



UU RI No. 30/2002

COMMISSION FOR THE ERADICATION OF CRIMINAL ACTS OF CORRUPTION

WITH THE BLESSINGS OF THE ONE GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considers :

- a. that in the course of realizing a fair, bountiful, and prosperous community under the Pancasila and the Constitution of the Republic of Indonesia of 1945, the eradication of criminal acts of corruption has not been optimally implemented. Therefore, the eradication of corruption needs to be professionally, intensively, and continuously improved, as corruption has had dire consequences on the wealth and the economy of the nation, as well as hampering national development;
- b. that government agencies that have handled corruption cases have not been functioning effectively and efficiently in eradicating corruption;
- c. that according to article 43 of Law No. 31 of 1999 on the Eradication of Criminal Acts of Corruption, as improved by Law No. 20 of 2001 on Changes in Law No. 31 of 1999, there is a need for the formation of an independent Corruption Eradication Commission to fight against corruption in Indonesia; bahwa berdasarkan pertimbangan sebagaimana dimaksud dalam huruf a, huruf b, dan huruf c perlu membentuk Undang-Undang tentang Komisi Pemberantasan Tindak Pidana Korupsi;

Recalls :

1. Article 5 (1) and article 20 of the Constitution of the Republic of Indonesia of 1945;

2. Law No. 8 of 1981 on the Law of Criminal Procedure (State Gazette of the Republic of Indonesia No. 76 of 1981, also additional State Gazette of the Republic of Indonesia No. 3209);
3. Law No. 28 of 1999 on Government Executives who are Clean and Free from Corruption, Collusion, and Nepotism (State Gazette of the Republic of Indonesia No. 75 of 1999, also additional State Gazette of the Republic of Indonesia No. 3851);
4. Law No. 31 of 1999 on the Eradication of Criminal Acts of Corruption (State Gazette of the Republic of Indonesia No. 140 of 1999, also additional State Gazette of the Republic of Indonesia No. 3874) as improved by Law No. 20 of 2001 on Changes in Law No. 31 of 1999 (State Gazette of the Republic of Indonesia No. 134 of 2001, also Additional State Gazette of the Republic of Indonesia No. 4150);

Under the Approval of the

Parliament of the Republic of Indonesia

And the

President of the Republic of Indonesia

A Decision has been made on :

The implementation of :Law on the Commission to Eradicate Criminal Acts of Corruption

Chapter I

General Rulings

Article 1

Under this Law, the following are assumed:

1. A criminal act of corruption is a criminal act as defined by Law No. 31 of 1999 on the Eradication of Criminal Acts of Corruption, as improved by Law No. 20 of 2001 on the Changes in Law No. 31 of 1999.
2. A Government Executive is as described in Law No. 28 of 1999 on Government Executives who are Clean and Free from Corruption, Collusion, and Nepotism.
3. The eradication of criminal acts of corruption would be in the form of a chain of actions with the purpose of preventing and eradicating criminal acts of corruption through coordinated efforts, supervision, monitoring, investigations, indictments, prosecutions, and checks at courts, all to be done with as much participation on the part of the general public as the Law allows.

Article 2

With this Law a Commission for the Eradication of Criminal Acts of Corruption shall be formed, henceforth to be called the Commission for the Eradication of Corruption (KPK).

Article 3

The KPK is to be a State agency that will perform its duties and authority independently, free from any and all influence.

Article 4

The KPK is formed with the primary purpose of improving the effectiveness and efficiency of efforts to eradicate criminal acts of corruption.

Article 5

In the course of performing its tasks and authority, the KPK holds on to principles of:

- a. legal certainty;
- b. transparency;
- c. accountability;
- d. public interest; and
- e. proportionality.

Chapter II

Tasks, Authority, and Obligations

Article 6

The KPK is tasked with:

- a. coordinating with authorized institutions to eradicate corruption;
- b. supervizing authorized institutions in their activities of eradicating corruption;
- c. conducting investigations, indictments, and prosecutions against criminal acts of corruption;
- d. preventing criminal acts of corruption; and
- e. monitoring the governing of the State.

Article 7

In performing its task of coordination as outlined in Article 6 (a), the KPK is authorized to:

- a. coordinate investigations, indictments, and prosecutions against criminal acts of corruption;
- b. implement a reporting system for the purposes of eradicating corruption;
- c. request information on acts with the purpose of eradicating corruption from relevant institutions;
- d. arrange opinion hearings and meetings with institutions authorized to eradicate corruption; and
- e. request for reports from relevant institutions pertaining to the prevention of criminal acts of corruption.

Article 8

- (1) In performing its task of supervision as outlined in Article 6 (b), the KPK is authorized to conduct surveillance, research, and studies on institutions whose tasks and authority are relevant in the fight against corruption, as well as on institutions that perform public service.

- (2) In performing its authority as outlined in the previous sub-article (1), the KPK is authorized to take over an indictment or a prosecution process against a corruptor, that is at that time being performed by the Police or the Prosecutor's Office.
- (3) Should the KPK takes over an indictment or a prosecution process, the Police or the Prosecutor's Office is obliged to hand over the suspect along with all the case files and other documents and evidence within 14 working days, since the date the request from the KPK was received.
- (4) The process of handing over proceedings to the KPK as outlined in the previous sub-article (3) should be carried out by formulating and signing a hand-over statement so as to ensure that all the tasks and authority of the Police or the Prosecutor's Office will fall to KPK during the hand-over event.

Article 9

The process of taking over an indictment or a prosecution process as outlined in Article 8 will be carried out by the KPK should the following conditions prevail:

- a. a report by a member of the general public about an act of corruption has been ignored;
- b. the processing of the corruption case goes on for too long or is delayed without a valid reason;
- c. the handling of the corruption case had been manipulated so as to protect the corruptor;
- d. the handling of the corruption case is itself mired by corrupt acts;
- e. the corruption case has been hampered by executive, legislative, or judicial interference; or
- f. any other circumstances where the Police or the Prosecutor's Office is unable to carry out the case responsibly and adequately.

