
Submission received for Cogent Social Sciences (Submission ID: 226111266)

rpsupport@tandf.co.uk <rpsupport@tandf.co.uk>
Kepada: mahrus_ali@uii.ac.id

26 Januari 2022 16.45



Dear Mahrus Ali,

Thank you for your submission.

Submission ID	226111266
Manuscript Title	The Effectiveness of Criminal Fine in Economic Legislation
Journal	Cogent Social Sciences

You can check the progress of your submission, and make any requested revisions, on the Author Portal.

Thank you for submitting your work to our journal.
If you have any queries, please get in touch with OASS-peerreview@journals.tandf.co.uk.

Kind Regards,
Cogent Social Sciences Editorial Office

Taylor & Francis is a trading name of Informa UK Limited, registered in England under no. 1072954.
Registered office: [5 Howick Place, London, SW1P 1W](#).

22611266 (Cogent Social Sciences) A revise decision has been made on your submission

Cogent Social Sciences <em@editorialmanager.com>

1 Maret 2022 11.36

Balas Ke: Cogent Social Sciences <oass-peerreview@journals.tandf.co.uk>

Kepada: Mahrus Ali <mahrus_ali@uii.ac.id>

Ref: COGENTSOCSOCI-2022-0101

22611266

The Effectiveness of Criminal Fine in Economic Legislation

Cogent Social Sciences

Dear Mahrus Ali,

Your manuscript entitled "The Effectiveness of Criminal Fine in Economic Legislation", which you submitted to Cogent Social Sciences, has now been reviewed.

The reviews, included at the bottom of the letter, indicate that your manuscript could be suitable for publication following revision. We hope that you will consider these suggestions, and revise your manuscript.

Please submit your revision by Mar 30, 2022, if you need additional time then please contact the Editorial Office.

To submit your revised manuscript please go to <https://rp.tandfonline.com/submission/flow?submissionId=22611266&step=1> and log in. You will see an option to revise alongside your submission record.

If you are unsure how to submit your revision, please contact us on OASS-peerreview@journals.tandf.co.uk

Please ensure that you include the following elements in your revised submission:

- * public interest statement - a description of your paper of NO MORE THAN 150 words suitable for a non-specialist reader, highlighting/explaining anything which will be of interest to the general public (to find about more about how to write a good Public Interest Statement, and how it can benefit your research, you can take a look at this short article: <http://explore.cogentoa.com/author-tool-kit/public-interest-statement>)
- * about the author - a short summary of NO MORE THAN 150 WORDS, detailing either your own or your group's key research activities, including a note on how the research reported in this paper relates to wider projects or issues.

You also have the option of including the following:

- * photo of the author(s), including details of who is in the photograph - please note that we can only publish one photo
- * cover image - you are able to create a cover page for your article by supplying an image for this purpose, or nominating a figure from your article. If you supply a new image, please obtain relevant permissions to reproduce the image if you do not own the copyright

If you require advice on language editing for your manuscript or assistance with arranging translation, please do consider using the Taylor & Francis Editing Services.

Please ensure that you clearly highlight changes made to your manuscript, as well as submitting a thorough response to reviewers.

We look forward to receiving your revised article.

Best wishes,

Heng Choon (Oliver) Chan, Ph.D.

Senior Editor

Cogent Social Sciences

Comments from the Editors and Reviewers:

Title, Abstract and Introduction – overall evaluation

Reviewer 1: Sound

Methodology / Materials and Methods – overall evaluation

Reviewer 1: Sound

Objective / Hypothesis – overall evaluation

Reviewer 1: Sound

Figures and Tables – overall evaluation

Reviewer 1: Not applicable

Results / Data Analysis – overall evaluation

Reviewer 1: Sound

Interpretation / Discussion – overall evaluation

Reviewer 1: Sound

Conclusions – overall evaluation

Reviewer 1: Sound

References – overall evaluation

Reviewer 1: Sound

Compliance with Ethical Standards – overall evaluation

Reviewer 1: Sound

Writing – overall evaluation

Reviewer 1: Sound

Supplemental Information and Data – overall evaluation

Reviewer 1: Not applicable

Comments to the author

Reviewer 1: You write very good manuscript.

Title, Abstract and Introduction – overall evaluation

Reviewer 2: Sound

Methodology / Materials and Methods – overall evaluation

Reviewer 2: Sound with minor or moderate revisions

Objective / Hypothesis – overall evaluation

Reviewer 2: Sound

Figures and Tables – overall evaluation

Reviewer 2: Sound

Results / Data Analysis – overall evaluation

Reviewer 2: Sound with minor or moderate revisions

Interpretation / Discussion – overall evaluation

Reviewer 2: Sound with minor or moderate revisions

Conclusions – overall evaluation

Reviewer 2: Sound

References – overall evaluation

Reviewer 2: Sound with minor or moderate revisions

Compliance with Ethical Standards – overall evaluation

Reviewer 2: Sound

Writing – overall evaluation

Reviewer 2: Sound with minor or moderate revisions

Supplemental Information and Data – overall evaluation

Reviewer 2: Sound

Comments to the author

Reviewer 2: Dear author, I would like to thank you for submission your paper to Cogent Social Sciences. I hope that following notices are useful for your work:

1- I have observed that the title contains important and relative key words in the topics but I found details of pages of the manuscript shorter than requirements of the title.

2-The methodology is well specified in the paper. However other necessary information about attitude of other laws around the world should be added to the paper.

3-Challenges that facing execution of penalty of fines for economic crimes offenders are not specified. The challenges & their redress should be identified and properly mentioned in the paper.

4- The author should mention further details to reveal the defects and shortcomings in the penalty of the fine in economic legislation.

5- The author can improve clarity and quality by divided the manuscript to two topics in the first one deals with the penalty of the prescribed fine against a natural person. Then, in the second topic, discusses the penalty of the fine against legal persons and corporations criminally responsible for the crimes.

6- I would have wished to see more information on the basis of determining the amount of the fine penalty in economic legislation of Indonesia.

7- The discussion in the paper could be expanded to explain how is implemented fine weight does not adapt the perpetrator's characteristics and offenses. This in the view of the present reviewer doesn't undermine the criminal proportionality principle since in most legislations there is unequal fine patterns against corporations and natural person. In addition, it is normal that an individual's maximum fine varies in each law and legislators authorize the judges to determine it by looking to the seriousness of the crime presented to them, and the characteristics of those who participated in its commission.

8-There is an interesting finding in the paper about that all inmates prefer to serve short prison sentences than pay state treasury fines. However, there is insufficient discussion of exactly what deterrent effects of paying state treasury fines in comparison with the penalty of a deprivation of liberty or prison sentences.

