



Legal Protection of the Rights of the Suspect Against the Implementation of the Return of the Case File from the Public Prosecutor to the Investigator Repeatedly

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Article	Abstract
Keywords: Pre-Prosecution; Legal Protection; Return; Public Prosecutor; Investigator	<i>The purpose of this study is to analyze whether or not the Circular Letter of the Deputy Attorney General for General Crimes Number SE-3/E/EJP/11/2020 of 2020 concerning prosecutor's instructions (P-19) at the pre-prosecution stage is carried out once in handling general criminal cases and legal protection for suspects for the return of case files from the public prosecutor to the investigator more than once. This research method is normative juridical. The results and discussion show that pre-prosecution restrictions through Circular Letter of the Deputy Attorney General for General Crimes Number SE-3/E/EJP/11/2020 of 2020 concerning prosecutor instructions (P-19) at the pre-prosecution stage are carried out once in handling general criminal cases are non-binding so that they can be easily deviated from and the form of legal protection for suspects whose rights are violated by the return of alternating case files is that the investigator issues an Order to Terminate Investigation (SP3), provide rehabilitation and coordinate well with the public prosecutor as stated in Article 109 paragraph (1) of Law Number 8 of 1981 concerning the Criminal Procedure Code.</i>

INTRODUCTION

The implementation of the law enforcement process against criminal offenders requires synchronization between law enforcement agencies, namely from the police, prosecutors, courts to correctional institutions so that the objectives of the punishment system can run well. All law enforcement agencies have their own duties, functions and authorities, however, in their implementation, all elements of the institution must still pay attention to the relationship between sub-systems in order to realize an effective criminal justice system (Nursyamsudin and Samud 2022). The criminal justice system has an essential role which aims to control crimes that arise in society both in the form of ordinary crimes and *extraordinary crimes*.

Based on the foregoing, in the settlement of criminal cases, material criminal law and formal criminal law are known. Law plays a role in resolving a conflict arising from differences in interests, so that the implementation of law enforcement is also regulated by a rule that is used as a guideline or reference. The rule refers to Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP). The implementation of criminal procedure law must be carried out in a structured or systematic manner, therefore in resolving a problem or case it is necessary to implement a series of procedural laws as regulated in the Criminal Procedure Code. Procedural law or formal law is a legal regulation that regulates the procedures for implementing material law. As for the criminal procedure law itself, according to Wirjono Prodjodikoro, it is a regulation that regulates how government officials carry out demands, obtain court decisions, who must carry out court decisions, if a person or group of people commits a criminal offense (Yahman 2021).

The implementation of criminal procedural law in Indonesia actually adheres to the principles of simple, fast and low-cost justice, however, in actual realization there are still many obstacles at the police level when conducting investigations and investigations and even at the prosecutor's office level when preparing to carry out prosecutions. Before the case can be raised to the stage of examination of the subject matter by the panel of judges in court, a very important role is needed from the police and the prosecutor's office so that the two law enforcement agencies must synergize and work hand in hand so that the implementation of the principles of simple, fast and light justice can be carried out properly. Guaranteeing the rights of parties dealing with the law is realized from the implementation of this principle.

Enforcement of criminal law in Indonesia requires the role of the police, in this case listed as in Law Number 2 of 2002 concerning the Indonesian National Police which

states that the National Police has a function as a tool to enforce the law, maintain security and public order and has a function to protect and protect and serve the community (Abdim Munib 2018). One of the roles or functions of the police is to conduct investigations where this stage is a crucial stage because it requires a very high level of professionalism and accuracy in order to find the perpetrator or suspect of a criminal offense. The results of the investigation must be written in the minutes of the examination transparently and clearly without anything being deducted or hidden. There are guidelines related to the implementation of investigations, which are listed in Chapter IV of the Criminal Procedure Code concerning investigators and public prosecutors. In addition to the provisions listed in the Criminal Procedure Code, the National Police has its own guidelines regarding the implementation of investigations as stated in Police Regulation Number 6 of 2019 concerning Criminal Investigation Management. Based on Article 6 of the Criminal Procedure Code, the role of

investigator can be carried out by civil servant officials where the authority is specifically given by law.