Article 10

Should any circumstances listed in article 9 take place, the KPK will proceed to inform public indicters and prosecutors to take over a corruption case currently being handled.

Article 11

In performing its tasks as outlined in Article 6 (c), the KPK is authorized to conduct investigations, indictments, and prosecutions against corruption cases that:

- a. involve law enforcement officers, government executives, or other parties connected to corrupt acts committed by law enforcement officers or government executives;
- b. have attracted the attention and the dismay of the general public; and/or
- c. involves a loss to the State of at least Rp 1,000,000,000 (1 billion Rupiah).

Article 12

(1) In performing its investigation, indictment, and prosecution tasks as outlined in Article 6 (c), the KPK is authorized to:

- a. tap into communication lines and record conversations;
- b. order the relevant institution to ban an individual(s) from travelling abroad;
- c. request information from banks or other financial institutions about the financial details of a suspect or defendant;
- d. order banks or other financial intitutions to block accounts suspected to harbor the gains of corrupt activities of a suspect, defendant, or other connected parties;
- e. order the superior of a suspect to temporarily terminate the suspect from office;
- f. request data on the wealth and tax details of a suspect or defendant from the relevant institutions;
- g. temporarily halt financial transactions, trade transactions, and other forms of contract, or to temporarily annul permits, licenses, and concessions owned by suspects or defendants, assuming that preliminary evidence points to connections to a corruption case currently being investigated;

- h. request assistance from Interpol Indonesia or the law enforcement institutions of other nations to conduct searches, arrests, and confiscations in foreign countries;
- i. request assistance from the Police or other relevant institutions to conduct arrests, confinements, raids, and confiscations in corruption cases currently under investigation.

Article 13

In performing the prevention tasks as outlined in Article 6 (d), the KPK is authorized to conduct the following preventive measures:

- a. to construct lists and conduct checks on reports on the wealth of government executives;
- b. to receive reports on, and decide on the status of gratification;
- c. to run anti-corruption education programs on every level of education;;
- d. to design and push for the implementation of a socialization program against criminal acts of corruption;
- e. to conduct anti-corruption campaigns for the benefit of the general public;
- f. to conduct bilateral or multilateral co-operations in the context of eradicating corruption.

Article 14

In performing its monitoring tasks as outlined in Article 6 (e), the KPK is authorized to:

- a. conduct reviews of the administration management systems of all State institutions;
- b. to provide suggestions to the leaders of State agencies, should the KPK's reviews reveal an administration management system that is prone to corruption;
- c. to report to the President, the Parliament, and the State Auditor, should the suggestions of the KPK be ignored by potentially corrupt State agencies.

Article 15

The KPK is obliged to:

- a. provide protection to witnesses or whistle-blowers providing reports and information regarding corrupt acts;

- b. provide information to members of the general public who needs assistance in procuring, or have provided help for the KPK in obtaining data relating to the results of KPK's prosecutions;
- c. to construct a yearly report and convey it to the President, the Parliament, and the State Auditor;
- d. to uphold the oath of office;
- e. to perform its tasks, authority, and responsibilities according to the principles outlined in Article 5.

Chapter III

Reporting Procedures and Deciding on the Status of Gratification

Article 16

Each civil servant or government executive who have accepted gratification is obliged to inform the KPK, in the manner outlined as follows:

- a. The report shall be delivered in writing in the format of a KPK Reporting Form, along with the document connected to the gratification.
- b. The form as mentioned in (a) shall at least contain:
 - 1) the full name and address of the party offering the gratification, and of the party receiving the gratification;
 - 2) the office of the civil servant or the government executive;
 - 3) the place and time the acceptance of the gratification occurred;
 - 4) a description of the gratification received; and
 - 5) the value of the gratification received.

Article 17

- (1) The KPK, within 30 days of receiving a report on gratification, must decide on the status of the ownership of gratification, along with further considerations.

- (2) When deciding the ownership status of gratification as meant by the previous sub-article (1) the KPK may summon the receiver of gratification to provide information related to the acceptance of gratification.
- (3) The ownership status of gratification as outlined in subarticle (1) is to be decided by the Commissioners of the KPK.
- (4) The decision of the Commissioners of the KPK as outlined in article (3) could be in the form of deciding upon the ownership status of gratification for the receiver of gratification, or that the gratification will be annexed by the State.
- (5) The KPK is obliged to convey the decision on the ownership status of gratification as outlined in Article 4 to the receiver of gratification at the latest seven days since the date the decision has made.
- (6) Any gratification annexed by the State must be delivered at the latest seven days since the decision to annex was made.

Article 18

The KPK is obliged to declare any gratification that has been annexed by the state at least once a year in the State News.

Chapter IV

Station, Responsibilities, and Organizational Structure

Article 19

- (1) The KPK is domiciled at the capital of the Republic of Indonesia, whilst its jurisdiction covers the whole area of the Republic of Indonesia.
- (2) The KPK is allowed to form proxies in all other provinces.

Article 20

- (1) The KPK is held responsible to the public to perform its duties. The KPK is also obliged to convey reports transparently and regularly to the President, the Parliament, and the State Auditor.

- (2) Responsibility to the public as outlined in the previous sub-article (1) is to be expressed in these manners:
- a. an obligation to audit KPK's own synergy and financial responsibility, in accordance to the KPK's work program;
 - b. provide annual reports;
 - c. open access to information.