9-The paper would be significantly improved with the additional justifications that could support the proposal of the paper about the maximum fine weight for individuals and corporations violates the principle of punishment proportionality and undermines the criminal proportionality principle.

Title, Abstract and Introduction – overall evaluation

Reviewer 3: Unsound or fundamentally flawed

Methodology / Materials and Methods – overall evaluation

Reviewer 3: Unsound or fundamentally flawed

Objective / Hypothesis – overall evaluation

Reviewer 3: Unsound or fundamentally flawed

Figures and Tables – overall evaluation

Reviewer 3: Unsound or fundamentally flawed

Results / Data Analysis – overall evaluation

Reviewer 3: Unsound or fundamentally flawed

Interpretation / Discussion – overall evaluation

Reviewer 3: Unsound or fundamentally flawed

Conclusions – overall evaluation

Reviewer 3: Unsound or fundamentally flawed

References – overall evaluation

Reviewer 3: Unsound or fundamentally flawed

Compliance with Ethical Standards – overall evaluation

Reviewer 3: Not applicable

Writing – overall evaluation

Reviewer 3: Unsound or fundamentally flawed

Supplemental Information and Data – overall evaluation

Reviewer 3: Unsound or fundamentally flawed

Comments to the author

Reviewer 3: Overall the write up in this draft needs a lot of improvement from the beginning till the end. The methodology claimed as doctrinal legal research was not well explained and written. In some part of the discussion the authors only support their argument with one source from the author interview with respondent (self-citing), and not being supported or verified by others scholars about such discussion (at least theoretical articulation will do) and it raise doubts about the accuracy of such discussion and finding in this paper.

Title, Abstract and Introduction – overall evaluation
Reviewer 4: Sound with minor or moderate revisions

Methodology / Materials and Methods – overall evaluation
Reviewer 4: Sound with minor or moderate revisions

Objective / Hypothesis – overall evaluation
Reviewer 4: Sound with minor or moderate revisions

Figures and Tables – overall evaluation
Reviewer 4: Sound with minor or moderate revisions

Results / Data Analysis – overall evaluation
Reviewer 4: Sound with minor or moderate revisions

Interpretation / Discussion – overall evaluation
Reviewer 4: Sound with minor or moderate revisions

Conclusions – overall evaluation
Reviewer 4: Sound with minor or moderate revisions

References – overall evaluation
Reviewer 4: Sound with minor or moderate revisions

Compliance with Ethical Standards – overall evaluation
Reviewer 4: Sound

Writing – overall evaluation
Reviewer 4: Sound with minor or moderate revisions

Supplemental Information and Data – overall evaluation
Reviewer 4: Not applicable

Comments to the author
Reviewer 4: I have highlighted certain areas of concern and inserted associated comments in numerous areas of this paper. Please see attached.

In compliance with data protection regulations, you may request that we remove your personal registration details at any time. (Use the following URL: <https://www.editorialmanager.com/cogentsocsci/login.asp?a=r>). Please contact the publication office if you have any questions.



**Cogent Soc Sciences - Peer Review - THE EFFECTIVENESS OF CRIMINAL FINE IN ECONOMIC
LEGISLATION OF.pdf**
709K



Mahrus Ali <094100102@uii.ac.id>

Your revision is due

Cogent Social Sciences <em@editorialmanager.com>

30 Maret 2022 11.22

Balas Ke: Cogent Social Sciences <oass-peerreview@journals.tandf.co.uk>

Kepada: Mahrus Ali <mahrus_ali@uii.ac.id>

Ref: COGENTSOCSOCI-2022-0101
226111266The Effectiveness of Criminal Fine in Economic Legislation
Cogent Social Sciences

Dear Mahrus Ali,

Following our recent reminders, this email is to inform you that your revision is due today.

Failure to resubmit by Mar 30, 2022 will result in your paper being removed from our system. Once the paper is removed, you will no longer be able to continue with your revision.

As we have not yet received your revised submission, we would like to remind you that we are here to help you, should you need any support. Please contact us at OASS-peerreview@journals.tandf.co.uk for assistance with your revised submission.

Alternatively, if you have decided not to continue with your revision, and would prefer to submit your manuscript elsewhere, please let us know by emailing OASS-peerreview@journals.tandf.co.uk.

Please ensure you include the following elements in your revised submission/Please check the attachment for information on what you will need to include in your revised submission. If you have any further questions about your submission, please do not hesitate to contact us. To submit your revised manuscript please go to <https://rp.tandfonline.com/submission/flow?submissionId=226111266&step=1> and log in. You will see an option to revise alongside your submission record.

Best wishes,

Cogent Social Sciences - Editorial Office

In compliance with data protection regulations, you may request that we remove your personal registration details at any time. (Use the following URL: <https://www.editorialmanager.com/COGENTSOCSOCI/login.asp?a=r>). Please contact the publication office if you have any questions.

Re: Asking for additional time to revise the manuscript #TrackingId:11455918

OASS-peerreview@journals.tandf.co.uk <OASS-peerreview@journals.tandf.co.uk>
Kepada: 094100102@uii.ac.id

30 Maret 2022 11.49

Dear Dr Ali,

Thank you for your email.

May we know the manuscript number/article title of the paper you are pertaining to?

Many thanks in advance, and I look forward to your response.

Kind Regards,

Ricks Dalida - Journal Editorial Office
Taylor & Francis Group

Web: www.tandfonline.com

Taylor & Francis is a trading name of Informa UK Limited, registered in England under no. 1072954



Cogent Social Sciences

From:094100102@uii.ac.id
Sent:30-03-2022 12:41
To:Ricky.Dalida@straive.com
Cc:
Subject:Re: Asking for additional time to revise the manuscript

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Editor of Cogent Social Science

We really appreciate the insightful comments and suggestions from reviewers. Due to the large numbers of areas of revisions as suggested by reviewers, we need additional time to revise the manuscript by 3 April 2022. We are looking forward to your response.

Regards,

Mahrus Ali

--

Dr. Mahrus Ali, S.H.,M.H.
Dosen Hukum Pidana
Fakultas Hukum Universitas Islam Indonesia
[Jl. Tamansiswa 158 Yogyakarta, 55151](http://www.uii.ac.id)



Mahrus Ali <094100102@uii.ac.id>

Re: Asking for additional time to revise the manuscript #TrackingId:11455918

OASS-peerreview@journals.tandf.co.uk <OASS-peerreview@journals.tandf.co.uk>

30 Maret 2022 12.17

Kepada: 094100102@uii.ac.id

Dear Dr Ali,

Thank you for your response.

