



Law Enforcement in Impositioning Imprisonment towards Gambling Crime Offender (Case Study of Decision Number: 24/PID.B/ 2012/PN.PP)

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Abstract

The implementation of Article 303 subsection (1) of Criminal Code empirically has been conducted in the decision Number 24/PID.B/2012/PN.PP. The defendant named Gimana called as Dolok, aged 60 years old, an entrepreneur, addressed in Pemuda Street Number 33 RT 01 Subdistrict of Koto Panjang, Padang Panjang City. There are some differences between criminal regulations in Article 303 subsection (1) of Criminal Code which is the imprisonment for 10 years with verdict of imprisonment for 3 months and 15 days. The objective of this research is to know how the law enforcement in impositioning imprisonment towards gambling crime offender in the Decision Number: 24/PID.B/ 2012/PN.PP? by using normative judicial approach. The present research is descriptive. The legal material analysis is done by using qualitative analysis method. The conclusion of this research: 1) The law enforcement in the Decision Number: 24/PID.B/ 2012/PN.PP has been achieved by implementing the regulation of Article 303 subsection (1) of Criminal Code. The article regulation is implemented in the gambling crime offender. The law enforcement towards the gambling crime offender is done by judge with Verdict Number: 24/PID.B/ 2012/PN.PP, the judge has imprisoned the doer by the way which has been set in the constitution. The law enforcement with law enforcement phases is the effort to guarantee that decision Number: 24/PID.B/ 2012/PN.PP has legal certainty.

Keywords: Law Enforcement; Imprisoning; Doer; Criminal Act; Gambling

Introduction

Pandect is the regulation or the guide about what should or what is better to be done.¹ While, legal concept is as the combination of values, principles, and norms of behavior which function to regulate human's behavior in community life enforced by the sanction that can be imposed to the offender in order to build discipline and justice in community life.² The pandect and the legal concept must be enforced in the reality in order that it does not become a mirage, followed by the demand from the community themselves in order that the law should be enforced.

¹ Sudikno Mertokusumo, *Knowing Law*, The First Printing, Publisher University of Atmajaya, Yogyakarta, 2010, p. 7.

² Salman Luthan, *Dialectics of Law and Moral in the Perspective of Legal Philosophy*, Legal Journal of Ius Quia Iustum No. 4 Vol. 19 October 2012, p. 509

The regulation implementation of Article 303 subsection (1) of Criminal Code, empirically has been conducted in the decision Number 24/PID.B/2012/PN.PP. The defendant named Gimán called as Dolok, aged 60 years old, an entrepreneur, addressed in Pemuda Street Number 33 RT 01 Subdistrict of Koto Panjang, East Padang Panjang District, Padang Panjang City. The case is decided in the verdict Number 24/PID.B/2012/PN.PP Regarding Criminal Act of Gambling.

The demand of public prosecutor on the defendant's act is in the Demand Letter with Registration Number: PDM-24/PPJNG/Ep.2/05/2012, that the public prosecutor demands that Panel of Judges of Padang Panjang Court which investigate and adjudicate this Case decides to state that the defendant namely GIMAN called as DOLOK is proven wrong by doing Criminal Act of Gambling as set in Article 303 subsection (1) of the Third Criminal Code, as in the indictment letter and give punishment towards the defendant namely GIMAN called DOLOK with imprisonment for 7 (seven) month lessed by the imprisonment period which has been undergone.

Based on the decision Number 24/PID.B/2012/PN.PP, the defendant namely Gimán called Dolok got imprisonment punishment by the judge for 3 (three) months 15 (fifteen) days because the defendant Gimán called Dolok is proven legally and convincing has committed criminal act as accused to him which is violating the regulation of Article 303 subsection (1) of the Third Criminal Code.

The focus point which becomes the attention in the case decision Number 24/PID.B/2012/PN.PP is addressed on the criminal imposition by the judge towards Gimán called Dolok which is 3 (Three) months and 15 (Fifteen) days. Besides, the public prosecutor demands that the defendant is punished with imprisonment for 7 (seven) months. On the other hand, according to the legal regulation in Article 303 subsection (1) of the Third Criminal Code regulating that the gambling crime offender can be punished of imprisonment for 10 (Ten) years and or fine of IDR 25.000.000,- (Twenty Five Millions Rupiah).

