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## LAW, CRIMINOLOGY & CRIMINAL JUSTICE | RESEARCH ARTICLE

# Is criminal fine in economic legislations effective? Evidence from Indonesia

Mahrus Ali<sup>a\*</sup>, Muhammad Arif Setiawan<sup>b</sup>, Wawan Sanjaya<sup>b</sup> and Andi Mulyono<sup>c</sup>

**Abstract:** This study aims to examine the legislation and execution of fines weight formulation and alternative sanctions for economic crimes offenders using doctrinal and empirical legal research. The results showed that the Economic Laws for natural persons set fines ranging from IDR 5–200 billion. Corporations have unequal fine patterns, hence the maximum fine weight for individuals and corporations violated the principle of punishment proportionality. The implemented fine weight does not follow the rules and is similar for individual and corporate prisoners without adapting the perpetrator's characteristics and offenses. As a result, fine execution by the public prosecutor was ineffective because inmates prefer to serve short prison sentences than pay state treasury fines. The convicts did not pay the fines and preferred a prison sentence for various reasons ranging from the large fines to economic consideration. Hence, the rules of the fine should focus on the convict's possibility to pay imposed fines executed by the public prosecutor and consider the nature of the perpetrators and offenses.

**Subjects:** Criminal Law & Practice; Criminology - Law; Business & Company Law

**Keywords:** fines; alternative sanction for an unpaid fine; natural person; corporation

### ABOUT THE AUTHORS

Mahrus Ali is a faculty member in the criminal law department at Universitas Islam Indonesia. His research interests include environmental crimes, criminal law and human rights, economic crimes, victim of crime, and penal policy. Muhammad Arif Setiawan is a senior lecturer at the Faculty of Law, Universitas Islam Indonesia. His expertise includes law of criminal procedure and criminal law enforcement. Wawan Sanjaya is a student of doctoral program in Law, Universitas Islam Indonesia. He is now a lecturer at Universitas Balikpapan, East Kalimantan. Andi Mulyono is a senior lecturer at Department of Criminal Law, STIH Manokwari. His research interests include economic crime and victimology.

### PUBLIC INTEREST STATEMENT

This paper highlights relatively heavy fines set in Indonesia economic legislations for both natural persons and corporations. Unfortunately, the alternative sanction for an unpaid fine in most legislations is still conventional. The payment of fines for an inmate is not mandatory, and a 6-month maximum imprisonment is substituted for convict's unpaid fines. Cumulative imprisonment and fine cannot be both imposed on corporations. In fact, the inmates do not pay the fines for a number of reasons. Hence, the rules of the fine should focus on the convict's possibility to pay imposed fines executed by the public prosecutor and consider the nature of the perpetrators and offenses. An asset forfeiture or payment of fines in an installment is suggested to substitute the unpaid fines by corporations and individual perpetrators. Imprisonment for a natural person places as the last resort only if the inmate has no property at all.

## 1. Introduction

This paper focuses on the economic legislation of fines weight formulation and effective alternative sanctions by public prosecutors. The criminal sanctions formulation must include the type of criminal sanction, the weight of punishment, and alternative sanctions. Unregulated cumulative criminal sanctions lead to ineffective execution by public prosecutors (Arief, 1992). Therefore, fines formulation for individual and corporation should be distinguished to avoid legal barriers. Additionally, fines should be adjusted to the offensive nature of the violation as the alternatives to imprisonment (Firganefi & Rifai, 2021). Executed fines alternative sanctions result in heavy legislation fines (Arief, 2012).