In addition to the duties and functions of the police above, there are still law enforcement agencies that are pioneers who also play an important role in resolving a criminal case, namely the prosecutor's office where the prosecutor's office has an important role in filtering between the investigation process and the process of examining the subject matter in court. The authority of the prosecutor's office, apart from being regulated in the Criminal Procedure Code, is also contained in Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia jo. Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia which regulates in more detail the duties and authorities of the prosecutor's office. For several ongoing cases both in the investigation and pre-prosecution stages, detention of the suspect can be carried out as ordered by the provisions in the Criminal Procedure Code. The detention is carried out to minimize the suspect will escape, damage or eliminate evidence and or repeat criminal acts. This detention provision is precisely listed in Article 21 of the Criminal Procedure Code. In addition to requiring high accuracy, investigators and public prosecutors must carry out their duties quickly because this relates to the rights of suspects that must be protected. If the implementation of the investigation and pre-prosecution process takes a long time or is protracted, legal certainty over the status of the suspect and justice for the perpetrators of criminal acts is not guaranteed.

The most important part in the implementation of criminal procedure law is related to the arrangement of case files involving investigators and public prosecutors, however, in its preparation there are not a few obstacles so that the case file has been returned several times from the public prosecutor to the investigator with the intention of being completed with due regard to the provisions in Article 110 paragraph (3) and paragraph (4) of the Criminal Procedure Code. Regulations related to the implementation of the return of case files are listed in Article 138 paragraph (1) and paragraph (2) of the Criminal Procedure Code.

The phenomenon of case files going back and forth is due to the differentiation of rules related to the process of returning case files from public prosecutors to investigators because each agency has its own rules. The KUHAP also does not contain a limit on the number of times a case file can be returned by the public prosecutor to the investigator for completion. Based on these reasons, it was then emphasized in the Circular Letter of the Deputy Attorney General for General Crimes Number SE-3/E/EJP/11/2020 of 2020 concerning prosecutor's instructions (P-19) at the pre-prosecution stage carried out once in handling general criminal cases that the implementation of returning case files from public prosecutors to investigators was

carried out once, however, in its implementation there were still deviations from this rule because the rule was only institutional.

Prior to the issuance of Circular Letter of the Deputy Attorney General for General Crimes Number SE- 3/E/EJP/11/2020 of 2020 concerning prosecutor's instructions (P-19) at the pre-prosecution stage carried out once in handling general criminal cases, related to the limit on the number of times the case file can be returned by the public prosecutor to the investigator to be completed is regulated in Article 11 paragraph (6) of the Regulation of the Attorney General of the Republic of Indonesia Number Per-036/A/JA/09/2011 concerning Standard Operating Procedures (SOP) for Handling General Criminal Cases, which reads:

"The return of the case file as referred to in paragraph

(5) after more than 3 (three) times, the Public Prosecutor must provide instructions to the investigator so that the investigator determines the attitude in accordance with the legal facts found in the handling of the case as the previous instructions".

However, this regulation has been revoked by the Regulation of the Attorney General of the Republic of Indonesia Number 13 of 2019 concerning the Revocation of Regulation of the Attorney General Number Per-036/A/JA/09/2011 concerning Standard Operating

Procedures (SOP) for Handling General Criminal Cases. Therefore, Circular Letter of the Deputy Attorney General for General Crimes Number SE-3/E/EJP/11/2020 of 2020 concerning prosecutor's instructions (P-19) at the pre-prosecution stage carried out once in handling general criminal cases is a new breakthrough in the implementation of the pre-prosecution process.

The case files returned from the public prosecutor to the investigator repeatedly create a stigma that the performance of law enforcement agencies is unprofessional. In addition, it should be remembered that there are still suspect rights that are shackled due to the length of the pre-prosecution process. It is considered that the constitutional rights of suspects to "recognition, guarantees, protection and fair legal certainty" as provided by Article 28D paragraph (1) and Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia have not been optimally implemented. However, the limitation on the number of returns of case files from the public prosecutor to the investigator, which can only be done once, is still insufficient because it must remember and consider how high the level of difficulty of the case being resolved.

