 2021).

There are several laws which are the embodiment of economic criminal law policy regulations, including (Hamzah, 2017):

**Table 3. Classification of Economic Crimes in Various Legislation**

Number	Type of Offense	Constitution
1.	Offenses related to Corruption	Law Of The Republic Of Indonesia Number 31 Of 1999 On Eradication Of The Crime Of Corruption Jo. Law No. 20/2001 on Amendment To Law No. 31/1999 On Corruption Eradication
2.	Offenses related to Money Laundering	Law Of The Republic Of Indonesia Number 8 Of 2010 On The Prevention And Eradication Of Money Laundering Crime
3.	Banking Offenses	Law N0.7/1992 On The Banking System Jo. Law No.10/1998 Concerning Amendment To Law N0.7/1992 On The Banking System
4.	Offenses against Monopoly Practices and Unfair Business Competition	Law Of The Republic Of Indonesia Number 5 Of 1999 On Prohibition Of Monopolistic Practices And Unfair Business Competition
5.	Offenses Relating to Consumer Protection	Law Of The Republic Of Indonesia Number 8 Of 1999 On Consumer Protection
6.	Offenses related to Bank Indonesia	Law Of The Republic Of Indonesia Number 23 Of 1999 On Bank Indonesia
7.	Foreign Exchange Traffic Offenses and the Exchange Rate System	Law Number 24 of 1999 on Foreign Exchange Traffic and the Exchange Rate System
8.	Offenses related to the Exclusive Economic Zone	Law Number 5 of 1983 concerning the Indonesian Exclusive Economic Zone

Number	Type of Offense	Constitution
9.	Offenses related to Fiduciary	Law Of The Republic Of Indonesia Number 42 Of 1999 On Fiduciary Security
10.	Offenses related to Oil and Gas	Law Of The Republic Of Indonesia Number 22 Of 2001 On Oil And Gas

*Source: Andi Hamzah (2017)*

Regarding the regulation of formal criminal law as an embodiment of Policies Related to Criminal Economic Law, it generally refers to Law Number 8 of 1981 concerning Criminal Procedure Law (KUHAP). The Criminal Procedure Code regulates procedures related to handling Criminal Economic Law which must be adhered to by law enforcers. However, when there is a law that specifically regulates the procedural law of a criminal act, then that special law is used, as in Article 284 paragraph (2) of the Criminal Procedure Code which regulates: "Within two years after this law is promulgated ", then the provisions of this law apply to all cases, with the temporary exception of special provisions on criminal procedures as stated in certain laws, until there are changes and/or they are declared no longer valid." Furthermore, in the Elucidation of Article 284 paragraph (2) of the Criminal Procedure Code: "a. What is meant by all cases are cases that have been submitted to court; b. What is meant by "special provisions on criminal procedures as stated in certain laws" are special provisions on criminal procedures as stated in, among other things: 1. Law concerning the investigation, prosecution and trial of economic crimes (Law Number 7 Drt. 1955); 2. Law concerning the eradication of criminal acts of corruption (Law Number 3 of 1971); provided that all special provisions of criminal procedures as stated in certain laws will be reviewed, changed or revoked within the shortest possible time."

The above description of Material and Formal Criminal Law is a manifestation Formulation of Policies Related to Criminal Economic Law in Indonesia. With proportional enforcement of these two laws, it is hoped that there will be enforcement of economic criminal law that reflects justice, usefulness and legal certainty, in accordance with the legal ideals (*rechtsidee*) of Gustav Radbruch (Abrianto et al., 2020). The existence of these 2 (two) forms of policy can be said to be an effort to create "perfect law" according to the old maxim: "*lex aequitate gaudet; appetite perfectum; est norm recti*" (free translation: "The law offers justice; the law represents perfection and regulates rights") (Temnov, 2010).

### **Policies Related to Criminal Economic Law to Overcome the Covid-19 Pandemic in Indonesia**

Associated with policies related to criminal economic law to overcome the Covid-19 pandemic in Indonesia, can be qualified into 2 (two), namely related to material law and formal law. This is to ensure that the policies formed by the Government related to criminal economic law to overcome the Covid-19 pandemic in Indonesia can be comprehensive. Thus, not only materially, but formally it does not cause problems (Afiyanto et al., 2021).