Most previous studies on criminal fines primarily tended to focus on specific fines formulation acts such as fines and money replacement in corruption cases (Rahmat, 2020), unpaid criminal acts fines (Bryantonio, 2012), the fines application following the Supreme Court regulation (Aryaputra et al., 2017), and the Penal Code and Draft of Criminal Code fine promulgation (Tamboto, 2015). Unfortunately, none of these studies was on fines alternative sanctions conformity, the nature of perpetrator and the offense, and the public prosecutor fines implementation (Wagner, 2013). Therefore, further research should focus on the economic legislation that considers imposing perpetrator fines an effective criminal sanction (Chu & Jiang, 1993). The present study describes and analyzes the weight of criminal fines formulation, legislation alternative sanctions, and fines execution for economic crimes offenders.

The first part of this study identifies the individuals and corporations' maximum criminal weight of fines in economic legislation. Its implications show that single formula legislation should be avoided, leading to sentencing disparity and undermining the proportionality principle. The second part explains the rules of alternative sanction for unpaid fines. Most economic legislation does not promulgate such rules, and when regulated, the individuals and corporations fines formulation are not differentiated and ignores the offense nature. The last part portrays the public prosecutor's criminal fine execution. The heavy fines threat is ineffective for avoiding the alternative sanction based on the perpetrator and criminal offense characteristics. In the light of that, prisoners prefer short prison sentences to heavy fines payments.

## 2. Research method

This study combines both the doctrinal as well as the empirical legal research method. The first method focuses on the weight of fines, legal norms, and alternative sanctions for unpaid fines in the legislation, while the second method utilizes the field data through interviews and legal document. In order to limit the research scope, various Economic Laws outside the Indonesian Criminal Code regulating criminal fines were used as primary legal sources considering that they regulated the economic sector where the perpetrator's main motive is to increase profit. The laws include Anti-Corruption Law of 1999 as amended in 2001, Money Laundering Law of 2010, Banking Law of 1992 as amended in 1998, Capital Market Law of 1995, Human Trafficking Law of 2007, Narcotics Law of 2009, and Fund Transfer Law of 2011. In addition, this study identifies the criminal fines execution imposed by the public prosecutor, hence interview with the public prosecutors and criminal fine inmates was conducted. Four public prosecutors from distinct state prosecutor's offices were interviewed, including the State Prosecutor's Office of Tabanan, Bali, State Prosecutor's Office of Gunung Kidul, State Prosecutor's Office of Mungkid, and State Prosecutor's Office of Ambarawa, Semarang. These locations were chosen primarily due to the ease in obtaining the data. Additionally, fines were only limited to inmates convicted of narcotics and corruption offences considering that both were the most common criminal offenses when compared to other economic crimes. Following the interview, the authors questioned the inmates of narcotics and corruption offences sentenced to fines in the penitentiary. Interviews were undertaken to guarantee integrity of the data and to learn why the inmates would rather serve a prison sentence than to pay the fines. The results showed that the convicts prefer to pay the criminal fines or the alternative sanction. The legal documents were collected mainly on fines amount and alternative sanction for unpaid fines as well as their link to the convict's preferences.

### 3. Results and discussion

#### 3.1. *The penalty of the prescribed fine against natural persons*

Most crimes committed by individuals in economic legislation are cumulatively formulated between fines and imprisonment. Most crimes are subject to minimum fines under the Anti-corruption Law, with amounts ranging from IDR 50 million to IDR 200 million. The Anti-Money Laundering Law formulates maximum fines for each criminal offense listed in Articles 3 to 5. This Law does not mention the prospect of minimum fines. The minimum fines for each criminal offense are regulated by the Trafficking Law, and the amount varies ranging from IDR 120 million in Articles 2 to 6, IDR 200 million in Article 7, and IDR 40 million set up in Article 9. The Narcotics Law promulgates minimum criminal fines for most criminal acts in four ways: IDR 1 billion set up in Article 113 section (1), Article 114 section (1), and 116 section (1); IDR 800 million in Article 111 section (1), Article 112 section (1), Article 118 section (1), Article 119 section (1), and Article 121 section (1); c) IDR 600 million in Article 116, Article 120 section (1), and Article 121 section (1); and IDR 400 million set up in Article 122 section (1) and Article 125 section (1). The minimum criminal fines of each offense formulated from Article 79 to 85 are not recognized by the Fund Transfer Law.