I am glad to inform you that I have now adjusted your revision due to the 3rd of April 2022.

We look forward to receiving your revised manuscript.

[Kutipan teks disembunyikan]

[Kutipan teks disembunyikan]

Revised submission received for Cogent Social Sciences (Submission ID: 226111266.R1)

rpsupport@tandf.co.uk <rpsupport@tandf.co.uk>
Kepada: mahrus_ali@uii.ac.id

2 April 2022 11.34



Dear Mahrus Ali,

Thank you for submitting your revised manuscript.

Submission ID	226111266
Manuscript Title	Is Criminal Fine in Economic Legislations Effective? Evidence From Indonesia
Journal	Cogent Social Sciences

You can check the progress of your submission, and make any requested revisions, on the Author Portal.

Thank you for submitting your work to our journal.
If you have any queries, please get in touch with OASS-peerreview@journals.tandf.co.uk.

Kind Regards,
Cogent Social Sciences Editorial Office

Taylor & Francis is a trading name of Informa UK Limited, registered in England under no. 1072954.
Registered office: [5 Howick Place, London, SW1P 1W](#).

IS CIMINAL FINE IN ECONOMIC LEGISLATIONS EFFECTIVE? EVIDENCE FROM INDONESIA

¹Mahrus Ali, ²Muhammad Arif Setiawan, ³Wawan Sanjaya, ⁴Andi Mulyono

^{1,2}Faculty of Law Universitas Islam Indonesia, Indonesia

³A student of Doctoral Program in Law, Universitas Islam Indonesia, Indonesia

⁴STIH Manokwari, West Papua, Indonesia

Email: mahrus_ali@uii.ac.id

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 ranged 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.

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.

A. 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.

B. 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

finances 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

C. Results and Discussion

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.
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

The **Table 1** above 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 contain of a constitutional balance between individual freedom and the state's right to punish (Gulo & Muharram, 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.

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 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.
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

The **Table 2** above 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 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 Table 1 and Table 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. 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 below.

Table. 3
The Provision of Alternative Criminal Sanction for Unpaid Fine

Act	Alternative Criminal Sanction for Unpaid Fine	
	Natura Person	Corporation
Anti-Corruption	There is no alternative sanction for an unpaid fine.	There is no alternative sanction for an unpaid fine

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

The Table 3 above 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 commit 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 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 II, 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 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).

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 below:

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

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).

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 (Poster, 1997) (Ulen, 2000). All fines prisoners in the discussed 31 cases of narcotics and corruption opted to serve short prison.

D. Conclusion

The fines legislation determination for individuals range 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.

References:

- Adiwijaya, I. M. V. (2022). *Interview with I Made Vito Adiwijaya, a convict of narcotics offense at correctional institution IIB, Tabanan, Bali on 25th of January 2022.*
- Arief, B. N. (1992). *Teori-teori dan Kebijakan Pidana.* Alumni (Google Scholar).
- Arief, B. N. (2012). *Kebijakan Formulasi Ketentuan Pidana dalam Peraturan Perundang-Undangan.* Pustaka Magister (Google Scholar).
- Aryaputra, M. I., Triwati, A., & Juita, S. R. (2017). Kebijakan Aplikatif Penjatuhan Pidana Denda Pasca Keluarnya PERMA No. 2 Tahun 2012. *Jurnal Dinamika Sosial Budaya*, 19(1), p. 56 <https://doi.org/10.26623/jdsb.v19i1.685>.
- Baum II, C. L. (2016). Calculating Economic Losses from Wrongful Incarceration. *Tennessee Bar Journal*, 52(7), pp.18-21 (Google Scholar).
- Bryantonio, M. (2012). Kebijakan Formulasi Pidana Bagi Korporasi yang Tidak Membayar Denda dalam Tindak Pidana Korupsi. *Unnes Law Journal: Jurnal Hukum Universitas Negeri Semarang*, 2(1), p. 20 (Google Scholar).
- Cempling. (2022). *Interview with Cempling bin Kamsi, a convict of narcotics offense at correctional institution IIA Ambarawa, on 18th of March 2022.*
- Chu, C. Y. C., & Jiang, N. (1993). Are Fines More Efficient than Imprisonment? *Journal of Public Economics*, 51(3), p. 391 [https://doi.org/10.1016/0047-2727\(93\)90073-3](https://doi.org/10.1016/0047-2727(93)90073-3).
- Cicchini, M. D. (2010). An Economics Perspective on the Exclusionary Rule and Deterrence. *Missouri Law Review*, 75(2), p. 466 <https://scholarship.law.missouri.edu/mlr/vol75/iss2/6>.
- Cohen, M. A. (2000). The Economics of Crime and Punishment: Implications for Sentencing of Economic Crimes and New Technology Offenses. *Georgia Mason Law Review*, 9(2), pp. 506-507 <https://www.jstor.org/stable/1830482>.
- Colvin, E. (1995). Corporate Personality and Criminal Liability. *Criminal Law Forum*, 6(1), pp. 8-9 <https://doi.org/10.1007/BF01095717>.
- Curran, V. G. (2017). Harmonizing Multinational Parent Company Liability for Foreign Subsidiary Human Rights Violations. *Chicago Journal of International Law*, 17(2), p. 408 (Scopus).
- Firganefi, & Rifai, E. (2021). Analysis of Effective Criminal Sanctions Corporations As Criminal Actors of Corruption. *International Journal of Business, Economic, and Law*, 24(1), p. 127 (Google Scholar).