Article 21

- (1) The KPK as outlined in Chapter 3 is composed of:
- a. Five Commissioners to act as the leaders of the KPK;
 - b. A team of advisors composed of five members; and
 - c. KPK Staff to conduct tasks.
- (2) The Leaders of the KPK as outlined in the previous sub-article (1-a) are to be structured in this manner:
- a. The Chairman of the KPK, who is also a member of the Commissioners; and
 - b. Four Vice-chairmen, each a member of the Commissioners.
- (3) The Leaders of the KPK as outlined in sub-article (1-a) are government officials.
- (4) The Leaders of the KPK as outlined in sub-article (1-a) are public indictors and prosecutors.
- (5) The Leaders of the KPK as outlined in sub-article (2) perform their tasks collectively.
- (6) The Leaders of the KPK as outlined in sub-article (1-a) are the highest holders of responsibility at the KPK.

Article 22

- (1) The KPK is authorized to elect an Advisory Team as outlined in Article 21 (1-b), from amongst candidates proposed by a selection panel.

- (2) A selection panel as outlined in the previous sub-article (1) is to be formed by the KPK.
- (3) The selection panel announces the acceptance of new candidates and is active in gathering candidates, who have been invited based on the will and the input of the general public.
- (4) Candidates for the Advisory Team as outlined in sub-article (3) must be publicized in order to invite the input of the general public before they are selected and raised into office by the KPK.
- (5) After receiving input from the public, the selection panel appoints eight Advisory Team candidates, from which the KPK will select four members.
- (6) The activities outlined in the previous sub-articles (1 to 5) must be carried out at the latest three months as of the formation of the selection panel.

Article 23

The Advisory Team functions to provide suggestions and considerations according to his/her specialty within the KPK in the context of the execution of the KPK's tasks and authority.

Article 24

- (1) The Advisory Team as outlined in Article 22 will be composed of Indonesian nationals who have been appointed by the KPK by virtue of their expertise.
- (2) KPK Staff as outlined in Article 21 (1-c) will be composed of Indonesian nationals who have been appointed by the KPK by virtue of their skill.
- (3) Rules concerning the conditions and procedures governing the appointment of KPK Staff shall be included in future KPK Decisions.

Article 25

- (1) The KPK:
 - a. decides on policies and organization procedures on the conducting of the KPK's duties as well as its authority;
 - b. appoints and terminates the Head of Department, Head Secretary, Head of Sub-department, and other staff within the KPK;
 - c. decides the criteria under which corruption cases will be handled.
- (2) Rules concerning procedural issues of the KPK shall be regulated further through future KPK Decisions.

Article 26

- (1) The KPK Commissioners shall be composed of the Chairman and four Vice-chairmen.
- (2) The KPK Leaders shall command four Deputies:
 - a. the Deputy of Prevention;
 - b. the Deputy of Legal Actions;
 - c. the Deputy of Information and Data ; and
 - d. the Deputy of Internal Monitoring and Public Complaints.
- (3) The Deputy of Prevention shall command these Directorates:
 - a. The Directorate of Inventorizations and Checks on Reports on the Wealth of Government Executives;
 - b. The Directorate of Gratification;
 - c. The Directorate of Public Education and Service;
 - d. The Directorate of Research and Development.
- (4) The Deputy of Legal Actions shall command these Directorates:
 - a. The Directorate of Investigations;
 - b. The Directorate of Indictments; and

- c. The Directorate of Prosecutions.
- (5) The Deputy of Information and Data shall command these Directorates:
- a. The Directorate of Information and Data Processing;
 - b. The Directorate of Fostering Networks Between Commissions and Institutions;
and
 - c. The Directorate of Monitoring.
- (6) The Deputy of Internal Monitoring and Public Complaints shall command these Directorates:
- a. The Directorate of Internal Monitoring;
 - b. The Directorate of Public Complaints.
- (7) The Directorates of Investigations, Indictments, and Prosecutions, each shall command Task Units to serve the functions of each directorate.
- (8) Rules regarding the Deputies and each of their Directorates shall be further reviewed and updated by future KPK Decisions.

Article 27

- (1) In performing its tasks and authority, the KPK is assisted by the Secretary General.
- (2) The Secretary General shall be appointed and terminated by the President.
- (3) Concerning the performance of tasks, the Secretary General shall be responsible to the KPK Commissioners.
- (4) Rules concerning the tasks and functions of the Secretary General shall be further reviewed and updated by future KPK Decisions.

Article 28

The KPK may conduct co-operations with other parties with the purpose of developing and cultivating the KPK Organization.

Chapter V

KPK Commissioners

Article 29

In order to be eligible to be appointed a KPK Commissioner, a candidate must be:

- a. An Indonesian citizen;
- b. Devoted to the One God;
- c. Physically and mentally fit;
- d. Has an undergraduate degree in Law, or other degrees of expertise as well as at least fifteen years of experience in areas of Law, Economics, Finance, or Banking;
- e. Is at least forty years old and at most sixty-five years old during the year of selection;
- f. Has never acted improperly;
- g. Is competent, honest, has a high moral integrity, and is of good repute;
- h. Is not a caretaker of a political party;
- i. Relinquishes all other offices while being a member of the KPK;
- j. Does not pursue his/her profession while a member of the KPK;
- k. Publicizes his/her wealth according to the prevailing laws.

Article 30

- (1) KPK commissioners as outlined in Article 21 (1-a) shall be selected by the parliament from a pool of candidates offered by the President.
- (2) In order to ensure the smoothness of the selection and appointment processes of the KPK Commissioners, the Government appoints a selection committee to implement the rules of this Law.
- (3) The membership of the committee outlined in the previous sub-article (2) shall be composed of government and private individuals.