The maximum weight of fines is described in the [Table 1](#) below:

[Table 1](#) shows that an individual's maximum fine varies in each law. The maximum fine for Anti-Corruption Law is IDR 1 billion and IDR 100 billion for Anti-Money Laundering Law. The maximum fine for Banking Law is IDR 200 billion, while IDR 5 billion for Human Trafficking Law and IDR 20 billion for both Narcotics Law and Transfer of Fund Law. Anti-Corruption offenses per Article 2 section (1) are formulated as material offenses with IDR 1 billion fine lighter than formal offenses in the Money Laundering Law of IDR 10 billion. The Banking Law fine is higher than the Money Laundering Law, despite formal formulation for both offenses. An IDR 200 billion fine is imposed on the Board of Commissioners members and Directors, or bank employees who intentionally omit, exclude, without book or reports records, business activity documents or reports, transactions, or bank accounts. This is higher than the IDR 10 billion maximum fine imposed on anyone, who places, transfers, forwards, spends, pays, grants, deposits, international transfers, changes the form, currency, or securities on recognized or suspected assets from criminal actions.

The severity of the fines should also be comparable to avoid disparities in criminal sanctions by judges. Disparity of sentencing is defined as the application of unequal criminal acts to the same offence or to offenses of comparable gravity without a clear basis of justification. This also occurs to the imposition of punishment for persons who commit joint offense (Muladi & Arief, 1984). The disparity has a significant impact due to the content of a constitutional balance between individual freedom and the state's right to punish (Gulo, 2018). Both corruption and money laundering have the same crime seriousness. No money laundering without corruption as one of the predicate crimes. Based on the principle of proportionality of punishment, severity of criminal fine must be compared. Failing to meet this principle results in the disparity of sentencing by the judges. In the case of corruption, the Supreme Court through Court Decision Number 536 K/Pid.Sus/2019 sentenced Ety Kurniasih for IDR 50 million of the violation of Article 3 of Anti-Corruption Law. Meanwhile, the Court Decision Number 637/Pid.Sus/2019/PN. Jmb sentenced Rohim for IDR 1 billion of committing money laundering as promulgated Article 3 of Anti-Money Laundering Law. The fine imposed by the judge in money laundering cases is 19 times higher than that of corruption cases. The condition is due to the infringement of proportionality principle by the legislature in which the maximum fine of Anti-Corruption Law is only IDR 1 billion compared to Anti-Money Laundering law of IDR 10 billion.

#### 3.2. *The penalty of the fine against corporation*

The economics legislation also regulates the type and weight of criminal fines for corporations except in Capital Market Law and Banking Law. The Capital Market Law recognizes corporations as one party in a criminal offense as stipulated in Article 1 section 23. However, the threat of criminal

**Table 1. The maximum fine for a natural person in economics legislation**

Act	Offense	The maximum fines
Anti-corruption	Anyone who unlawfully enriches themselves or other persons or a corporation causing detrimental loss of state finances or the economy (Article 2 section 1)	IDR 1 billion
Anti-money laundering	Anyone, who places, transfers, forwards, spends, pays, grants, deposits, internationally transfers changes the form, currency, securities, or other deeds towards the recognized assets or from criminal action, per Article 2 section (1) with the purpose to hide or disguise the origin of Assets (Article 3)	IDR 10 billion
Banking	Board of Commissioners members and Directors, or bank employees who intentionally eliminate, exclude, or does not record bookkeeping or reports, business activities documents, transaction statements, or bank accounts	IDR 200 billion
Capital markets	Anyone who violates the Article 70 provision stated that only Issuers that have submitted a Registration Statement to BAPEPAM on the sale or public Securities could conduct Public Offering, and only after effective Registration Statement (Article 106 section 1)	IDR 15 billion
Human trafficking	Anyone who commits human trafficking crimes per Article 2 section (2), 3, 4, 5, and Article 6 c causing victim death (Article 7 section 2)	IDR 5 billion
Narcotics	Anyone who orders gives or promises, provide opportunities, encourage, facilitates, force by threats, violence, deceit, or persuades under-aged children per Article 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, and Article 129 (Article 133 section 1)	IDR 20 billion
Transfer of fund	Anyone who unlawfully damages Fund Transfer System (Article 84)	IDR 20 billion