- Gulo, N., & Muharram, A. K. (2018). Disparitas dalam Penjatuhan Pidana. *Masalah-Masalah Hukum*, 47(3), p. 217 <https://doi.org/10.14710/mmh.47.3.2018.215-227>.
- Harkrisnowo, H. (2003). *Rekonstruksi Konsep Pidana: Suatu Gugatan terhadap Proses Legislasi dan Pidana di Indonesia*. UI Press (Google Scholar).
- Heri. (2021). *Interview with Heri, a public prosecutor at State Prosecutor's Office, Mungkid, Magelang on 8th of October 2021*.
- Herlix, T. (2022). *Interview with Tommy Herlix, a public prosecutor at State Prosecutor's Office, Ambarawa, Semarang Mungkid, Magelang on 26th of March 2022*.
- Husak, D. (2020a). Criminal Law at the Margins. *Criminal Law and Philosophy*, 14(3), 382 <https://doi.org/10.1007/s11572-019-09505-9>.
- Husak, D. (2020b). The Price of Criminal Law Skepticism: Ten functions of the Criminal Law. *New Criminal Law Review*, 23(1), p. 48 <https://doi.org/10.1525/nclr.2020.23.1.27>.
- Kahan, D. M. (1997). Social Influence, Social Meaning, and Deterrence. *Virginia Law Review*, 83(2), p. 349 <https://doi.org/10.2307/1073780>.
- King, R. D., & Light, M. T. (2019). Have Racial and Ethnic Disparities in Sentencing Declined? *Crime and Justice*, 48(1), pp. 378-380 <https://doi.org/10.1086/701505>.
- Luthan, S. (2013). *Kebijakan Kriminalisasi di Bidang Keuangan*. FH UII Press (Google Scholar).
- Miles, T. J. (2005). Empirical Economics and the Study of Punishment and Crime. *University of Chicago Legal Forum*, 2005(1), p. 238 <http://chicagounbound.uchicago.edu/uclf/vol2005/iss1/7>
- Muladi, & Arief, B. N. (1984). *Teori-Teori dan Kebijakan Pidana*. Alumni (Google Scholar).
- Mungan, M. C. (2012). The Law and Economics of Fluctuating Criminal Tendencies and Incapacitation. *Maryland Law Review*, 72(1), p. 170 <https://doi.org/10.2139/ssrn.1987663>.
- Pradhyaksa, D. P. (2022). *Interview with Dimas Putra Pradhyaksa, a public prosecutor at State Prosecutor's Office, Tabanan, Bali on 10th of March 2022*.
- Posner, R. A. (1997). Rational Choice, Behavioral Economics and the Law. *Stanford Law Review*, 50, p. 1551 <https://doi.org/10.2307/1229305>.
- Rahmat, D. (2020). Formulasi Kebijakan Pidana Denda dan Uang Pengganti dalam Penegakan Tindak Pidana Korupsi di Indonesia. *Jurnal IUS Kajian Hukum Dan Keadilan*, 8(1), 78-88 <https://doi.org/10.29303/ius.v8i1.686>.
- Raskolnikov, A. (2020). Criminal Deterrence: A Review of the Missing Literature. *Supreme Court Economic Review*, 28(1), p. 19 <https://doi.org/10.1086/710158>.
- Roni. (2021). *Interview with Roni, a convict of narcotics offense at correctional institution IIA Magelang, on 8th of October 2021*.
- Segate, R. V. (2021). Protecting Cultural Heritage by Recourse to International Environmental Law: Chinese Stances on Faultless State Liability. *Hastings Environmental Law Journal*, 27(1), p. 162 https://repository.uchastings.edu/hastings_environmental_law_journal/vol27/iss1/5.
- Sheley, E. L. (2019). Tort Answers to the Problem of Corporate Criminal Mens Rea. *Nort Carolina Law Review*, 97(4), pp. 788-789 <https://scholarship.law.unc.edu/nclr/vol97/iss4/2>.
- Smith, H. C. M. (2000). The Hidden Victims. *Orange County Lawyer*, 42, pp. 34-35 (Thomson Reuters).
- Stephens, B. (2002). The Amorality of Profit: Transnational Corporations and Human Rights. *Berkeley Journal of International Law*, 20(1), p. 4 <https://ssrn.com/abstract=2621770>
- Stern, Y. Z. (1987). Corporate Criminal Personal Liability-Who Is the Corporation. *Journal of Corporation Law*, 13(1), pp. 130-132 (Google Scholar).
- Tamboto, J. R. (2015). Eksistensi Pidana Denda dalam Pidana di Indonesia. *Lex et Societatis*, 3(3), p. 189 (Google Scholar).

- Triwantoro, A. N. (2022). *Interview with Andy Nugraha Triwantoro, a public prosecutor at State Prosecutor's Office, Gunung Kidul Yogyakarta on 4th of March 2022.*
- Ulen, S. T., & Korobkin. R. B. (2000). Law and Behavioral Science: Removing the Rationality Assumption from Law to Economic, *California Law Review*, 88(4), p.1055 <https://doi.org/10.2307/3481255>.
- Wagner. R. E. (2013). Criminal Corporate Character. *Florida Law Review*, 65(4), p. 1297 <https://scholarship.law.ufl.edu/flr/vol65/iss4/5>.
- Weissmann, A. (200 (Katsoris, 1990)7). A New Approach to Corporate Criminal Liability. *American Criminal Law Review*, 44(4), p. 1319 (Web of Science).

226111266 (Cogent Social Sciences) Your submission has been accepted

Cogent Social Sciences <em@editorialmanager.com>

16 April 2022 12.20

Balas Ke: Cogent Social Sciences <oass-peerreview@journals.tandf.co.uk>

Kepada: Mahrus Ali <mahrus_ali@uii.ac.id>

Ref: COGENTSOCSOCI-2022-0101R2

226111266

Is Criminal Fine in Economic Legislations Effective? Evidence From Indonesia

Cogent Social Sciences

Dear Mahrus Ali,

I am pleased to tell you that your work was accepted for publication in Cogent Social Sciences on Apr 16, 2022.

Please note: only minor, or typographical changes can be introduced during typesetting and proofing of your manuscript. Major changes to your manuscript will not be permitted.

For your information, comments from the Editor and Reviewers can be found below if available, and you will have an opportunity to make minor changes at proof stage.

Your article will be published under the Creative Commons Attribution license (CC-BY 4.0), ensuring that your work will be freely accessible by all. Your article will also be shareable and adaptable by anyone as long as the user gives appropriate credit, provides a link to the license, and indicates if changes were made.

Once the version of record (VoR) of your article has been published in Cogent Social Sciences, please feel free to deposit a copy in your institutional repository.

Thank you for submitting your work to this journal, and we hope that you will consider us for your future submissions.

Best wishes

Heng Choon (Oliver) Chan, Ph.D.
Senior Editor
Cogent Social Sciences

Comments from the Editors and Reviewers:

Title, Abstract and Introduction – overall evaluation

Reviewer 2: Sound

Methodology / Materials and Methods – overall evaluation

Reviewer 2: Sound

Objective / Hypothesis – overall evaluation

Reviewer 2: Sound

Figures and Tables – overall evaluation

Reviewer 2: Sound

Results / Data Analysis – overall evaluation

Reviewer 2: Sound

Interpretation / Discussion – overall evaluation

Reviewer 2: Sound

Conclusions – overall evaluation

Reviewer 2: Sound

References – overall evaluation

Reviewer 2: Sound

Compliance with Ethical Standards – overall evaluation

Reviewer 2: Sound

Writing – overall evaluation

Reviewer 2: Sound

Supplemental Information and Data – overall evaluation

Reviewer 2: Sound

Comments to the author

Reviewer 2: You Well-done. the manuscript is good and you have made good revisions.