- (4) When formed, the selection committee as outlined in (3) shall announce the candidate selection.
- (5) The recording process of candidates shall be performed in fourteen consecutive working days.
- (6) The selection committee shall invite the public for feedback concerning the candidates as outlined in (4).
- (7) Feedback as outlined in (6) must be conveyed to the selection committee at the latest one month after the announcement had been made.
- (8) The selection committee shall decide the names of candidates to be presented to the President.
- (9) As late as fourteen days since the list of candidate names has been received by the President, he/she shall convey twice the amount of possible members to the Parliament.
- (10) The Parliament is obliged to appoint five candidates as outlined in Article 9, within three months of accepting the President's counsel.
- (11) The Parliament is obliged to decide among the candidates as outlined in the previous sub-article (10), one Chairman and four Vice-chairmen of the KPK.
- (12) The appointed candidates shall be conveyed back to the President as late as seven days since appointment has been made, to then be legalized by the President.
- (13) The President is obliged to legalize the appointed candidates as late as thirty days since receiving the Parliament's letter conveying the appointed candidates' names.

Article 31

The process of candidacy and appointment of KPK members as outlined in Article 30 shall be carried out transparently.

Article 32

- (1) A Commissioner shall leave office when:
 - a. He/she passes on from this world;
 - b. His/her term of office has ended;
 - c. He/she becomes convicted of a criminal act;

- d. He/she is unable to perform for more than three consecutive months;
 - e. He/she resignes; or
 - f. He/she violates this Law and therefore has to leave office.
- (2) When a KPK Commissioner becomes a suspect of a criminal act, he/she shall be temporarily relinquished from office.
- (3) Termination as outlined in sub-articles (1) and (2) shall be decided on by the President.

Article 33

- (1) Should at any time the office of the Commissioners is empty, the President shall suggest candidates for replacement to the Parliament.
- (2) The procedure for the selection and appointment of replacement candidates shall be carried out as outlined in Articles 29, 30, and 30.

Article 34

The Commissioners of the KPK shall hold office for a term of four years, and may be re-appointed for one term.

Article 35

- (1) Before holding office, the Chairman and Vice-chairmen of the KPK shall swear by his/her religion before the President.
- (2) The swear/oath as outlined in (1) shall be:

“ I do solemnly swear/promise to perform this task, directly or indirectly, under any name or manner, to not give or promise any manner of thing to anyone”.

“ I do solemnly swear/promise that I, in the course of performing my duties, will never receive directly or indirectly any manner of thing or promise from anyone”.

“ I do solemnly swear/promise that I will remain loyal to and uphold and practice the Pancasila as the foundation of the State, the Constitution of the Republic of Indonesia of 1945, and the prevailing laws and regulations of the Republic of Indonesia”.

“ I do solemnly swear/promise that I will always perform my duties and authority seriously, thoroughly, objectively, honestly, courageously, justly, without discriminating by rank, tribe, religion, race, gender, and certain classifications and will perform my obligations to the best of my abilities, being fully responsible to the One True God, the people, the nation, and the State”.

“ I do solemnly swear/promise that I will always refuse or decline to accept or decline to be influenced by the interventions of anyone and that I will remain firm to the performance of my duties and authority as has been bestowed by the Law to me ”.

Article 36

KPK Commissioners are disallowed from:

- a. Engaging in direct or indirect communication with a suspect or other party involved with a corruption case being handled by the KPK under any circumstances;
- b. Handling a corruption case where the suspect is related to a member of the KPK;
- c. Holding office as commissioner or director of a company, institution, the caretaker of a koperasi, or other professions and activities connected with the aforementioned offices.

Article 37

The rules as outlined in Article 36 also apply to the Advisory Team and other staff of the KPK.

Chapter VI

Investigations, Indictments, and Prosecutions

Part One-General

Article 38

- (1) All authority related to investigations, indictments, and prosecutions outlined in Law No. 8 of 1981 on the Law of Criminal Procedure apply to the investigators, indictors, and general prosecutors of the KPK.
- (2) The rules as outlined in Article 7 (2) of Law No. 8 of 1981 on the Law of Criminal Procedure do not apply to KPK indictors as decided by this Law.

Article 39

- (1) Investigations, indictments, and prosecutions of criminal acts of corruption shall be carried out according to the Law of Criminal Procedure and based on Law No. 31 of 1999 on the Eradication of the Criminal Act of Corruption, as improved by Law No. 20 of 2001 on Changes in Law No. 31 of 1999, except as decided on in this Law.
- (2) Investigations, indictments, and prosecutions as outlined in the previous sub-article (1) shall be carried out under the order of, and in the name of the KPK.
- (3) Investigators, indictors, and general prosecutors who hold office at the KPK are temporarily relinquished of their duties at Police institutions and the Prosecutor's Office while they are under the employ of the KPK.

Article 40

The KPK is not authorized to issue a letter to order the halting of the process of indictments and prosecutions against a corruption case.

Article 41

The KPK is allowed to engage in co-operating in the context of investigations, indictments, and prosecutions against corruption cases with the law enforcement institutions of foreign nations, holding fast to the the prevailing Laws or based on international agreements that the government of Indonesia is party to.

Article 42

The KPK is authorized to coordinate and control investigations, indictments, and prosecutions against corruption committed by individuals who are under the jurisdiction of military and public justice.

Part Two- Investigations

Article 43

- (1) An investigator of the KPK is appointed and terminated by the KPK.
- (2) An investigator as outlined in (1) is tasked with the function of investigating criminal acts of corruption.

Article 44

- (1) If investigators, during an investigation, uncover preliminary evidence positively identifying a criminal act of corruption, they must report back to the KPK within seven days since the discovery of such evidence.
- (2) Preliminary evidence is considered to positively identify a corrupt act if: at least two material evidence has been discovered, including but not limited to information or data that is uttered, sent, accepted, or kept electronically, optically, or normally.
- (3) Should an investigator, during an investigation, does not positively identify enough preliminary evidence as outlined in (1), he/she shall report back to the KPK, who in turn shall cease the investigation process.
- (4) Should an event as outlined in (3) occur and the KPK is of the opinion that investigations should continue, the KPK may engage in its own investigation or delegate that task to investigators from the Police or the Prosecutor's Office.
- (5) Should an investigation be delegated to the Police or the Prosecutor's Office as outlined in (4), the Police and the Prosecutor's Office are obliged to coordinate and report back to the KPK on the developments of the investigation.