Materially, one of the policies taken by the Government is related to criminal economic law to overcome the covid-19 pandemic in Indonesia is to issue Regulation Of The Government In Lieu Of Law Of The Republic Of Indonesia Number 1 Of 2020 On State Financial And The Stability Of The Financial System Policies For The Mitigation Of Coronavirus Disease 2019 ( Covid-19) Pandemic And/Or To Deal With Threats That Are Potentially Harmful To The National Economy And/Or The Stability Of The



Financial System. This policy is in the form of a Regulation Of The Government In Lieu Of Law, so that means, this policy was issued, because of a compelling emergency (Rinaldy Bima, 2019). The characteristics of a coercive emergency based on Constitutional Court Decision Number 138/PUU-VII/2009: a. due to the existence of urgent need to quickly solve legal problems based on a Law; b. the required Law does not yet exist so there is a legal vacuum or the inadequacy of existing Laws; and c. the condition of legal vacuum that cannot be coped with by way of establishing a Law using the usual procedure that takes quite a long time while the said urgent situation needs certainty to be resolved (Bachmid, 2023). Therefore, you could say, the formation of Regulation Of The Government In Lieu Of Law Of The Republic Of Indonesia Number 1 Of 2020 On State Financial And The Stability Of The Financial System Policies For The Mitigation Of Coronavirus Disease 2019 (Covid-19) Pandemic And /Or To Deal With Threats That Are Potentially Harmful To The National Economy And/Or The Stability Of The Financial System by the Government, considers that the Covid-19 Pandemic condition is a critical condition that forces and requires responsive regulations to deal with this emergency situation.

One of the essential regulations in the Regulation Of The Government In Lieu Of Law Of The Republic Of Indonesia Number 1 Of 2020 On State Financial And The Stability Of The Financial System Policies For The Mitigation Of Coronavirus Disease 2019 (Covid-19) Pandemic And /Or To Deal With Threats That Are Potentially Harmful To The National Economy And/Or The Stability Of The Financial System related to Policies Related to Criminal Economic Law to Overcome the Covid-19 Pandemic in Indonesia are Articles 27 and 28. The following are the complete arrangements :

- a) Article 27 Regulation Of The Government In Lieu Of Law Of The Republic Of Indonesia Number 1 Of 2020 On State Financial And The Stability Of The Financial System Policies For The Mitigation Of Coronavirus Disease 2019 (Covid-19) Pandemic And/Or To Deal With Threats That Are Potentially Harmful To The National Economy And/Or The Stability Of The Financial System:
  - (1) Costs that have been incurred by the Government and/or agency which is a member of KSSK for the purpose of implementation of state revenue including policies in the sector of taxation, state expenditure policies including policies in the regional financial sector, financing policies, financial system stability policies, and national economic recovery programs, shall be a part of economic costs to rescue the economy from crisis and not a state loss.
  - (2) Members of KSSK, Secretary of KSSK, members of KSSK secretariat, and officials or employees of the Ministry of Finance, Bank Indonesia, the Financial Services Authority, as well as Indonesia Deposit Insurance Company, and other officials, who are related to the implementation of this Regulation of Government in Lieu of Law, shall not be prosecuted based on both civil and criminal procedures if the implementation of their duties is based on good faith and in accordance with laws and regulations.
  - (3) Any actions, including decisions that are made based on this Regulation of the Government in Law, are not lawsuit claims that may be filed to state administrative justice.
- b) Article 28 Regulation Of The Government In Lieu Of Law Of The Republic Of Indonesia Number 1 Of 2020 On State Financial And The Stability Of The Financial System Policies For The Mitigation Of Coronavirus Disease 2019 (Covid-19)

Pandemic And/Or To Deal With Threats That Are Potentially Harmful To The National Economy And/Or The Stability Of The Financial System:

At the time this Regulation of the Government in Lieu of Law comes into force:

- 1) provisions on the periods that are regulated in Article 11 paragraph (2), Article 17B paragraph (1), Article 25 paragraph (3), Article 26 paragraph (1), and Article 36 paragraph (1c) of Law Number 6 of 1983 on General Provisions and Procedures for Taxation (State Gazette of the Republic of Indonesia of 1983 Number 49, Supplement to the State Gazette of the Republic of Indonesia Number 3262) as amended several times, most recently by Law Number 16 of 2009 on Stipulation of Regulation of the Government in Lieu of Law Number 5 of 2008 on Fourth Amendment to Law Number 6 of 1983 on General Provisions and Procedures for Taxation into Law (State Gazette of the Republic of Indonesia of 2009 Number 62, Supplement to the State Gazette of the Republic of Indonesia Number 4999);
- 2) Article 55 paragraph (4) of Law Number 23 of 1999 on Bank Indonesia (State Gazette of the Republic of Indonesia of 1999 Number 66, Supplement to the State Gazette of the Republic of Indonesia Number 3843), as amended several times, most recently by Law Number 6 of 2009 on Stipulation of Regulation of the Government in Lieu of Law Number 2 of 2008 on Second Amendment to Law Number 23 of 1999 on Bank Indonesia into Law (State Gazette of the Republic of Indonesia of 2009 Number 7, Supplement to the State Gazette of the Republic of Indonesia Number 4962);
- 3) Article 12 paragraph (3) along with its elucidation, Article 15 paragraph (5), Article 22 paragraph (3), Article 23 paragraph (1), Article 27 paragraph (3), and Article 28 paragraph (93) in Law Number 17 of 2003 on State Finances (State Gazette of the Republic of Indonesia of 2003 Number 47, Supplement to the State Gazette of the Republic of Indonesia Number 4286);
- 4) Article 3 paragraph (3) of Law Number 1 of 2004 on State Treasury (State Gazette of the Republic of Indonesia of 2004 Number 5, Supplement to the State Gazette of the Republic of Indonesia Number 4355);
- 5) Article 22 paragraph (2) and paragraph (3) of Law Number 24 of 2004 on Indonesia Deposit Insurance Corporation (State Gazette of the Republic of Indonesia of 2004 Number 96, Supplement to the State Gazette of the Republic of Indonesia Number 4420) as amended by Law Number 7 of 2009 on Stipulation of Regulation of the Government in Lieu of Law Number 3 of 2008 on Amendment to Law Number 24 of 2004 on Indonesia Deposit Insurance Corporation into Law (State Gazette of the Republic of Indonesia of 2009 Number 8, Supplement to the State Gazette of the Republic of Indonesia Number 4963);
- 6) Article 27 paragraph (1) along with its elucidation, Article 36, Article 83, and Article 107 paragraph (2) of Law Number 33 of 2004 on Financial Balance between the Central Government and Regional Governments (State Gazette of the Republic of Indonesia of 2004 Number 126, Supplement to the State Gazette of the Republic of Indonesia Number 4438);
- 7) Article 171 of Law Number 36 of 2009 on Health (State Gazette of the Republic of Indonesia of 2009 Number 144, Supplement to the State Gazette of the Republic of Indonesia Number 5063);

- 8) Article 72 paragraph (2) along with its elucidation of Law Number 6 of 2014 on Village (State Gazette of the Republic of Indonesia of 2014 Number 7, Supplement to the State Gazette of the Republic of Indonesia Number 5495);
- 9) Article 316 and Article 317 of Law Number 23 of 2014 on Regional Governments (State Gazette of the Republic of Indonesia of 2014 Number 244, Supplement to the State Gazette of the Republic of Indonesia Number 5587) as amended several times, most recently by Law Number 9 of 2015 on Second Amendment to Law Number 23 of 2014 on Regional Governments (State Gazette of the Republic of Indonesia of 2015 Number 58, Supplement to the State Gazette of the Republic of Indonesia Number 5679);
- 10) Article 177 letter c number 2, Article 180 paragraph (6), and Article 182 of Law Number 17 of 2014 on People's Consultative Assembly, House of Representatives, and Regional Representative Council, Regional House of Representatives (State Gazette of the Republic of Indonesia of 2014 Number 182, Supplement to the State Gazette of the Republic of Indonesia Number 5568) as amended several times, most recently by Law Number 13 of 2019 on Third Amendment to Law Number 17 of 2014 on People's Consultative Assembly, House of Representatives, and Regional Representative Council, Regional House of Representatives (State Gazette of the Republic of Indonesia of 2019 Number 181, Supplement to the State Gazette of the Republic of Indonesia Number 6396);
- 11) Article 20 paragraph (2) and paragraph (3) of Law Number 9 of 2016 on the Prevention and Control of Financial System Crisis (State Gazette of the Republic of Indonesia of 2016 Number 70, Supplement to the State Gazette of the Republic of Indonesia Number 5872); and
- 12) Article 11 paragraph (22), Article 40, Article 42, and Article 46 of Law Number 20 of 2019 on State Budget of 2020 (State Gazette of the Republic of Indonesia of 2019 Number 198, Supplement to the State Gazette of the Republic of Indonesia Number 6410),  
shall be declared invalid insofar that they are related to state financial policies to handle the spread of Coronavirus Disease 2019 (COVID-19) and/or for the purpose of facing threats that harm the national economy and/or financial system stability based on this Regulation of the Government in Law.