In compliance with data protection regulations, you may request that we remove your personal registration details at any time. (Use the following URL: <https://www.editorialmanager.com/cogentsocsci/login.asp?a=r>). Please contact the publication office if you have any questions.

Welcome to Taylor & Francis Production: Cogent Social Sciences 2068270

OASS-production@journals.tandf.co.uk <cats@taylorandfrancis.com>

18 April 2022 16.21

Balas Ke: OASS-production@journals.tandf.co.uk

Kepada: mahrus_ali@uii.ac.id

Any copyrighted material reproduced in your paper must include an accompanying attribution. Brief extracts of third-party material may be cleared for use under the fair use / fair dealing policy, and don't require full copyright clearance from the Rightsholder. For further information and to access a template form for requesting permission, please see <https://authorservices.taylorandfrancis.com/using-third-party-material-in-your-article/>. Please keep copies of all correspondence.

Article: Is Criminal Fine in Economic Legislations Effective? Evidence From Indonesia

Journal: *Cogent Social Sciences* OASS

Article ID: OASS 2068270

Dear Mahrus Ali,

We are delighted that you have chosen to publish your article in *Cogent Social Sciences*. I will be your Production Editor and will work with you to oversee the production of your article through to publication. My contact details are given at the end of this email.

• Please log in to CATS to complete your Author Publishing Agreement. Your user name and password are given below. If you have any questions on the process of completing your agreement, please contact me.

Proofs will be ready for you to check in approximately 3 working days and we would like you to return your corrections within 2 days. Please let me know if there will be any difficulty in meeting this schedule.

We will be sending proofs to you through our online proofing system. You will receive notification when your proofs are available and the link to access them from the email address: iproof@integra.co.in.

• You can check the status of your paper online through the CATS system at: <https://cats.informa.com/PTS/in?ut=C90120A9349146E29BE3FCDB766266C8>

• Your User Name is: ALIM475

• If you do not know your password, you may reset it here: <http://cats.informa.com/PTS/forgottenPassword.do>

• The DOI of your paper is: 10.1080/23311886.2022.2068270. Once your article has published online, it will be available at the following permanent link: <https://doi.org/10.1080/23311886.2022.2068270> .

Yours sincerely,

Suriyanarayanan Murugaiyan

Email: OASS-production@journals.tandf.co.uk

Invoice-953170916

T&F Subscriptions <OrderSupport@tandf.co.uk>
Kepada: mahrus_ali@uii.ac.id

18 April 2022 16.56

Please find your invoice attached for your recent purchase with Taylor & Francis.

Taylor & Francis provide several payment methods to suit our customers, a short description for each payment method can be found below:

Credit/Debit Card - Taylor & Francis provide secure Credit/Debit Card payments via phone using the contact details listed at the bottom of this page, or to pay online through our secure website please [click here](#)

Please note that Taylor & Francis is a division of Informa, all payments by credit/debit card will reflect as "Informa" on your bank/card statement.

Wire/Bacs transfer - details on our bank account and how to submit payment can be found on the attached invoice. Please ensure your bank notes your invoice number when submitting your payment or alternatively you can email your payment details to our receipts team on ReceiptsRemittances@informa.com

Pay by Cheque - Please make cheques payable to Informa UK Ltd. Please return a copy of this invoice and your cheque to the address provided

Customer Services Global Contacts

The Taylor & Francis Global Customer Services team would be happy to assist with any questions you may have.

You can email us at OrderSupport@tandf.co.uk or alternatively telephone one of our teams listed below:

United Kingdom: +44 (0)20 7017 6590

United States: +1 800 354 1420 (Ext 4) or 215 625 8900 (Ext 4)

Singapore: +65 6508 2862

Australia: +61 3 8842 2413

Taylor & Francis Customer Services

 **Invoice.PDF**
36K

Cogent Social Sciences - Please complete your author agreement

authoragreement@taylorandfrancis.com <authoragreement@taylorandfrancis.com>
Kepada: mahrus_ali@uii.ac.id

18 April 2022 17.28



Your Author Publishing Agreement (APA) with Taylor and Francis

Attention: Mahrus Ali

Hello,

In order to publish your article, "Is Criminal Fine in Economic Legislations Effective? Evidence From Indonesia", we ask that you complete your Author Publishing Agreement. Please click the link below (or copy the URL into your browser) to launch our online Author Publishing Agreement portal. The process should take only a few minutes. In most cases, you will receive immediate notice that your agreement is accepted and will be able to download a copy of it for your records.

Please do not reply to this email. If you need immediate assistance concerning your article, please instead contact OASS-production@journals.tandf.co.uk.

Thank you.

[Start »](https://authoragreement.taylorandfrancisgroup.com/Start/bc942891-ba2b-4875-9328-dde975034a8b)

<https://authoragreement.taylorandfrancisgroup.com/Start/bc942891-ba2b-4875-9328-dde975034a8b>

© 2015 - Informa UK Limited, an Informa Group Company

Your completed Author Publishing Agreement for "Is Criminal Fine in Economic Legislations Effective? Evidence From Indonesia"

authoragreement@taylorandfrancis.com <authoragreement@taylorandfrancis.com>
Kepada: mahrus_ali@uii.ac.id

18 April 2022 21.03



Your completed Author Publishing Agreement (APA) with Taylor and Francis

Attention: Mahrus Ali

Hello,

Your Author Publishing Agreement for "Is Criminal Fine in Economic Legislations Effective? Evidence From Indonesia" has been completed. Please click the link below (or copy the URL into your browser) to access the system and download your signed agreement.

Should you have any question on this, you may contact OASS-production@journals.tandf.co.uk.

Thank you.

[Summary »](#)

<https://authoragreement.taylorandfrancisgroup.com/LicenseSummary/Index/bc942891-ba2b-4875-9328-dde975034a8b>

© 2015 - Informa UK Limited, an Informa Group Company

Your article proofs for review (Manuscript ID: OASS A 2068270)

iauthorsupport@integra.co.in <iauthorsupport@integra.co.in>

21 April 2022 03.54

Kepada: mahrus_ali@uii.ac.id

Cc: OASS-production@journals.tandf.co.uk

Manuscript Title: OASS - (Is Criminal Fine in Economic Legislations Effective? Evidence From Indonesia)

Manuscript DOI: 10.1080/23311886.2022.2068270

Journal: OASS-Cogent Social Sciences

Dear Mahrus Ali,

I am pleased to inform you that your proofs are now available for review using the Taylor & Francis online proofing system: [Click here](#)

Please submit your corrections by 23 April 2022, to avoid delay to publication.