The following are several examples of cases regarding the process of returning case files repeatedly, including the first, which was experienced by Juanda where the case file on him which was handled by the Investigator Kanit 1 Subdit 4 Ditreskrimum Polda Metro Jaya together with the Research Prosecutor of the DKI Jakarta High Prosecutor's Office had experienced the return of case files 5 (five) times (Suhanda

2021). Second, experienced by a cleric's son in Jombang who was caught in a case of alleged sexual abuse where the case had experienced the return of the case file from the public prosecutor to the investigator to be completed 7 (times) (Rinanda 2021). Third, regarding the case of an alleged criminal offense of false report committed by the suspect JU (38 years old) as the act has violated Article

317 of the Criminal Code. The perpetrator has been named as a suspect since August 19, 2020, but until the end of 2021 there have been 5 (five) times the case files have gone back and forth from the public prosecutor from the DKI Jakarta High Prosecutor's Office to Polda Metro Jaya (Mohamad Yusuf 2022). The protracted implementation of returning case files is also considered detrimental to victims of a criminal offense who are seeking justice.

Based on the foregoing, the researcher aims to discuss and analyze whether or not the Circular Letter of the Deputy Attorney General for General Crimes Number SE-3/E/EJP/11/2020 of 2020 concerning prosecutor's instructions (P-19) at the pre-prosecution stage is carried out once in handling general criminal cases and legal protection of the rights of suspects as a result of the return of case files from the public prosecutor to the investigator which is carried out more than once.

METHOD

This research uses normative juridical research because this research focuses on laws and regulations that are relevant to the issues discussed. The approaches used are *statute* approach and *conceptual* approach. The statutory approach is used to analyze issues related to pre-prosecution and legal protection of the rights of suspects as a result of the return of case files from the public prosecutor to the investigator more than once and the principles of criminal procedure law related to the problem. The conceptual approach used in this research is the concept of freedom of human rights, the concept of legal certainty and the concept of functional coordination.

The sources of legal materials consist of primary legal materials consisting of a collection of laws and regulations relevant to the problem, secondary legal materials consisting of books, journals, theses, as well as news and articles obtained from trusted media sources and non-legal legal materials consisting of the Big Indonesian Dictionary (KBBI) and foreign language dictionaries. The technique of collecting legal materials is done by literature study. The legal material analysis technique uses prescriptive analysis techniques where this research provides opinions or arguments on the results of research that has been completed which aims to provide an assessment or prescription regarding right or wrong or what should be according to the law against facts or legal events from the results of the research (Fajar and Achmad, 2022).

RESULTS AND DISCUSSION

A. Whether or not the Circular Letter of the Deputy Attorney General for General Crimes Number SE- 3/E/EJP/11/2020 of 2020 concerning prosecutor's instructions (P-19) at the pre-prosecution stage is carried out once in handling general criminal cases.

Pre-prosecution is the act of submitting case files resulting from investigations from investigators to public prosecutors. The case file is submitted to the public prosecutor for the purpose of examining its completeness both formally and materially. Pre-prosecution can also be referred to as the coordination stage between investigators and public prosecutors because at this stage good cooperation is needed between investigators and public prosecutors. The submission of case files resulting from the investigation is based on Article 110 paragraph (1) of KUHAP.

Pre-prosecution begins when the Notice of Commencement of Investigation (SPDP) and the investigation case file are sent to the public prosecutor. In connection with the notification of the commencement of this investigation, it is emphasized regarding the obligation to submit, the form and time of notification regarding this matter, including the following (Husein : 1991)

- a. That the notification of the commencement of investigation to the public prosecutor as referred to in Article 109 of the Criminal Procedure Code is the obligation of the investigator;
- b. That the notification must be in writing for the sake of orderly administration of the case and in connection with this a standardization is required, namely whether this notification is set out in the form of a form or an ordinary official letter, then it is also necessary to keep in mind the geographical location to quickly utilize existing means of communication by not ruling out the possibility that the notification is proposed in writing.