Source: Proceeded by authors

sanction combines both imprisonment and fines for the offense violation per Article 103 section (1), 104, 106, and Article 107. It also provides criminal confinement and fines for the infringement of offenses in Article 103 section (2), 105 and Article 109, or criminal confinement or fines per Article 103 section (2), 105, and Article 109. The distinctive nature of corporations and individuals affects the judge’s formulation to impose imprisonment and fines for corporations (Sheley, 2019). Meanwhile, Banking Law has no specific criminal sanction formulation for corporations. This Law acknowledges corporations as subject of criminal act, although exclusively limited to the act of “collecting funds from the community in the form of deposits without a business license from the Head of Central Bank of Indonesia”, as referred to as Article 46. Unfortunately, there are no explicit criminal sanctions for corporations. Cumulative imprisonment and fine cannot be both imposed on a corporation. Confinement and/or fines alternatively can be imposed for Board of Commissioners, Board of Directors, or bank employees who negligently provide information as stipulated in Article 48 section (2) of the Law.

The maximum weight of fines is described in the [Table 2](#) below:

[Table 2](#) shows that not all economic legislations provide criminal fines for corporation. The maximum fine for Laws providing fines varies. Anti-Corruption Law is only IDR 1,3 billion and IDR

**Table 2. The maximum fine for corporation in economics legislation**

Act	Offense	The maximum fine
Anti-corruption	Anyone who unlawfully enriches themselves or other persons or a corporation causing detrimental loss of state finances or the economy (Article 2 section 1)	IDR 1,3 billion
Anti-money laundering	Anyone, who places, transfers, forwards, spends, pays, grants, deposits, internationally transfers changes the form, currency, securities, or other deeds towards the recognized assets or from criminal action, per Article 2 section (1) with the purpose to hide or disguise the origin of Assets (Article 3)	IDR 100 billion
Banking	Board of Commissioners members and Directors, or bank employees who intentionally eliminate, exclude, or does not record bookkeeping or reports, business activities documents, transaction statements, or bank accounts	No criminal sanction for corporations
Capital markets	Anyone who violates the Article 70 provision stated that only Issuers that have submitted a Registration Statement to BAPEPAM on the sale or public Securities could conduct Public Offering, and only after effective Registration Statement (Article 106 section 1)	No criminal sanction for corporations
Human trafficking	Anyone who commits human trafficking crimes per Article 2 section (2), 3, 4, 5, and Article 6 c causing victim death (Article 7 section 2)	IDR 15 billion
Narcotics	Anyone who orders gives or promises, provide opportunities, encourage, facilitates, force by threats, violence, deceit, or persuades under-aged children per Article 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, and Article 129 (Article 133 section 1)	IDR 60 billion
Transfer of fund	Anyone who unlawfully damages Fund Transfer System (Article 84)	IDR 34 billion

Source: Proceeded by authors

100 billion for Anti-Money Laundering Law. The maximum fine for Banking Law is IDR 200 billion, while IDR 60 billion is for Narcotics Law. Furthermore, there is an unequal fine system for corporations. Legislators applied three patterns; determining a maximum fine as in Anti-Money Laundering Law, stipulating a fine system multiplied by the main criminal threats per the Narcotics and Human Trafficking Law, and adding a one third of the fine from the principal criminal offense as stipulated in Anti-Corruption Law and two third per the Funds Transfer Act. Unfortunately, the bases for the three patterns' of arguments have not been discovered. When it comes to determining the severity of fines for corporations, legislators lack in clear criteria including for a natural person. The absence of this requirement is not only found in economic legislations, but also in all legislations having criminal provisions. Until today, Indonesia lacks a sentencing pattern for determining the severity of the threat of criminal sanctions in legislative policy (Harkrisnowo, 2003). The feelings and subjective viewpoints of lawmakers predominate in determining the weight of the criminal sanctions (Luthan, 2013). As the consequence, there have been the defects in the penalty of the fines in economic legislation.