Part Three-Indictments

Article 45

- (1) An indictor of the KPK is appointed and terminated by the KPK.

- (2) An indictor as outlined in (1) is tasked with the function of indicting criminal acts of corruption.

Article 46

- (1) Should an individual be suspected of committing a corrupt act by the KPK, since the date he/she is recorded to be a suspect, all special procedures that would apply under other Laws concerning checks made on the suspect shall not apply under this Law.
- (2) Checks on the suspect as outlined in (1) should be done without compromising the rights of the suspect.

Article 47

- (1) Under strong suspicion that positive identification will be discovered, an indictor may confiscate evidence without the authorization of the Head of the District Court, in the course of that indictor's duties.
- (2) Rules that normally apply under Laws regulating confiscations shall not apply under this Law.
- (3) An indictor as outlined in (1) is obliged to record the process of confiscation on the day the confiscation took place. The record must include:
 - a. the name, type, and amount of the material, or valuables being confiscated;
 - b. information on the place, time, day, date, month, and year the confiscation was made on;
 - c. information on the owner or possessor of the materials or valuables being confiscated;
 - d. the signature and identity of the indictor performing the confiscation; and
 - e. the signature and identity of the owner or possessor of the materials or valuables being confiscated.

- (4) A copy of the confiscation report as outlined in (3) shall be conveyed to the suspect or his/her family.

Article 48

In the interest of the indictment process, the suspect is obliged to provide information on his overall wealth and the wealth of his/her spouse, child, or the wealth of all individuals or corporations known to be, or suspected to be, related to the corrupt acts of the suspect, to the indictor.

Article 49

When the indictment process is considered to be finished, the indictor shall formulate a report to be conveyed to the KPK Commissioners to invite further action.

Article 50

- (1) When a corruption case is found out and the KPK has not commenced its indictment process, while the case is being indicted by the Police or the Prosecutor's Office, that institution is obliged to inform the KPK at the latest fourteen days since the commencement of the indictment process.
- (2) An indictment process being conducted by the Police or the Prosecutor's Office as outlined in (1) must be coordinated continuously with the KPK.
- (3) When the KPK has already commenced its indictment process as outlined in (1), the Police or the Prosecutor's Office no longer have the authority to conduct an indictment process.
- (4) When an indictment process is being conducted concurrently by the Police and/or the Prosecutor's Office and the KPK, the process conducted by the Police or the Prosecutor's Office shall cease immediately.

Part Four-Prosecutions

Article 51

- (1) A general prosecutor of the KPK is appointed and terminated by the KPK.

- (2) A general prosecutor as outlined in (1) is tasked with the function of prosecuting criminal acts of corruption.
- (3) A prosecutor as outlined in (1) is for all intents and purposes a General Prosecutor.

Pasal 52

- (1) A general prosecutor, after receiving case files from indictors, must convey the case files to the District Court at the latest fourteen days since he/she receives the case files.
- (2) As outlined in (1), the Head of the District Court is obliged to accept the case files sent by the KPK, to then be processed and decided on.

Chapter VII

Checks at the Court of Law

Article 53

Under this Law, the Court of Corruption has been formed, which will be tasked with and authorized to check and decide on corruption cases proposed by the KPK.

Article 54

- (1) The Court of Corruption shall be stationed to be on the level of Public Justice.
- (2) The first Court of Corruption as outlined in (1) shall be formed at the District Court of Central Jakarta, whose jurisdiction covers the whole of the Republic of Indonesia.
- (3) The formation of the Court of Corruption other than as outlined in (2) shall be implemented in stages by way of Presidential Decrees.

Article 55

The Court of Corruption as outlined in Article 54 (2) shall be authorized to appraise and decide on criminal cases of corruption committed outside the jurisdiction of the Republic of Indonesia, should the perpetrator be of Indonesian nationality.

Article 56

- (1) The Judges of the Court of Corruption shall be composed of District Court judges and ad hoc judges.
- (2) A District Court judge as outlined in (1) shall be appointed based on the Decision of the Head of the Supreme Court.
- (3) An ad hoc judge as outlined in (1) shall be appointed and terminated by the President, after receiving counsel from the Head of the Supreme Court.
- (4) In the process of appointing and suggesting a candidate judge for the Court of Corruption as outlined in (2) and (3), the Head of the Supreme Court is obliged to announce all developments to the public.

Article 57

- (1) To be appointed a judge of the Court of Corruption as outlined in Article 56 (2), an individual must fulfill the following conditions:
 - a. experienced as a judge for at least ten years;
 - b. experienced in handling corruption cases;
 - c. competent and owning a high moral integrity in the performance of his/her duties;
and
 - d. has never been subjected to disciplinary action.
- (2) For an individual to be eligible for Court of Corruption judge candidacy as outlined in Article 56 (3), the following conditions must be fulfilled:
 - a. of Indonesian nationality;
 - b. devoted to the One True God;
 - c. physically and mentally healthy;
 - d. posses an undergraduate degree in Law or other degrees involving at least fifteen years of experience and expertise in the field of Law;
 - e. is at least forty years of age during the selection process;

- f. has never acted improperly;
- g. is competent, honest, owning a high moral integrity as well as a good reputation;
- h. is not the caretaker of a political party; and
- i. relinquishes all structural offices and other offices while holding office as an ad hoc judge.

Article 58

- (1) A corruption case must be appraised and decided on by the Court of Corruption within ninety working days since the case was first delivered to the desk of the Court of Corruption.
- (2) The appraisal of a corruption case as outlined in (1) shall be conducted by a team of five judges, composing of two District Court judges (of the relevant district) and three ad hoc judges.