In fact, there is no specific or general rule governing the SPDP time limit, but it is only determined by the level of difficulty in the case settlement process. If the investigator has completed the investigation, the case file must be immediately submitted to the public prosecutor. The investigation is considered complete if it has fulfilled the provisions in Article 110 paragraph (4) of the Criminal Procedure Code which states that:

"The investigation is considered to have been completed if within fourteen days the public prosecutor does not return the results of the investigation or if before the time limit expires there has been a notification about it from the public prosecutor to the investigator."

As stipulated in the aforementioned article, the deadline for the submission of case files from the public prosecutor to the investigator must be done in a timely

manner. The submission of this case file consists of 2 (two) stages, as regulated in Article 8 paragraphs (2) and (3) of the Criminal Procedure Code which reads:

"The investigator submits the case file to the public prosecutor."

"Submission of case files as referred to in paragraph (2) is carried out:

- a. in the first stage the investigator only submits the case file;
- b. in the event that the investigation is considered complete, the investigator shall hand over responsibility for the suspect and evidence to the public prosecutor."

Thus, based on this provision, the case file is submitted at the first stage which focuses only on the case file, not including the suspect and evidence.

The public prosecutor is obliged to examine the case file that has been submitted by the investigator to him for the purpose of preparing an indictment if indeed the case file on the case has been declared complete and meets the requirements so that it can be raised to the stage of examination of the case at trial. The completeness of the case file is the most important requirement for the preparation of an indictment. An indictment has 2 (two) requirements that must be met, namely formal and material requirements as regulated in Article 143 paragraph (2) of the Criminal Procedure Code (Wongkar and Bawole 2021). The formal requirements contain the full name, place of birth, age or date of birth, gender, nationality, place of residence, religion and occupation of the suspect. As for the material requirements, namely the indictment must contain a careful, clear and complete description of the criminal offense that has been committed by the suspect by mentioning the time (*tempus delicti*) and place (*locus delicti*) the criminal offense was committed. This material requirement is the urgency in a criminal offense so that a complete and detailed case file is needed. This is because if the material requirements of the indictment are not met, then based on Article 143 paragraph (3) of the Criminal Procedure Code, the indictment is declared null and void. Investigators and public prosecutors must work together to complete their respective tasks quickly and carefully. The public prosecutor is obliged to provide instructions to the investigator for the purpose of completing and perfecting the case file if the case file is still considered incomplete. Provisions related to the pre-prosecution implementation process are explained in the Criminal Procedure Code where the provisions are listed in Article 138 paragraph (1) of the Criminal Procedure Code which reads:

"The public prosecutor after receiving the results of the investigation from the investigator immediately studies and examines it and within seven days must notify the investigator whether the results of the investigation are complete or not."

Based on this, within the specified time as stated in the article above, the public prosecutor must immediately notify the results of the case file that has been studied

and examined to the investigator. This must be done immediately so that the investigator and public prosecutor can immediately determine the next step. If the results of the investigation have been declared complete both formally and materially, the investigator will issue a Notice of Complete Investigation Results (P-21) and then the investigator must immediately submit the suspect and evidence to the public prosecutor.

If the results of the investigation are incomplete, the results of the investigation must still be submitted by the public prosecutor to the investigator within 7 (seven) days after the case file is received from the investigator as stipulated in Article 138 paragraph (2) of KUHAP. If the results of the investigation are also declared incomplete by the public prosecutor, the case file must be immediately returned to the investigator along with instructions for completion. Therefore, the investigator must immediately carry out additional investigations in accordance with the instructions from the public prosecutor.