The importance of these two provisions is because these provisions provide forgiving reasons for perpetrators who have the potential to commit criminal acts. This provision provides legal protection so that policy makers do not experience fear in making policies, during the Covid 19 Pandemic which incidentally must be responsive (Juliani, 2020). These regulations were then ratified based on Law Of The Republic Of Indonesia Number 2 Of 2020 On The Stipulation Of Regulation Of The Government In Lieu Of Law Number 1 Of 2020 On State Financial And The Stability Of The Financial System Policies For The Mitigation Of Coronavirus Disease 2019 ( Covid-19) Pandemic And/Or To Deal With Threats That Are Potentially Harmful To The National Economy And/Or The Stability Of The Financial System

As time went by, there was a Constitutional Court Decision Number 37/PUU-XVIII/2020 which basically stated Article 27 paragraphs (1) and (3) Regulation Of The Government In Lieu Of Law Of The Republic Of Indonesia Number 1 Of 2020 On State Financial And The Stability Of The Financial System Policies For The Mitigation Of Coronavirus Disease 2019 (Covid-19) Pandemic And/Or To Deal With Threats That Are Potentially Harmful To The National Economy And/Or The Stability Of The Financial

System conditionally unconstitutional (Zaman et al., 2023). The description of Constitutional Court Decision Number 37/PUU-XVIII/2020 regarding this matter: “2. Stating the phrase "is not a state loss" Article 27 paragraph (1) Attachment to Law Number 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the 2019 Corona Virus Disease Pandemic ( Covid-19) and/or in order to face threats that endanger the national economy and/or financial system stability into law (State Gazette of the Republic of Indonesia of 2020 Number 134, Supplement to the State Gazette of the Republic of Indonesia Number 6516) contrary to the State Constitution Republic of Indonesia of 1945 and does not have conditionally binding legal force as long as it is not interpreted as, "it is not a loss to the state as long as it is done in good faith and in accordance with statutory regulations". So Article 27 paragraph (1) Attachment to Law Number 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the 2019 Corona Virus Disease (Covid-19) Pandemic and/or In order to face threats that endanger the national economy and/or the stability of the financial system, it becomes law (State Gazette of the Republic of Indonesia of 2020 Number 134, Supplement to the State Gazette of the Republic of Indonesia Number 6516) which originally read, "Costs that have been incurred by the Government and/or institutions KSSK members in the framework of implementing state revenue policies including policies in the field of taxation, state expenditure policies including policies in the field of regional finance, financing policies, financial system stability policies, and national economic recovery programs, are part of the economic costs of saving the economy from the crisis and not is a state loss", in full it reads, "Costs that have been incurred by the Government and/or KSSK member institutions in the context of implementing state revenue policies including policies in the field of taxation, state expenditure policies including policies in the field of regional finance, financing policies, financial system stability policies , and the national economic recovery program, are part of the economic costs of saving the economy from the crisis and do not constitute state losses as long as they are carried out in good faith and in accordance with statutory regulations." 3. Stating the phrase "is not the object of a lawsuit that can be submitted to the state administrative court" in Article 27 paragraph (3) Attachment to Law Number 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2020 concerning State Financial Policy and System Stability Finance for Handling the 2019 Corona Virus Disease (Covid-19) Pandemic and/or in the Context of Facing Threats that Endanger the National Economy and/or Financial System Stability Becomes Law (State Gazette of the Republic of Indonesia of 2020 Number 134, Supplement to the State Gazette of the Republic of Indonesia Number 6516) is contrary to the 1945 Constitution of the Republic of Indonesia and does not have conditionally binding legal force as long as it is not interpreted, "is not the object of a lawsuit that can be submitted to the state administrative court as long as it is carried out in connection with the handling of the Covid-19 pandemic and is carried out in accordance with in good faith and in accordance with statutory regulations.” So Article 27 paragraph (3) Attachment to Law Number 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the 2019 Corona Virus Disease (Covid-19) Pandemic and/or In order to face threats that endanger the national economy and/or financial system stability, it becomes law (State Gazette of the Republic of Indonesia of 2020 Number 134, Supplement to the State Gazette of the