In this context, criminal corruption acts by corporation incur a maximum fine plus a third of the principal fine of IDR 1.3 billion. However, corporate offense of money laundering incur an IDR 100 billion maximum fine. The amount is higher than the Narcotics Law fine of IDR 60 billion.

A maximum fine for corporation who unlawfully damages Fund Transfer System is IDR 34 billion. The amount is higher than the Human Trafficking Law fine of IDR 15 billion. The severity of the threat of criminal fines on illegal activities in economic legislation is supposedly comparable as they are the regulations of the same boat. Even though there is a higher criminal fine for certain offense resulting a serious harm, the severity of that criminal sanction is not too great. The maximum penalty for money laundering offenses is substantially different from that of corruption offenses. Thus, the maximum fines for corporations in each law undermine the criminal proportionality principle (King & Light, 2019). Criminal proportionality emphasizes that the criminal threat (fine) should correspond with the crime's nature (Husak, 2020a). Serious offenses should incur heavy fines, while the minor can impose light punishments (Husak, 2020b; Segate, 2021). In addition, there are no principal penalty provisions for the corporation with banking or capital market crimes. Therefore, judges should not impose fines because criminal sanctions on both laws are cumulatively formulated between imprisonment and fines. However, this formulation is only for individuals because corporations cannot get imprisonment sentences and fines cumulatively.

The proportionality principle must also be met between the crimes committed by a natural person and corporation. Based on the Tables 1 and 2 above, IDR 5 billion is sentenced for an individual "who commits human trafficking crimes causing victim death". The amount is much smaller than IDR 34 billion for corporation "who unlawfully damages Fund Transfer System". A crime causing the death of a victim is more serious than that of result crime even committed by corporation that does not cause the victim death. Hence, the criminal fines severity must be higher to prevent disproportionate punishment. In Banking Law, the penalty of fine for "Board of Commissioners members and Directors, or bank employees who intentionally eliminate, exclude, or does not record bookkeeping or reports, business activities documents, transaction statements, or bank account" is IDR 200 billion. The amount is far much higher than IDR 1,3 billion for a corporation "who unlawfully enriches themselves or other persons or a corporation causing detrimental loss of state finances or the economy" as referred to as Article 2 section (1) of Anti-Corruption Law. Both crimes have equal seriousness because the perpetrator's actions cause economic/financial losses, but the magnitude of punishment cannot be compared as required in the punishment proportionality.

### **3.3. Alternative sanction for unpaid fine in legislation and their compliance with the character of the perpetrators and crimes**

Rules of alternative sanction for unpaid fine will open possibility for the public prosecutor to execute fine imposed by judges. Only Anti-Money Laundering Law and the Narcotics Law regulate this implementing rule. The alternative rules for unpaid fine are shown in Table 3 .

Table 3 shows that only Anti-money Laundering Law and Narcotics Law that regulate alternative rules for an unpaid fine even though the rules are still conventional. The maximum fine for natural person who commits an offense of money laundering is IDR 10 billion. The inmate has an option whether to pay the amount of fine or to serve a maximum imprisonment of 1 year and 4 months. As the rational actor, an inmate would rather to serve prison than paying fine. The maximum fine imposed for the inmate of an offense of narcotics is IDR 20 billion. A natural person's unpaid fine is substituted with 2 years' maximum imprisonment sentence.