Article 59

- (1) Should the decision of the Court of Corruption be appealed to the High Court, the case shall be appraised and decided on within at most sixty working days since the case files were received by the desk of the High Court.
- (2) The appraising of a case as outlined in (1) shall be performed by a team of five judges composing of two High Court judges (who are relevant to the case) and three ad hoc judges.
- (3) The rules as outlined in Article 57 also apply to High Court ad hoc judges.

Article 60

- (1) Should the decision of the High Court be appealed to the Supreme Court, the case shall be appraised and decided on within ninety days since the case files were recieved by the desk of the Supreme Court.
- (2) The appraisal of a case as outlined in (1) shall be performed by a team of five judges composed of two Supreme Justices and three ad hoc judges.

- (3) To be eligible for appointment as an ad hoc judge of the Supreme Court, the following conditions must be met:
- a. of Indonesian nationality;
 - b. devoted to the One True God;
 - c. physically and mentally healthy;
 - b. possesses an undergraduate Law degree or other degrees where twenty years of experience and expertise in the field of Law was involved;
 - c. at least fifty years of age during the selection process;
 - d. has never acted improperly;
 - e. competent, honest, owning high moral integrity and good reputation;
 - f. is not a caretaker of a political party;
 - g. relinquishes all structural and other offices while holding the office of ad hoc judge.

Article 61

- (1) Before holding office, an ad hoc judge is obliged to speak an oath according to his/her religion before the President.
- (2) The oath as outlined in (1) shall be:

“ I do solemnly swear that in the performance of my duties, directly or indirectly, under any name an in any manner, I will not give or promise to give any manner of thing to anyone”.

“I do solemnly swear that in any action or inaction in the course of my duties, not once will I accept directly or indirectly any manner of thing or promise from anyone”.

“I do solemnly swear that I will remain faithful to and adhere to the Pancasila as the foundation of the nation, the Constitution of 1945, as well as the Laws prevailing in the Republic of Indonesia”.

“I do solemnly swear that I will perform my duties honestly, thoroughly, and objectively, as well as non-discriminatively, while upholding the ethics of the profession, all in the best, most just manner as befits an officer of good morals and stalwart honesty in the fight for law enforcement and justice”.

Article 62

Appraisals at the Court of Corruption shall be conducted according to the Law on Criminal Procedure and Law No. 31 of 1999 on the Eradication of the Criminal Act of Corruption, as improved by Law No. 20 of 2001 on Changes on Law No. 31 of 1999.

Chapter VIII

Rehabilitation and Compensation

Article 63

- (1) In the event that an individual incurs pecuniary and non-pecuniary losses due to the investigations, indictments, and prosecutions of the KPK that violate this Law or other prevailing Laws, that individual has the right to sue for rehabilitation and/or compensation.
- (2) The right to sue as outlined in (1) does not reduce the right of the injured party to propose a pre-trial charge, should there be reasons to conduct such a charge as outlined in Law No. 8 of 1981 on the Law of Criminal Procedure.
- (3) The right to sue as outlined in (1) shall be brought up to the relevant District Court, which will proceed to process the charge as outlined in Article 54.
- (4) The decision of the District Court as outlined in (3) shall include the type, amount, time period, and method for the carrying out of the rehabilitation and/or compensation that the KPK must adhere to.

Chapter IX

Funding

Article 64

Funding for the operations of the KPK shall be provided by the State Budget for Income and Spending (APBN).

Chapter X

Rules Regarding Criminal Violations

Article 65

Each member of the KPK who has violated a rule as outlined in Article 36 shall be incarcerated for a maximum of five years.

Article 66

A staff of the KPK shall be sentenced to incarceration as outlined in Article 65 should he/she:

- a. engages in a direct or indirect relationship with a suspect or other parties connected to a corruption case being handled by the KPK, without a valid reason;
- b. handles a corruption case where the suspect is a relative of his/hers;
- c. holds the office of commissioner or director of a corporation, institution, the caretaker of a koperasi, and other professional offices or other activities related to those offices.

Article 67

Each Commissioner and staff of the KPK who is charged with the criminal act of corruption shall find that his/her sentence shall be compounded with a third of a sentence from the core list of sentences.

Chapter XI

Rules for Takeovers

Article 68

All investigations, indictments, and prosecutions against criminal acts of corruption for which the legal processes have not been finished by the time the KPK is formed could be taken over by the KPK based on the rules outlined in Article 9.

Article 69

- (1) With the formation of the KPK the Commission for the Appraisal of the Wealth of Government Executives (KPKPN) as defined in Law No. 28 of 1999 on Government Executives Who are Clean and KKN-free shall become a part of the Deputy of Prevention of the KPK.
- (2) The KPKPN as outlined in (1) shall continue its duties, functions, and authority until the KPK commences to conduct its duties and authority based on this Law.

Chapter XII

Closing Regulations

Article 70

The KPK shall conduct its duties and authority at the latest one year after this Law has been passed.

Article 71

- (1) When this Law is passed, Article 27 of Law No. 31 of 1999 on the Eradication of Criminal Acts of Corruption (State Gazette, 1999, No. 140, also Additional State Gazette No. 3874) as improved by Law No. 20 of 2001 on Changes on Law No. 31 of 1999 (State Gazette, 2001, No. 134, also Additional State Gazette No. 4150) shall be declared no longer valid;
- (2) When the KPK commences to conduct its tasks and authority as outlined in Article 70, rules concerning the KPK as outlined in Articles 10 through 19 in Chapter VII of Law No. 28 of 1999 on Government Executives Who are Clean and KKN-free (State

Gazette, 1999, No. 75, also Additional State Gazette No. 3851) shall be declared no longer valid.

Article 72

This Law shall be in effect starting from the date it is passed.