There are several principles of criminal procedure law that need to be considered in carrying out pre-prosecution including:

1. The principle of functional differentiation. This principle explains that each law enforcement officer in the criminal justice system has its own duties and functions or is separate from one another. However, in essence this principle places the position of each law enforcer parallel to each other, however, the difference lies in their respective authorities.
2. Coordination principle The function of coordination is to achieve common goals in an effective and efficient manner by aligning various organizational activities to prevent conflicts in an organization and to accommodate many parties. Thus coordination between all law enforcement officials is clearly very important to be carried out properly for the realization of synchronization in various aspects. For example, investigators and public prosecutors can coordinate in carrying out investigations and completing case files because based on Article 30 paragraph (1) letters d and e of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, the public prosecutor is authorized to do this.
3. The principles of speedy, simple and low cost justice This principle is used as a guideline so that the process of resolving cases at the investigation stage to the examination of the subject matter in court can be carried out quickly. This principle also requires that there is no long detention period for the suspect or defendant before the judge's decision and with a simple process and low cost, it is hoped that it can be easily reached by the general public.

Based on empirical facts, if the case file is still declared incomplete, the public prosecutor will return the case file back to the investigator along with instructions

to be completed again because the Criminal Procedure Code does not clearly state how many times pre-prosecution can be carried out so that there are still many pre-prosecution processes that are carried out multiple times. This will slow down the process of case settlement and the parties will be protracted in obtaining justice. In addition, this relates to the detention period of the suspect where if the case file only goes back and forth from the public prosecutor to the investigator, the rights attached to the suspect will be violated. Although if the time limit for the detention period of the suspect has been declared expired, the suspect will be released, this will still injure the human rights of the suspect. There are human rights of suspects that are violated such as the right to freedom because the status of a suspect that is still attached to him makes his rights limited and the public view of him is not good. Another possibility that can occur if the case file is still declared incomplete, namely stopping the prosecution process on the grounds that there is not enough evidence. This is also considered to bring a bad image to the criminal justice system in Indonesia because the termination of the prosecution process is only based on procedural reasons.

The absence of explicitly stated limitations in the Criminal Procedure Code related to the number of times pre-prosecution can be carried out prompted the prosecutor's office to issue Circular Letter of the Deputy Attorney General for General Crimes Number SE- 3/E/EJP/11/2020 of 2020 concerning prosecutor's instructions (P-19) at the pre-prosecution stage once in handling general criminal cases that the implementation of returning case files from the public prosecutor to the investigator is only allowed to be done once.

This circular letter is still often overridden because it is only a policy regulation that is internally binding and this circular letter is not included in the hierarchy of laws and regulations. The restriction on the implementation of pre-prosecution through the circular letter is only a guideline for the implementation of pre-prosecution under KUHAP carried out by the prosecutor's office because the circular letter is implemented for the benefit and public interest, especially so that the pre-prosecution process does not run protractedly. As for the process of forming and preparing circular letters, it is also different from the formation of laws and regulations because circular letters function to further regulate or emphasize existing rules so that every government agency has the right to make them. The rule in question is a rule that has a higher position. The content material in this circular letter or policy regulation contains the authority to form decisions in the sense of *beschikkingen*, the authority to act in private law, and the authority to make plans for the agency or institution that drafts the circular letter. The main point is that because the circular letter is only a policy regulation, the sanctions that can be applied are only administrative sanctions for those who violate the provisions that have been listed (HR . 2018)

Researchers also disagree with the limitation of pre- prosecution to only one time. This is because there are several considerations including:

1. The circular letter is no longer relevant to the times;
2. Must pay attention to the level of difficulty of the case; and
3. Considering that the number of public prosecutors is not proportional to the number of cases handled.

B. Legal protection of the rights of the suspect as a result of the return of the case file from the public prosecutor to the investigator more than once.

The definition of legal protection itself according to Satjipto Rahardjo's opinion is the provision of protection guarantees for human rights that have been harmed by others and this protection is given so that everyone can enjoy the rights that have been given to him by law. Therefore, this legal protection must be guaranteed by the state through written regulations in the form of laws and regulations that have been enacted. This is because everyone has rights that must be valued and respected so that they must be properly protected by the state so that these rights are not violated or denied by others.

This legal protection also applies to suspects who are undergoing legal proceedings. Even though the suspect is considered a person who has committed a criminal act, the suspect must be considered the same so that he must be treated the same without any difference from the others as his dignity as a human being. The definition of a suspect based on Article 1 number 14 of the Criminal Procedure Code is,

"A suspect is a person who because of his actions or circumstances based on preliminary evidence should be suspected of being a perpetrator of a criminal offense."