There is no alternative sanction for an unpaid fine in other economic Laws. The lack of alternative rules for an unpaid fine affects the law enforcement execution, especially the public prosecutor's fine execution by the judge. The convict's unpaid fines result in a larger fine, and its execution is ineffective due to a lack of implementing regulation. Article 103 of the Criminal Code states that when external laws regulate criminal sanctions provisions deviating from the Criminal Code, its form and procedure implementation must be fully regulated in the relevant law. Articles 1 to 85 of the Criminal Code apply when the law does not fully regulate. Therefore, the lack of implementing fines rules in various laws implicates the enactment provisions of Article 30

**Table 3. The provision of alternative criminal sanction for unpaid fine**

Act	Alternative Criminal Sanction for Unpaid Fine	
	Natural Person	Corporation
<b>Anti-Corruption</b>	<b>There is no alternative sanction for an unpaid fine.</b>	<b>There is no alternative sanction for an unpaid fine</b>
Anti-money laundering	An unpaid individual fine is substituted with a maximum imprisonment sentence of 1 year and 4 months (Article 8).	Corporations unpaid fine is substituted with equal confiscation of Assets or Corporation Control Personnel's Assets (Article 9). Insufficient confiscated Corporation's Assets results in an imprisonment sentence in place of imposed fine on the Corporation Control Personnel.
Banking	There is no alternative sanction for an unpaid fine.	There is no alternative sanction for an unpaid fine.
Capital Market	There is no alternative sanction for an unpaid fine.	There is no alternative sanction for an unpaid fine.
Human Trafficking	There is no alternative sanction for an unpaid fine.	There is no alternative sanction for an unpaid fine.
Narcotics	An Individual's unpaid fine is substituted with 2 years' maximum imprisonment sentence (Article 148).	There is no alternative sanction for an unpaid fine.
Fund Transfer	There is no alternative sanction for an unpaid fine.	There is no alternative sanction for an unpaid fine.

Source: Proceeded by the authors

paragraph (2) of the Criminal Code with 6 months' maximum imprisonment for unpaid fines. In this sense, the convicts prefer imprisonment to the billion fine payments. Thus, the law regulating the implementation of fines rules for an individual perpetrator raises legal problem. The legislator's pattern for individuals with unpaid fines does not consider the perpetrators and criminal acts characteristics. Actors in this type of law are considered rational during and after committing a crime (Kahan, 1997; Miles, 2005).

The economic benefit obtained by perpetrators from committing such crimes is large hence it leads to economic instability. Economic losses throughout a broad spectrum of very significant casualties are also a feature of economic crimes (Baum, 2016). Victims of economic crime may not even realize that they are being victimized (Smith, 2000). This nature presents difficulty to make effective criminal fines for individual perpetrators without adequate alternative rules of fines execution. When a fine is filed with a prison sentence, it suggests that the fine payment is optional. The criminal serves to a maximum of 6 months in prison, it might be less, when refusing to pay the fine. Therefore, the alternative sanctions for an unpaid fine should be directed toward the reduction of the perpetrator's profits from committing crimes (Mungan, 2012; Raskolnikov, 2020) such as asset forfeiture or payment of fines in an installment. Imprisonment places as the last resort only if the inmate has no property at all.

The alternative sanction for unpaid fine by corporation also creates legal problems. Most economic laws recognize corporations as an offense subject to criminal acts. However, the legislator's fine formulation patterns for corporations cannot be executed. Hence, its existence is ineffective. Corporations with separate management assets cannot run without intermediary management. They can only commit criminal acts through intermediary management acting for and/or on their behalf (Stern, 1987; Weissmann, 2007). Therefore, the imposed and executed criminal sanctions include corporate fines, license revocation, business closure, deprivation of profits from criminal acts, and other criminal sanctions. In the event that a corporation does not pay the fines, by referring to as Article 30 section (2) of Penal Code, it is sentenced to imprisonment for a maximum of 6 months. This provision applies to all corporation that do not pay fine, unless

Law in question regulates other specific sanction for a corporation's unpaid fine. Corporations cannot impose imprisonment alternatives as a fine substitute because the legislators do not consider the corporation's character. Most economic laws also do not regulate fines implementation for corporations; hence they are ineffective even with heavy fines.