Corrections must be limited to answers to the Author Queries, typographical and essential corrections only.

After we have received your corrections and Author Publishing Agreement, your article will be corrected and published online following a thorough quality check.

The DOI of your paper is 10.1080/23311886.2022.2068270. Once your article has published online, it will be available at the following permanent link: <http://dx.doi.org/10.1080/23311886.2022.2068270>.

If you have any questions, please contact me using the details below and I will be pleased to assist.

Thank you,

Suriyanarayanan Murugaiyan

On behalf of the OASS production team

Taylor and Francis

4 Park Square, Milton Park, Abingdon, Oxfordshire, OX14 4RN, United Kingdom

Email: OASS-production@journals.tandf.co.uk

"In accordance with the requirement of any applicable Data Protection Laws, "By including any personal data in your response to this email, you are freely consenting to this being used and stored by the company for the purpose of service delivery. This email and any accompanying attachments is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, distribution, or copying is strictly prohibited. If you are not the intended recipient of this communication or received the email by mistake, please notify the sender and destroy all copies. Integra Software Services Pvt Ltd. reserves the right, subject to applicable local law, to monitor and review the content of any electronic message or information sent to or from its company allotted employee email address/ID without informing the sender or recipient of the message."

Author corrections submitted for Manuscript ID: OASS A 2068270

iauthorsupport@integra.co.in <iauthorsupport@integra.co.in>

21 April 2022 07.47

Kepada: mahrus_ali@uii.ac.id

Cc: suriyanarayanan.murugaiyan@integra.co.in

Manuscript Title: OASS - (Is Criminal Fine in Economic Legislations Effective? Evidence From Indonesia)

Manuscript DOI: 10.1080/23311886.2022.2068270

Journal: OASS-Cogent Social Sciences

Date proof corrections submitted: 21 April 2022

Dear Mahrus Ali,

This email confirms that you have submitted corrections to your proofs via the Taylor & Francis online proofing system. Your record of corrections are now available using the Taylor & Francis online proofing system.

[Click here](#)

If any of this information is incorrect, please contact the Production Editor: Suriyanarayanan Murugaiyan

Email: OASS-production@journals.tandf.co.uk

We would be grateful if you could answer this very short questionnaire to provide feedback on how you found the online proofing process. It should take about 1-2 minutes to complete:

<http://www.surveygizmo.eu/s3/90026339/Taylor-Francis-Online-Correction-Tool-I>

Thank you.

Yours sincerely,

Taylor & Francis Online Proofing Team

"In accordance with the requirement of any applicable Data Protection Laws, "By including any personal data in your response to this email, you are freely consenting to this being used and stored by the company for the purpose of service delivery. This email and any accompanying attachments is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, distribution, or copying is strictly prohibited. If you are not the intended recipient of this communication or received the email by mistake, please notify the sender and destroy all copies. Integra Software Services Pvt Ltd. reserves the right, subject to applicable local law, to monitor and review the content of any electronic message or information sent to or from its company allotted employee email address/ID without informing the sender or recipient of the message."



Mahrus Ali <094100102@uii.ac.id>

Author corrections submitted for Manuscript ID: OASS A 2068270

iauthorsupport@integra.co.in <iauthorsupport@integra.co.in>

21 April 2022 07.47

Kepada: mahrus_ali@uii.ac.id

Cc: suriyandarayanan.murugaiyan@integra.co.in

Manuscript Title: OASS - (Is Criminal Fine in Economic Legislations Effective? Evidence From Indonesia)

Manuscript DOI: 10.1080/23311886.2022.2068270

Journal: OASS-Cogent Social Sciences

Date proof corrections submitted: 21 April 2022

Dear Mahrus Ali,

This email confirms that you have submitted corrections to your proofs via the Taylor & Francis online proofing system. Your record of corrections are now available using the Taylor & Francis online proofing system.

[Click here](#)

If any of this information is incorrect, please contact the Production Editor: Suriyanarayanan Murugaiyan

Email: OASS-production@journals.tandf.co.uk

We would be grateful if you could answer this very short questionnaire to provide feedback on how you found the online proofing process. It should take about 1-2 minutes to complete:

<http://www.surveygizmo.eu/s3/90026339/Taylor-Francis-Online-Correction-Tool-I>

Thank you.

Yours sincerely,

Taylor & Francis Online Proofing Team

"In accordance with the requirement of any applicable Data Protection Laws, "By including any personal data in your response to this email, you are freely consenting to this being used and stored by the company for the purpose of service delivery. This email and any accompanying attachments is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, distribution, or copying is strictly prohibited. If you are not the intended recipient of this communication or received the email by mistake, please notify the sender and destroy all copies. Integra Software Services Pvt Ltd. reserves the right, subject to applicable local law, to monitor and review the content of any electronic message or information sent to or from its company allotted employee email address/ID without informing the sender or recipient of the message."

Cogent OA author update: access to your article published in an issue of Cogent Social Sciences

Taylor & Francis <noreply@tandfonline.com>

27 April 2022 19.22

Balas Ke: support@tandfonline.com

Kepada: mahrus_ali@uii.ac.id



The online platform for Taylor & Francis Group content

[Author Services](#) | [FAQ](#) | [Twitter](#) | [Facebook](#) | [LinkedIn](#)

Dear Mahrus Ali,

Your Open Access article, [Is criminal fine in economic legislations effective? Evidence from Indonesia](#), published in Cogent Social Sciences, [Volume 8 Issue 1](#), is now available to access via [tandfonline.com](#).

Share your article now

You'll hopefully want to share your article with friends or colleagues (and then check its downloads, citations and Altmetric data on [Authoring Works](#), our dedicated center for all Cogent OA published authors). Publishing Open Access means your article can be read by anyone, anywhere, and we want to work with you to ensure it reaches as wide (and as appropriate) an audience as possible.



Author feedback tells us that something as simple as posting about your article's publication on social media is a highly effective way of highlighting your research. Find out more about how you can work with us to [promote your work](#).

Not sure how to access your Authoring Works?

If you haven't yet registered, you can do so using mahrus_ali@uii.ac.id (this is the email you used whilst your manuscript was going through production).