In order for the general public to be aware of this Law, it will be passed in writing in the State Gazette of the Republic of Indonesia. \

Validated in Jakarta on December 27th, 2002

The President of the Republic of Indonesia,

MEGAWATI SOEKARNOPUTRI

Passed in Jakarta on:

December 27th, 2002

Further Explanations

I. General

Corruption in Indonesia has become a culture that has successfully proliferated itself in the community, and corrupt acts have been on the increase over the years, both in terms of the number of uncovered cases and the losses to society, as well as in terms of how corrupt acts have become more methodical and systemic, as they bore into every aspect of everyday life in Indonesia.

This rampant growth of corruption will wreak havoc not just to Indonesia's economic life but also to the viability of the nation in general. Corruption is a violation of the social and economic rights of society, and as such should no longer fall under the standard category of merely "crime", corruption is an extraordinary crime. Therefore the effort to eradicate corruption must no longer be just acting against a criminal act, corruption must be prosecuted against by extraordinary means.

Law enforcement with regards to the eradication of corruption so far has been lackluster. In order to improve conditions, we must enhance law enforcement methods by forming a special agency that will be allowed a wide authority that is independent as well as free from the influence of notorious powers in the effort to combat graft in a coordinated effort that is impemented optimally, intensively, effectively, professionally, and continuously.

In its fight to realize the supremacy of the Law, the Indonesian government has laid a strong policy foundation to combat corruption. Some of those policies have been in the form of laws, such as: Parliamentary Decision No. XI/MPR/1998 on Government Executives who are Clean and KKN-free; Law No. 28 of 1999, also on Government Executives who are Clean and KKN-free; and Law No. 31 of 1999 on the Eradication of the Criminal Act of Corruption, as improved by Law No. 20 of 2001 on Changes on Law No. 31 of 1999.

According to Article 43 of Law No. 31 of 1999 (as improved by Law No. 20 of 2001), the aforementioned agency shall henceforth be called the Commission for Eradication of Corruption, which is to be allowed the authority to coordinate and supervise (including but not limited to) investigations, indictments, and prosecutions. The technicalities of forming the Commission including organization structure, administration and responsibility allocation, tasks and authority, as well as staff related issues shall be dealt with within the Law.

This Law has been formed under the rules outlined in the Law itself as can be observed above. At present the eradication of corruption is being conducted by various institutions, such as the Prosecutor's Office, the Police, and other agencies connected to the fight against corruption, and therefore the authority of the KPK has been governed just so in order to avoid overlap with the authority of the aforementioned institutions.

The KPK is authorized to conduct investigations, indictments, and prosecutions against corrupt acts, including acts that:

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- a. Involve enforcers of the Law, government executives, and other individuals connected to the act of corruption committed by the law enforcer or the government executive;
- b. Has attracted the attention and concern of the public; and/or
- c. Involve losses to the State of at least Rp. 1,000,000,000 (one billion Rupiah).

Under the rules of this Law, the KPK is:

- 1) encouraged to structure a strong networking, as well as treat existing institutions as conducive “counterpartners”, ensuring the efficiency and effectiveness of the combat against corruption;
- 2) not to monopolize on tasks and authority in the realm of investigations, indictments, and prosecutions;
- 3) tasked with the function of initiating, as well as cultivating existing, institutions to combat corruption (trigger mechanics);
- 4) tasked with the function of supervizing and monitoring existing institutions, and in certain circumstances be prepared to take over investigations, indictments, and prosecutions (in essence to perform as a “superbody”), that are being conducted by the Police and/or the Prosecutor’s Office.

Furthermore, in the context of cultivation, the KPK has been supported by strategic regulations, including:

- 1) a regulation in Law No. 31 of 1999 on the Eradication of Criminal Acts of Corruption as improved by Law No. 20 of 2001 on improvements on Law No. 31 of 1999, which includes a widening in the category for valid material evidence as well as a regulation for shifting the burden of proof (to the suspect);
- 2) a regulation on the authority of the KPK to conduct investigations, indictments, and prosecutions against a government executive without procedural obstacles due to the status of the government executives;
- 3) a regulation on the responsibility of the KPK to the general public and to provide a transparent report to the President, the Parliament, and the State Auditor;
- 4) a regulation on increases in the severity of sentences to Commissioners or staff members of the KPK who committed corrupt acts; and
- 5) a regulation on the termination without consideration of KPK Commissioners who committed acts of corruption.

In the process of forming the KPK, human resources in terms of those who will lead and manage the KPK is a very important issue. This law provides a strong legal base

to the aforementioned human resources in their tasks and authority as outlined in this Law.

The KPK is a state agency that is independent and conducts its tasks and authority free from any power/influence. The Commissioners of the KPK are five individuals who are considered to be officials of the State. The Commissioners shall be composed of individuals from a government background and from a societal background, so as to ensure that the surveillance system of the public that observes the KPK's synergy in conducting investigations, indictments, and prosecutions against criminal acts of corruption shall still be adhered to the KPK.

Based on the aforementioned ruling, the prerequisites to be eligible to be appointed a Commissioner of the KPK, aside from the process to require the participation of the public and transparency, there must also be administrative conditions to be met, as well as a fit and proper test to be undertaken by the Parliament, to then be confirmed by the President.

Also, in order to guarantee the momentum of the conducting of the KPK's tasks and authority, an Advisory Team composed of individuals from various fields of expertise tasked with providing suggestions and considerations to the Commissioners of the KPK. With regards to the KPK's organizational aspect, the KPK has been structured in such a way so as to invite the optimal participation of the general public in its activities. Furthermore, the conducting of public campaign programs should be done in a systematic and consistent fashion, so that the KPK's synergy can be monitored by the general public.

In supporting the KPK's wide and heavy burden of fighting corruption, the KPK needs to be supported by a source of funds from the State Revenue and Spending Budget (APBN). Within this Law, the KPK is ordained to be formed and domiciled in the nation's capital, and should the need ever arise, the KPK shall form proxies in the provincial regions.