Corporations' fines rules in Anti-Money Laundering Law disregard their character and criminal acts. The phrase "when insufficient, imprisonment in place of fines is imposed on the Corporate Controlling Personnel considering the paid fines" indicates that alternative sanctions as implementing fines rules focus on individuals even when dealing with corporations. The rules should consider perpetrators and corporate crimes characteristics. Corporate management conducts criminal acts through individual or joint work relationships or acting for and or on behalf of the company (Colvin, 1995). They commit crimes for economic benefits based on their objectives. The corporation profits are large, and the criminal acts cause huge losses on various people (Curran, 2017; Stephens, 2002). Therefore, confiscation of corporate assets is the rational alternative for unpaid fines (Cohen, 2000). The government can make a payment scheme when the confiscated corporate assets are insufficient (Cicchini, 2010).

### **3.4. The practice of the execution of fine**

Data on the practice of executing fines were obtained from public prosecutors in four State Prosecutor's Office. There were 31 cases, namely 25 cases of narcotics and 6 cases of corruption. Based on interviews with the public prosecutors, it was argued that Attorney General's Office has single formula procedures that apply to all convicts when going to execute fines. Prosecutors always ask the convict whether to pay fines or serve a prison sentence in a relatively short time. The convict filled out an affidavit stating his ability or inability to pay the fines (Administration Code is D/2). The fines must be paid within a month after a court's permanent legal decision for a convict who is willing to pay it. If not, then the convict will serve a prison sentence (Heri, 2021; Herlix, 2022; Pradhyaksa, 2022; Triwantoro, 2022).

In detail, the practice of fine execution by public prosecutors is shown in [Table 4](#).

The [Table 4](#) shows that the alternative sanction for the 31 cases for imposing fine on narcotics crime perpetrators is 6 months' maximum imprisonment and 10 months for corruption. More than 80% of prison sentences were in place of unpaid fines ranging from 1 to 3 months. None of the convicts in the 31 cases paid the fine. The fines rules regulations implicate ineffective execution by the public prosecutor. Despite the stipulated fines rules legislation for individuals, when the pattern disregards the perpetrator and crime characteristics, it correlates with their preference on fine payments or alternative sanctions. However, the perpetrators did not pay the fines and preferred a prison sentence for various reasons. First, it was due to the large fines ranging from 800 million to 3 billion. Second, short prison sentences in place of fines did not affect their work or business (Roni, 2021). Third, the state incurs the prisoner's basic needs, and any additional costs are relatively small. It was affirmed by I Made Vito Adiwijaya that:

I was sentenced by court to pay fine of IDR 800 million for crime of narcotics. If the fine is unpaid, then I must serve a month of prison sentence. I chose to serve in prison since it was very short time. In addition, all my basic needs while in the Penitentiary have been fulfilled by the state (Adiwijaya, 2022).

Fourth, prisoner prefers investing the money as business capital to state treasury deposits as stated by Cempling bin Kamsi as follow:

The judges imposed me a fine of IDR 3 billion for having committed narcotics offense as promulgated in Article 132 section (1) and Article 114 section (2) of Narcotics Law. I must serve 6 months in prison for an unpaid fine. Of course, I opted to serve such prison. I used the money for additional business capital (Cempling, 2022).