The suspect here should not be labeled badly in advance by the community because there is still a probability if he is not really proven guilty of committing a criminal offense due to several factors. Labeling or giving negative stigma by the community to this suspect is part of the implementation of labeling theory, however, this should not be done by the community. As a result of the labeling given by the community, it is feared that it can have a bad influence on the psychological condition or psychology of the suspect. One of the things that is feared is that the suspect will think that he has been given a bad label by the community so that he thinks that he is a bad person so that it is not a problem for him to commit a crime again.

Not a few were also found to have errors or violations related to the determination of the status of the suspect by the investigator. Investigators should apply the principle of *presumption of innocence* as stated in the Criminal Procedure Code.

Although the KUHAP does not explicitly explain, this principle is contained in the general explanation of KUHAP point 3 letter c which states that:

"Every person who is suspected, arrested, detained, prosecuted and or brought before a court session, shall be presumed innocent until a court decision declaring his guilt and obtaining permanent legal force."

This proves that normatively positive law in Indonesia has sought legal protection for suspects and positioned the suspect's position with law enforcement officials as equal. The application of this principle aims to minimize the arbitrary attitude of law enforcement officials to suspects. This principle has the meaning and purpose of guaranteeing and protecting the human rights of individuals accused of committing a criminal offense and as a guide for law enforcement officials to act, for example in conducting examinations (Luntungan, et al. . 2023)

Thus, the definition of a suspect is someone who is undergoing a preliminary examination where the evidence related to whether he is guilty or has actually committed a criminal offense as alleged against him will be proven in court by remembering the principle of all people being treated equally before the law or what is known as the principle of non- discrimination (principle of *equality before the law*). This principle aims to realize equal treatment to everyone before the law. Everyone must be viewed equally without giving a privilege before the law without discriminating in terms of economic or socio- cultural status so that discrimination does not occur.

There are other suspect rights that should be protected, namely related to the process of resolving the case for the criminal offense alleged against him. As previously explained above, there are still many case files that are still going back and forth from investigators to public prosecutors and vice versa, so this causes the case settlement process to run very slowly. There are several things both externally and internally that cause case files to only go back and forth from the public prosecutor to the investigator, including the following:

External factors:

1. Weak coordination between investigators and public prosecutors;
2. The difficulty of the investigator in understanding the instructions given by the public prosecutor; and
3. The existence of sectoral ego. Internal factors:
 1. The existence of a legal and/or regulatory vacuum;
 2. The existence of clashing regulations; and
 3. The existence of *norm* ambiguity (*vage normen*).

Based on this, the right step to minimize this is that there must be a willingness to build good coordination and communication between institutions. Standard Operating Procedures (SOPs) and institutional regulations need to be issued as guidelines for an agency to carry out its duties and authorities so that they are more

directed. The SOPs issued must be in accordance with what is needed so that the vision and mission of the institution can be carried out properly. Although the nature of these rules is only institutional, this is one of the progressive efforts to realize better performance of law enforcement officials.

The rights of the suspect that are violated by the return of the case file from the public prosecutor to the investigator more than once are closely related to the human rights of the suspect. Human rights are rights given by God Almighty which are inherent in every human being to maintain their life. The human rights of suspects must also be protected by the state and valued and respected by everyone. Article 28D paragraph (1) of the 1945 Constitution mandates the principle of non-discrimination which reads:

"Everyone is entitled to recognition, guarantees, protection and certainty of a just law and equal treatment before the law."

Judicial institutions whose role is to enforce the law must be able to guarantee legal protection of all rights, including the human rights of all litigants. There are rights of suspects that are violated, especially for suspects who are detained. What is meant by these rights is that there are rights of a person who is arrested, detained or convicted that must be fulfilled. The following rights are violated according to O.C. Kaligis is, the right to obtain humane treatment and rights in accordance with the laws and regulations that apply, during the period of arrest, detention or during the criminal period against him (Otto Cornelis 2006) . This right must be guaranteed because it relates to the right to freedom of the suspect as a result of his detention. Therefore, the legal process must be carried out quickly so that the legal certainty of the suspect and the suspect's right to freedom are not in limbo.