In performing its duties and authority in the form of conducting investigations, indictments, and prosecutions, the KPK, aside from following the formal procedures as prevalent within the law and Law No. 31 of 1999 on the Eradication of Criminal Acts of Corruption (as improved by Law No. 20 of 2001 on changes on Law No. 31 of 1999), this Law (No. 30 of 2002) includes unique procedures in the form of special rules (*lex specialis*). In addition to that, in order to increase the efficiency and effectiveness of enforcing the Law against corrupt activities, this law regulates the

formation of a Court of Corruption in the sphere of general law, which will initially be built into the Jakarta District Court environment. This Court of Corruption shall be tasked, and be given authority, to appraise and decide on corruption cases. Court proceedings shall be conducted by a team of judges composed of two District Court judges and three ad hoc judges. Furthermore, in the process of appraisal at the level of further appeals, proceedings shall be conducted by a team of judges composing of two District Court judges and three ad hoc judges. In order to ensure legal certainty, every level of appraisal shall be constrained within a time limit.

In order to realize the KPK's principle of proportionality, this Law shall regulate issues of rehabilitation and compensation, should the Commission ever conduct its tasks and authority in a manner violating this Law and other prevailing Laws.

II. By Article

Article 3

In the context of this Article, "powers and influence" shall be construed as any power that could affect the tasks and authority of the KPK or members of the Commissioners of the KPK individually, from any executive, judiciary, legislative, and any other entities connected to a corruption case, or any other circumstances and situation, for any reason.

Article 5

In the context of this Article::

- a. "legal certainty" shall be construed as a principle that emphasizes legal foundations, propriety, and justice in all the conducting of the KPK's tasks and authority;
- b. "transparency" shall be construed as a principle of openness towards the rights of the Indonesian society to receive correct, honest, and non-discriminative information on the synergy of the KPK in the conducting of its tasks and functions;

- c. “accountability” shall be construed as a principle to ensure that each activity and end result of the activities of the KPK shall be accountable to the Indonesian society, as the Indonesian people are the holders of the highest sovereignty as stated in the prevailing laws;
- d. “public interest” shall be construed as a principle to ensure the primacy of public interest by accomodating the aspirations of the general public in a selective manner;
- e. “proportionality” shall be construed as a principle that stresses the need for balance between the conducting of tasks, authority, responsibility, and obligation of the KPK.

Article 6

“Authorized institutions” in the context of this Article shall include: the State Auditor, the Finance and Development Monitoring Agency (BPKP), the Commission to Appraise the Wealth of Government Executives (KPKPN), and inspectorates at each Department and non-departmental government agencies.

Article 8

Sub-article (3)

This ruling shall be construed to mean a handover of authority, and not a physical handover of the suspect: he/she shall remain in the custody of the Police or Prosecutor’s Office or the KPK shall request the assistance of the Head of the State Penitentiary. See the explanation for Article 12 (1-i).

Article 11

(a)

“Government Executives” shall be defined as within Law No. 28 of 1999 on Government Executives who are Clean and KKN-free, a definition which includes regional parliamentary members.

(f)

“Suspect or defendant” could be an individual or a corporation.

(g)

This ruling is intended to avoid the disposal or destruction of material evidence needed by investigators, indictors, or prosecutors, in the interest of avoiding even larger losses to the State.

(i)

Request for assistance as outlined in this ruling, for example if the KPK were to arrest an individual suspected of committing corrupt acts, the KPK could request the Head of the State Penitentiary to place the suspect under his/her custody.

Article 15

(a)

“To provide protection” in this ruling shall be construed to include the provision of security guarantees through requesting the assistance of the Police or by providing the whistle-blower with a new identity, or by evacuating the whistle-blower, as well as providing legal protection.

Article 16

The rulings within this Article shall structure the procedure for reporting and the decision-making process for the status of gratification as outlined in Article 12 (b) of Law No. 20 of 2001 on Changes on Law No. 31 of 1999.

Article 21

Sub-article (5)

“The collective performance of tasks” shall mean that the decision-making process of the KPK shall be collectively conducted by the Commissioners of the KPK.

Article 29

(i)

“Other offices” are for example: a commissioner or director, of a state-owned or private enterprise.

(j)

“Professions” are for example: a lawyer, a public accountant, or a doctor.

Article 31

“Transparency” in the context of this Article shall be construed as an environment where the general public is able to follow the processes and mechanisms of the candidacy and appointment of KPK Commissioners.

Article 38

Sub-article (1)

“Issues related to investigations, indictments, and prosecutions” in this ruling are to include: the authority to conduct an arrest, custody of a suspect, raids, confiscations, and mail checks.

Article 41

“The law enforcement agencies of other nations” shall include their Police, Prosecutor’s Office, Courts, and other special agencies that handle corruption cases.

Article 46

Sub-article (1)

“Special Procedures” shall be construed to mean the obligation to acquire permits to check on certain government officials who are suspects.

Article 50

Sub-article (4)

“Performed concurrently” shall be defined as ascertaining the same day and date for the start of the investigation.

Article 56

Sub-article (2)

Based on this ruling, the appointment of a judge of the Court of Corruption by the Head of the Supreme Court, a judge holding office at the Central Jakarta District Court may be appointed.

Sub-article (4)

Based on this ruling, the selection of a candidate judge to be decided on and suggested by the President to be a judge at the Court of Corruption shall be conducted transparently, inviting the participation of the general public. Publicity may be accomplished through any form of mass media, be it written or electronic, for the purpose of inviting the input of, and feedback from, the general public on a candidate judge for the Court of Corruption.

Article 62

“The prevailing Law on Criminal Procedure” shall be as regulated in Law No. 8 of 1981 on the Law on Criminal Procedure (KUHAP). With regards to appraisals for appeal, this shall be as regulated in Law No. 14 of 1985 on the Supreme Court.

Article 64

“Funding” shall include costs of rehabilitation and compensation.