The law enforcement existing in the case Number 24/PID.B/2012/PN.PP reveals that both Public Prosecutor and Judge keep lessing the punishment that must be given to the defendant Gimán if compared to the regulation in Article 303, the third subsection (1) in Criminal Code. The imprisonment punishment which is quite heavy addressed to the gambling crime offender is the intention of the constitution maker in order that the community does not commit criminal act of gambling.

The demand shown by the Public Prosecutor is the imprisonment punishment for 7 (seven) months makes the gambling crime offender gets a light punishment. It is same as the judge's verdict in the case Number 24/PID.B/2012/PN.PP which has been giving punishment for 3 (Three) months and 15 (Fifteen) days lighter if compared to the regulation of Article 303, the third subsection (1) of Criminal Code. It brings new problem to the law enforcement towards the other gambling crime offender that the gambling crime offender will get light punishment.

The law enforcement in the criminal imposition of imprisonment towards criminal act of gambling in Decision Number: 24/PID.B/ 2012/PN.PP must be reviewed regarding to the demand process of Public Prosecutor until a demand is given in order that the defendant is given imprisonment punishment for 7 (seven) months. The trial led by the judge then decides that the convict gets imprisonment punishment for 3 (three) months and 15 (fifteen) days of punishment or a half of criminal demand requested by the Public Prosecutor. The process of changing criminal regulation in the value set in Article 303 of the third subsection (1) of Criminal Code in the concrete event in the Decision Number: 24/PID.B/ 2012/PN.PP probably affects on the lack of legal certainty level in the law enforcement itself.

Law enforcement in the criminal imposition of imprisonment towards gambling crime offender in the decision Number: 24/PID.B/ 2012/PN.PP does not attempt maximally in implementing legal expectations which are in the regulation of Article 303 in the third subsection (1) of Criminal Code which mainly stating that the gambling crime offender gets serious criminal imposition which is for 10 (Ten) years of imprisonment or fine of IDR 25.000.000,- (Twenty Five Millions Rupiah). Because according to Satjipto Raharjo³, law enforcement is a process to implement legal expectations to be real. What is called as legal expectation here is the thoughts of constitution making agencies formulated in the legal regulation.

³ Satjipto Rahardjo, *Law Enforcement as Sociological Review*, Genta Publishing, Yogyakarta, 2009, p. 25

Article 303 of the third subsection (1) of Criminal Code has been strengthened by the presence of Laws Number 7 of 1974 Regarding Gambling Control. The gambling including any forms of gambling is a violation; therefore, it must be controlled. The meaning of constitution maker is regarding criminal imposition of imprisonment which is initially not serious to be more serious based on the regulation of Laws Number 7 of 1974 Regarding Gambling Control towards the gambling crime offender besides to balance the condition of era development, it is also to press that the behavior of criminal act of gambling can be controlled.

Research Method

1. Research Approach and Nature

The approach used in the present research is normative judicial which is the research which reviews existing norms like laws which have relevance with the problems as the legal material of its source.⁴ This law research is supported by the collection of documents and data in the field.

Besides, the nature of this research is descriptive which attempts to draw object studied as detailed as possible to be then digged more to know how the real condition from the review that has been obtained. Descriptive nature of this research is implemented to know and to explain the imprisoning towards the gambling crime offender in the Decision Number 24/PID.B/2012/PN.PP.

2. Documentation Type of Legal Material

The normative research which is being studied depends on the legal material that the researcher has obtained previously. The data is the data in form of legal material consisting of:

a. Primary Legal Material

The primary legal material used in this research is all law regulations related to investigation of criminal act of gambling like:

- 1) Criminal Code;
- 2) Criminal Code Procedures; and
- 3) Laws Number 7 of 1974 Regarding Gambling Criminal Act Control

b. Secondary Legal Material

The secondary legal material in this research is law books or books related to this research, research result like thesis and undergraduate thesis or in form of journal, paper, and other information related to this research in form of texts like indictment document and demand of Public Prosecutor and judge's verdict related to this research.

c. Tertiary Legal Material

The tertiary legal material in this research is law dictionary, Dutch dictionary, English dictionary, law encyclopedia, and information searching from website.