The legal protection of the rights of suspects relating to the return of case files is regulated in the Criminal Procedure Code as stated in Article 50 paragraphs (1) and (2) of the Criminal Procedure Code, namely regarding the right to immediately receive an examination by the investigator and then can be submitted to the public prosecutor and the suspect has the right to have his case immediately advanced to court by the public prosecutor. Article 50 of the Criminal Procedure Code regulates the provisions of case handling time or what is usually referred to as the priority right to case settlement.

The meaning of article 50 of the Criminal Procedure Code, namely:

" The rights granted to a suspect or defendant in this article are to avoid the possibility of a suspect or defendant being left hanging, especially those who are subject to detention, lest they do not receive a hearing for a long time so that it is felt that there is no legal certainty, arbitrary and unreasonable treatment. In addition, to realize a trial that is carried out simply, quickly and at low cost."

The purpose of this article is to provide legal certainty for suspects, especially for suspects who are detained so that their cases can be resolved quickly or not

protracted. In actual practice, there are still cases that are protracted. The consequences that arise from this are related to the status of the suspect and also legal certainty. Legal certainty for suspects will be realized if the principle of coordination can be implemented properly. Good coordination of all authorized law enforcement officials is needed in handling a case.

The form of legal protection efforts for the rights of suspects is also seen through the application of the principle of *presumption of innocence* and the principle of equality before the law. These principles must be adhered to properly to ensure that the rights of the suspect are well protected. The protracted settlement of this case clearly violates the human rights of the suspect because based on Article 14 paragraph (3) letter (iii) of the International Covenant on Civil and Political Rights (KIHSP) states that everyone suspected of violating criminal law has the right to be tried without undue delay (Amin, 2024) . Therefore, investigators and public prosecutors are not allowed to hang on to the cases they handle. Both must take quick steps and determine the appropriate attitude to minimize violations of the suspect's property rights.

There are several divisions of areas, types, and types of suspects' human rights related to the consequences of returning case files from the public prosecutor to the investigator more than once, including the following:

1. *Personal rights*

When a person holds the status of a suspect he or she does not have the freedom to move, travel and move places, for example they are not allowed to travel abroad and so on. This is clearly detrimental to the suspect as it will hinder their interests and mobilization. In addition, with the status of a suspect attached to a person, it will cause distrust from other people or groups of organizations even though he has not been proven legally and convincingly guilty as the decision of the panel of judges in court.

2. *Political rights*

The suspect still has the right to vote and be elected in an election before he is proven guilty as a verdict that has permanent legal force as reinforced by Law Number 7 of 2017 concerning General Elections (Wiryo and Rastika 2023) . However, of course the electability of the suspect will be very low in the eyes of the public because of the suspect's status.

3. *Legal rights (legal equality right)*

This human right includes the right to equal treatment in law and government, the right to become a civil servant and the right to receive legal services and protection. For someone who holds the status of a suspect and has a profession as a civil servant, he will be temporarily dismissed.

4. *Economic rights (property rights)*

Economic activities will experience obstacles, especially for suspects who are detained. Freedoms related to activities in the economic sector will also be slightly disrupted due to the absence of freedom and the suspect will always be under surveillance from authorized officers.

5. Judicial rights (*procedural rights*)

The suspect also has the right to have his case resolved immediately so that it is not protracted.

Law enforcement efforts require adequate facilities and infrastructure, good quality human resources and laws and regulations that are relevant to the times. The active role of the community in participating is also very necessary. It is hoped that if this can be fulfilled then, law enforcement will be able to run well.