Once you've completed the quick registration you'll be sent an email asking you to confirm. Click on the verification link and you can then login (using the above email address) whenever you want to by going to [Taylor & Francis Online](#). Once you have logged in, click on "[Your Account](#)" at the top of the page to see the latest updates on your article.

If you have any problems accessing your Taylor & Francis Online account please [contact us](#). Thank you for publishing Open Access with us.

Kind regards,

Stewart Gardiner
Global Production Director, Journals
Taylor & Francis Group

Interested in insights, tips, and updates for Taylor & Francis authors? Be part of our researcher community on:

[Twitter](#)

[Facebook](#)

[LinkedIn](#)

[Taylor & Francis Author Services](#)

Please do not reply to this email. To ensure that you receive your alerts and information from Taylor & Francis Online, please add "alerts@tandfonline.com" and "info@tandfonline.com" to your safe senders list.

Taylor & Francis, an Informa business.

Taylor & Francis is a trading name of Informa UK Limited, registered in England under no. 1072954. Registered office: [5 Howick Place, London, SW1P 1WG](#).



Cogent OA



Is criminal fine in economic legislations effective? Evidence from Indonesia

Mahrus Ali, Muhammad Arif Setiawan, Wawan Sanjaya & Andi Mulyono |

To cite this article: Mahrus Ali, Muhammad Arif Setiawan, Wawan Sanjaya & Andi Mulyono | (2022) Is criminal fine in economic legislations effective? Evidence from Indonesia, Cogent Social Sciences, 8:1, 2068270, DOI: [10.1080/23311886.2022.2068270](https://doi.org/10.1080/23311886.2022.2068270)

To link to this article: <https://doi.org/10.1080/23311886.2022.2068270>



© 2022 The Author(s). This open access article is distributed under a Creative Commons Attribution (CC-BY) 4.0 license.



Published online: 27 Apr 2022.



Submit your article to this journal [↗](#)



Article views: 141



View related articles [↗](#)



View Crossmark data [↗](#)



Received: 26 January 2022
Accepted: 16 April 2022

*Corresponding author: Mahrus Ali,
Universitas Islam Indonesia,
Indonesia
E-mail: mahrus_ali@uii.ac.id

Reviewing editor:
Heng Choon (Oliver) Chan,
Department of Criminal Law, STIH
Manokwari, West Papua, Indonesia

Additional information is available at
the end of the article

LAW, CRIMINOLOGY & CRIMINAL JUSTICE | RESEARCH ARTICLE

Is criminal fine in economic legislations effective? Evidence from Indonesia

Mahrus Ali^{a*}, Muhammad Arif Setiawan^b, Wawan Sanjaya^b and Andi Mulyono^c

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
Anti-Corruption	There is no alternative sanction for an unpaid fine.	There is no alternative sanction for an unpaid fine
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.

Funding

The authors received no direct funding for this research.

Author details

Mahrus Ali^a

E-mail: mahrus_ali@uii.ac.id

ORCID ID: <http://orcid.org/0000-0002-5864-1009>

Muhammad Arif Setiawan^b

Wawan Sanjaya^b

Andi Mulyono^c

^aDepartment of Criminal Law, Universitas Islam Indonesia, Yogyakarta, Indonesia.

^b Department of Criminal Law, Universitas Islam Indonesia, Yogyakarta, Indonesia .

^cA student of Doctorat Program in Law, Universitas Islam Indonesia, Yogyakarta, Indonesia .

Disclosure statement

No potential conflict of interest was reported by the author(s).

Citation information

Cite this article as: Is criminal fine in economic legislations effective? Evidence from Indonesia, Mahrus Ali, Muhammad Arif Setiawan, Wawan Sanjaya & Andi Mulyono, *Cogent Social Sciences* (2022), 8: 2068270.

References

- Adiwijaya, I. M. V. (2022). *Interview with I Made Vito Adiwijaya, a convict of narcotics offense at correctional institution IIB, Tabanan, Bali on 25th of January 2022*.
- Arief, B. N. (1992). *Teori-teori dan Kebijakan Pidana*. Alumni (Google Scholar).
- Arief, B. N. (2012). *Kebijakan Formulasi Ketentuan Pidana dalam Peraturan Perundang-Undangan*. Pustaka Magister (Google Scholar).
- Aryaputra, M. I., Triwati, A., & Juita, S. R. (2017). Kebijakan Aplikatif Penjatuh Pidana Denda Pasca Keluarnya PERMA No. 2 Tahun 2012. *Jurnal Dinamika Sosial Budaya*, 19(1), 56. <https://doi.org/10.26623/jdsb.v19i1.685>
- Baum, C. L., II. (2016). Calculating economic losses form wrongful incarceration. *Tennessee Bar Journal*, 52 (7), 18–21 <https://www.tba.org/index.cfm?pg=LawBlog&Action=showEntry&blogEntry=21310>. Google Scholar
- Bryantonio, M. (2012). Kebijakan Formulasi Pidana Bagi Korporasi yang Tidak Membayar Denda dalam Tindak Pidana Korupsi. *Unnes Law Journal: Jurnal Hukum Universitas Negeri Semarang*, 2 (1), 20 doi:10.15294/ulj.v2i1.2900. Google Scholar
- Cempling. (2022). *Interview with cempling bin Kamsi, a convict of narcotics offense at correctional institution IIA Ambarawa, on 18th of March 2022*.
- Chu, C. Y. C., & Jiang, N. (1993). Are fines more efficient than imprisonment? *Journal of Public Economics*, 51(3), 391. [https://doi.org/10.1016/0047-2727\(93\)90073-3](https://doi.org/10.1016/0047-2727(93)90073-3)
- Cicchini, M. D. (2010). An economics perspective on the exclusionary rule and deterrence. *Missouri Law Review*, 75(2), 466. <https://scholarship.law.missouri.edu/mlr/vol75/iss2/6>
- Cohen, M. A. (2000). The economics of crime and punishment: implications for sentencing of economic crimes and new technology offenses. *Georgia Mason Law Review*, 9(2), 506–507. <https://www.jstor.org/stable/1830482>
- Colvin, E. (1995). Corporate Personality and Criminal Liability. *Criminal Law Forum*, 6(1), 8–9. <https://doi.org/10.1007/BF01095717>
- Curran, V. G. (2017). Harmonizing multinational parent company liability for foreign subsidiary human rights violations. *Chicago Journal of International Law*, 17 (2), 408 <https://chicagounbound.uchicago.edu/cjil/vol17/iss2/3>. Scopus
- Firganefi, & Rifai, E. (2021). Analysis of effective criminal sanctions corporations as criminal actors of corruption. *International Journal of Business, Economic, and Law*, 24 (1), 127 https://www.ijbel.com/wp-content/uploads/2021/03/IJBEL24_538.pdf. Google Scholar
- Gulo, N. (2018). Disparitas dalam Penjatuh Pidana. *Masalah-Masalah Hukum*, 47(3), 217. <https://doi.org/10.14710/mmh.47.3.2018.215-227>
- Harkrisnowo, H. (2003). *Rekonstruksi Konsep Pemidanaan: Suatu Gugatan terhadap Proses Legislasi dan Pemidanaan di Indonesia*. UI Press (Google Scholar).
- Heri. (2021). *Interview with Heri, a public prosecutor at state prosecutor's office, Mungkid, Magelang on 8th of October 2021*.
- Herlix, T. (2022). *Interview with Tommy Herlix, a public prosecutor at State Prosecutor's Office, Ambarawa, Semarang Mungkid, Magelang on 26th of March 2022*.
- Husak, D. (2020a). Criminal law at the margins. *Criminal Law and Philosophy*, 14(3), 382. <https://doi.org/10.1007/s11572-019-09505-9>
- Husak, D. (2020b). The price of criminal law skepticism: ten functions of the criminal law. *New Criminal Law Review*, 23(1), 48. <https://doi.org/10.1525/nclr.2020.23.1.27>
- Kahan, D. M. (1997). Social influence, social meaning, and deterrence. *Virginia Law Review*, 83(2), 349 doi:10.2307/1073780.
- King, R. D., & Light, M. T. (2019). Have racial and ethnic disparities in sentencing declined? *Crime and Justice*, 48(1), 378–380. <https://doi.org/10.1086/701505>
- Luthan, S. (2013). *Kebijakan Kriminalisasi di Bidang Keuangan*. FH UII Press (Google Scholar).
- Miles, T. J. (2005). Empirical economics and the study of punishment and crime. *University of Chicago Legal Forum*, 2005, (1), 238. <http://chicagounbound.uchicago.edu/uclf/vol2005/iss1/7>
- Muladi, & Arief, B. N. (1984). *Teori-Teori dan Kebijakan Pidana*. Alumni (Google Scholar).