**Table 4. Execution of fines by the public prosecutor**

Offense	Amount of Fine	Alternative Fine	Convict Preference	Execution
Narcotics	IDR 800 million	2 months in prison	Prefer prison	Unsuccessful
	IDR 800 million	4 months in prison	Prefer prison	Unsuccessful
	IDR 800 million	4 months in prison	Prefer prison	Unsuccessful
	IDR 1 billion	1 month in prison	Prefer prison	Unsuccessful
	IDR 800 million	1 month in prison	Prefer prison	Unsuccessful
	IDR 1 billion	3 months in prison	Prefer prison	Unsuccessful
	IDR 1 billion	2 months in prison	Prefer prison	Unsuccessful
	IDR 1 billion	1 month in prison	Prefer prison	Unsuccessful
	IDR 800 million	2 months in prison	Prefer prison	Unsuccessful
	IDR 800 million	2 months in prison	Prefer prison	Unsuccessful
	IDR 1 billion	2 months in prison	Prefer prison	Unsuccessful
	IDR 1 billion	3 months in prison	Prefer prison	Unsuccessful
	IDR 1 billion	6 months in prison	Prefer prison	Unsuccessful
	IDR 1 billion	2 months in prison	Prefer prison	Unsuccessful
	IDR 1 billion	3 months in prison	Prefer prison	Unsuccessful
	IDR 800 million	1 month in prison	Prefer prison	Unsuccessful
	IDR 800 million	2 months in prison	Prefer prison	Unsuccessful
	IDR 2 billion	2 months in prison	Prefer prison	Unsuccessful
	IDR 3 billion	6 months in prison	Prefer prison	Unsuccessful
	IDR 1 billion	2 months in prison	Prefer prison	Unsuccessful
	IDR 1,5 billion	3 months in prison	Prefer prison	Unsuccessful
	IDR 1,5 billion	3 months in prison	Prefer prison	Unsuccessful
	IDR 1 billion	6 months in prison	Prefer prison	Unsuccessful
IDR 1 billion	2 months in prison	Prefer prison	Unsuccessful	
IDR 800 million	1 month in prison	Prefer prison	Unsuccessful	
Corruption	IDR 200 million	3 months in prison	Prefer prison	Unsuccessful
	IDR 50 million	1 month in prison	Prefer prison	Unsuccessful
	IDR 50 million	1 month in prison	Prefer prison	Unsuccessful
	IDR 50 million	1 month in prison	Prefer prison	Unsuccessful
	IDR 200 million	10 months in prison	Prefer prison	Unsuccessful
	IDR 100 million	3 months in prison	Prefer prison	Unsuccessful

Source: Processed by authors

Based on the data above, the legislator’s heavy fines execution is ineffective without following the rules of the fine, considering perpetrators and criminal acts characteristics. The two offenses are based on rational actors committing narcotics crimes for economic benefits (Posner, 1997; Ulen & Korobkin, 2000). All fines prisoners in the discussed 31 cases of narcotics and corruption opted to serve short prison.

#### 4. Conclusion

The fines legislation determination for individuals ranges from 5 to 200 billion. However, various laws do not regulate the corporation’s criminal penalties, implicating the fines regulations. The corporation’s fine system contains three patterns, including setting maximum fine weight, establishing a multiple fines system from the principal criminal offenses, and adding 1/3 and 2/3 fines from the principal criminal threats. The maximum fines for individuals and corporations create criminal

disparities and violate the criminal proportionality principle. Implementing the economic law fines rules is unregulated. Hence, a 6-month maximum imprisonment is substituted for unpaid fines. Besides the implementing rules regulation, they do not distinguish between individuals and corporation's fines or adapt the perpetrators and criminal acts characteristics. The lack of fines or existing rules that disregard these two aspects is ineffective. The convicts do not pay the fines. The rules of the fine should focus on the convict's possibility to pay imposed fines executed by the public prosecutor. The findings of this research are limited to criminal fines in economic legislation following fine execution in a small proportion of criminal cases. Hence, it is recommended to further analyze the alternative sanction for unpaid fines and the practice of fines execution in other field of legislation. The legislators is also suggested to establish the rules on fines for individuals and corporations according to the offense nature by providing alternative sanctions for an unpaid fine.

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