Steps that can be taken to seek legal protection for suspects apart from issuing Circular Letter of the Deputy Attorney General for General Crimes Number SE-3/E/EJP/11/2020 of 2020 concerning prosecutor's instructions (P-19) at the pre-prosecution stage are carried out once in handling general criminal cases, the public prosecutor is also not allowed to insist that the case can still be raised at the stage of examination of the main case in court. If indeed the investigator is unable to fulfill the instructions given by the public prosecutor, the termination of the investigation is an effort to realize legal certainty for the suspect. This action is reinforced by the issuance of Attorney General Letter Number: B- 1297/E/EJP/05/2022, dated May 18, 2022 regarding the mechanism for receiving SPDP. This is also related to the provisions in Article 50 paragraph (2) of KUHAP.

The coordination of investigators and public prosecutors must be properly implemented with the aim of improving the *check and balance* function. The implementation of this coordination is also clearly regulated in Article 109 of KUHAP. Steps that can be taken to improve coordination between investigators and public prosecutors are to coordinate from the start of the investigation not just when submitting the case file, when handling a case with a high level of difficulty, the investigator should join hands with the public prosecutor to conduct a case title or by consulting through communication media both orally and in writing, and when the case file that has been given by the investigator to the public prosecutor is still declared incomplete by the public prosecutor, the steps that can be taken are by the investigator conducting additional examinations with the assistance of the public prosecutor (Langi . 2019)

Another form of legal protection for the suspect due to the return of the case file back and forth from the public prosecutor to the investigator due to the incompleteness of the case file which is difficult to fulfill by the investigator can be done by providing rehabilitation submitted by the suspect.

CONCLUSION

The conclusions of this research as described above are as follows:

1. Circular Letter of the Deputy Attorney General for General Crimes Number SE-3/E/EJP/11/2020 of 2020 concerning prosecutor's instructions (P-19) at the pre-prosecution stage carried out once in handling general criminal cases is not binding. This is because the restriction is only based on a circular letter or policy regulation that is only binding institutionally and not generally and the sanctions are only administrative for those who violate it, the circular letter is not classified in the hierarchy of laws and regulations and the circular letter only acts as an implementing instruction from the Criminal Procedure Code regarding the implementation of coordination between investigators and public prosecutors. Pre-prosecution is limited to one time as an effort to implement the principles of speedy, simple and low cost justice, the principle of functional differentiation and the principle of functional coordination between investigators and public prosecutors.
2. The form of legal protection for suspects for the return of case files from the public prosecutor to the investigator more than once is by issuing an Order to Terminate Investigation (SP3). However, SP3 must be issued with clear reasons as stipulated in Article 109 paragraph (2) of the Criminal Procedure Code, including insufficient evidence, the investigated event is not a criminal offense and the investigation is stopped for the sake of law. This action is taken to realize legal certainty for the suspect. After the issuance of SP3, the suspect can submit a request for rehabilitation to the investigator to restore his rights. In addition, the implementation of functional coordination between investigators and public prosecutors in an effort to complete pre-prosecution as stipulated in Article 109 paragraph (1) of KUHAP must be implemented optimally. The back and forth of case files makes the human rights of the suspect related to the right to freedom be violated so that the investigator issues an SP3 and provides rehabilitation to be the right effort to provide legal protection for the suspect.

Suggestions

The following are some suggestions from researchers related to the problems in this study:

1. For public prosecutors is to update the Circular Letter of the Deputy Attorney General for General Crimes Number SE-3/E/EJP/11/2020 of 2020 concerning prosecutor's instructions (P-19) at the pre-prosecution stage carried out once in handling general criminal cases considering that the regulation has been issued long enough so that it does not lag behind legal

developments in Indonesia. The reform can be carried out by proposing rules that are more binding in nature such as laws and regulations, and for the legislative body to reform the Criminal Procedure Code related to emphasizing the implementation of the principle of coordination between investigators and public prosecutors, especially in the implementation of pre-prosecution.

2. Public prosecutors and investigators should improve functional coordination in the pre-prosecution process properly so that a case can be resolved quickly so as not to injure the human rights of the suspect. Coordination here can be carried out by the public prosecutor not only when the investigator submits the case file, but based on Article 30 paragraph (1) letters d and e of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, the public prosecutor has the right to conduct investigations in certain criminal acts. Then for the general public, especially for suspects, they must know what rights have been regulated and protected by the state so that their human rights are guaranteed

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