- Mungan, M. C. (2012). The law and economics of fluctuating criminal tendencies and incapacitation. *Maryland Law Review*, 72(1), 170. <https://doi.org/10.2139/ssrn.1987663>
- Posner, R. A. (1997). Rational choice, behavioral economics and the law. *Stanford Law Review*, 50(5), 1551. <https://doi.org/10.2307/1229305>
- Pradhyaksa, D. P. (2022). Interview with Dimas Putra Pradhyaksa, a public prosecutor at state prosecutor's office, Tabanan, Bali on 10th of March 2022.
- Rahmat, D. (2020). Formulasi Kebijakan Pidana Denda dan uang Pengganti dalam Penegakan Tindak Pidana Korupsi di Indonesia. *Jurnal IUS Kajian Hukum Dan Keadilan*, 8(1), 78–88 doi:10.29303/ius.v8i1.686.
- Raskolnikov, A. (2020). Criminal deterrence: A review of the missing literature. *Supreme Court Economic Review*, 28(1), 19. <https://doi.org/10.1086/710158>
- Roni. (2021). Interview with Roni, a convict of narcotics offense at correctional institution IIA Magelang, on 8th of October 2021.
- Segate, R. V. (2021). Protecting cultural heritage by recourse to international environmental law: Chinese stances on faultless state liability. *Hastings Environmental Law Journal*, 27(1), 162. https://repository.uchastings.edu/hastings_environmental_law_journal/vol27/iss1/5
- Sheley, E. L. (2019). Tort Answers to the problem of corporate criminal mens Rea. *Nort Carolina Law Review*, 97(4), 788–789. <https://scholarship.law.unc.edu/nclr/vol97/iss4/2>
- Smith, H. C. M. (2000). The Hidden Victims. In *Orange County lawyer* (Vol. 42, pp. 34–35). (Thomson Reuters).
- Stephens, B. (2002). The amorality of profit: Transnational corporations and human rights. *Berkeley Journal of International Law*, 20(1), 4. <https://ssrn.com/abstract=2621770>
- Stern, Y. Z. (1987). Corporate criminal personal liability—who is the corporation. *Journal of Corporation Law*, 13 (1), 130–132 <https://heinonline.org/HOL/LandingPage?handle=hein.journals/jcorl13&div=3&id=&page=> Google Scholar
- Tamboto, J. R. (2015). Eksistensi Pidana Denda dalam Pemidanaan di Indonesia. *Lex et Societatis*, 3 (3), 189 doi:10.35796/les.v3i3.8037. Google Scholar
- Triwantoro, A. N. (2022). Interview with Andy Nugraha Triwantoro, a public prosecutor at state prosecutor's office, Gunung Kidul Yogyakarta on 4th of March 2022.
- Ulen, S. T., & Korobkin, R. B. (2000). Law and behavioral science: removing the rationality assumption from law to economic. *California Law Review*, 88(4), 1055. <https://doi.org/10.2307/3481255>
- Wagner, R. E. (2013). Criminal corporate character. *Florida Law Review*, 65(4), 1297. <https://scholarship.law.ufl.edu/flr/vol65/iss4/5>
- Weissmann, A. (2007). A new approach to corporate criminal liability. *American Criminal Law Review*, 44 (4), 1319 <https://ssrn.com/abstract=1085400>.



© 2022 The Author(s). This open access article is distributed under a Creative Commons Attribution (CC-BY) 4.0 license.

You are free to:

Share — copy and redistribute the material in any medium or format.

Adapt — remix, transform, and build upon the material for any purpose, even commercially.

The licensor cannot revoke these freedoms as long as you follow the license terms.

Under the following terms:

Attribution — You must give appropriate credit, provide a link to the license, and indicate if changes were made.

You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use.

No additional restrictions

You may not apply legal terms or technological measures that legally restrict others from doing anything the license permits.



Cogent Social Sciences (ISSN: 2331-1886) is published by Cogent OA, part of Taylor & Francis Group.

Publishing with Cogent OA ensures:

- Immediate, universal access to your article on publication
- High visibility and discoverability via the Cogent OA website as well as Taylor & Francis Online
- Download and citation statistics for your article
- Rapid online publication
- Input from, and dialog with, expert editors and editorial boards
- Retention of full copyright of your article
- Guaranteed legacy preservation of your article
- Discounts and waivers for authors in developing regions

Submit your manuscript to a Cogent OA journal at www.CogentOA.com