Republic of Indonesia Number 6516) which originally read, "All actions including decisions taken are based on Government Regulations In lieu of this Law, it is not the object of a lawsuit that can be submitted to the state administrative court," in full it reads, "All actions, including decisions taken based on this Government Regulation in Lieu of Law, are not the object of a lawsuit that can be submitted to the state administrative court. as long as it is carried out in connection with handling the Covid-19 pandemic and is carried out in good faith and in accordance with statutory regulations." Thus, there is a change in the interpretation of these provisions So Article 27 paragraph (3) Attachment to Law Number 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the 2019 Corona Virus Disease (Covid-19) Pandemic and/or In order to face threats that endanger the national economy and/or financial system stability, it becomes law (State Gazette of the Republic of Indonesia of 2020 Number 134, Supplement to the State Gazette of the Republic of Indonesia Number 6516) which originally read, "All actions including decisions taken are based on Government Regulations In lieu of this Law, it is not the object of a lawsuit that can be submitted to the state administrative court," in full it reads, "All actions, including decisions taken based on this Government Regulation in Lieu of Law, are not the object of a lawsuit that can be submitted to the state administrative court. as long as it is carried out in connection with handling the Covid-19 pandemic and is carried out in good faith and in accordance with statutory regulations." Thus, there is a change in the interpretation of these provisions So Article 27 paragraph (3) Attachment to Law Number 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the 2019 Corona Virus Disease (Covid-19) Pandemic and/or In order to face threats that endanger the national economy and/or financial system stability, it becomes law (State Gazette of the Republic of Indonesia of 2020 Number 134, Supplement to the State Gazette of the Republic of Indonesia Number 6516) which originally read, "All actions including decisions taken are based on Government Regulations In lieu of this Law, it is not the object of a lawsuit that can be submitted to the state administrative court," in full it reads, "All actions, including decisions taken based on this Government Regulation in Lieu of Law, are not the object of a lawsuit that can be submitted to the state administrative court. as long as it is carried out in connection with handling the Covid-19 pandemic and is carried out in good faith and in accordance with statutory regulations." Thus, there is a change in the interpretation of these provisions (Nainggolan, 2022).

The form of formal legal policy, related to Criminal Economic Law to Overcome the Covid-19 Pandemic in Indonesia, is the implementation or use of online examination mechanisms. For example, Regulation of the Supreme Court of the Republic of Indonesia Number 4 of 2020 concerning the Administration and Trial of Criminal Cases in Court Electronically (which has now been amended by Regulation of the Supreme Court of the Republic of Indonesia Number 8 of 2022 concerning 'Amendments to Regulation of the Supreme Court Number 4 of 2020 concerning Administration and Trial Criminal Cases in Court Electronically)(Rahman, 2021). In this regulation, it is stipulated that criminal trials can be conducted electronically. Thus, despite the Covid-19 pandemic, criminal investigations can still take place while implementing health protocols (Rahman, 2021).

### **Conclusion**

Regarding the Criminal Economic Law to Overcome the Covid-19 Pandemic in Indonesia policy, there are 2 (two), namely policies that are material law and formal law.

The material legal policy that is regulated is related to the reasons for forgiveness and the formal law is related to the implementation or use of online examination mechanisms. In order to prepare for the future, the Indonesian government should repair and improve existing infrastructure, so that the infrastructure will be ready, in case similar conditions will be established when the pandemic attacks Indonesia again.

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