3. Legal Material Collection Tool

The legal material collection tool used in this research are as follows:

a. Document Study

⁴ Soerjono Soekanto and Sri mamudji, *Normative Legal Research: A Short Review*, PT.raja Grafindo Persada, Jakarta, 2001, p. 14.

A set of activities done to collect some forms of documents regarding to this research. The documents in this research are in form of previous investigation case that the researcher obtains from enyidikan yang penulis dapatkan di Police Criminal Investigation Unit of Padang Panjang, Inactment Letter and Demand Letter of Padang Panjang Attorney and the Verdict of Padang Panjang Court. Then, the documents will be reviewed as in line with the research direction.

b. Literature Study

A set of activities done to collect some information from some legal regulations, experts' opinion in some literatures, and some analysis on laws that can be obtained in some libraries.

4. *Legal Material Processing and Analysis*

The legal material processing can be done by activities like:

1. Legal Material Categorization

Legal material categorization is done by way of categorizing the legal materials as in line with the research design that has been made.

2. Editing

Regarding to the legal materials that have been categorized, investigation towards the legal materials will be done to fix the incorrect legal materials.

3. Legal Material Analysis

The next step is step to review and see sharper the legal problems until knowing the real condition of the legal problems.

4. Conclusion Making

The result of the data analysis is expected to make research conclusion. Besides, the legal material analysis is done by using qualitative analysis which is analyzing the problems by using legal argumentation. Thus, it does not use numbers or symbols as used in quantitative analysis.

Results and Discussion

1. Law Enforcement in Imprisonment Criminal Imposition on Gambling Crime Offender in the Decision Number: 24/PID.B/2012/PN.PP

The demand delivered by Public Prosecutor towards defendant namely Gimman called Dolok mainly is stating that the defendant namely Gimman called Dolok is wrong by doing criminal act as set in Article 303 of the third subsection (1) of Criminal Code and giving punishment to the defendant Gimman called Dolok with imprisonment punishment for 7 (seven) months lessed with the imprisonment period that has been undergone. The demand is based on the indictment that the defendant Gimman called Dolok has commited action as set in Article 303 of the third subsection (1) of Criminal Code specifically "Threatened with imprisonment with ten years maximum or fine twenty five millions rupiah maximum, whoever does not have permit to do or to participate on gambling game as the income source.

There are differences between demand for the defendant Gimman caled Dolok and the regulation in Laws with the fact from the demand of Public Prosecutor in the Verdict Number 24/PID.B/2012/PN.PP. In the Verdict Number 24/PID.B/2012/PN.PP, Public Prosecutor demands the Defendant Gimman to be punished of imprisonment for 7 (Seven) months. It absolutely has significant difference between law regulations and the reality which in reality the differences are 9 (Nine) Years and 5 (Five) months of imprisonment. The differences are quite significant. Absolutely, there is a consideration of Public Prosecutor so that he proposes that demand. If compared to the criminal regulation in Article 303 of the third subsection (1) of Criminal Code before being changed to Laws Number 7 of 1974 regarding

Gambling Control. The number of crimes demanded to the defendant Gimán called Dolok is still in law category.

Public Prosecutor in giving a demand to the defendant Gimán called Dolok is done by the consideration that the violation done by the defendant is considered not that serious and not that harmful for other citizen's physics. The other consideration proposed by Public Prosecutor is that the defendant Gimán is in old age until what becomes the real demand result point expected by Public Prosecutor is the defendant is deterrent on the act of gambling and gives a lesson to the community to not to do the act committed by the defendant.

The demand proposed by the Public Prosecutor towards the defendant Gimán called Dolok is that the defendant does not involve in the gambling as the income source as set in Article 303 of the third subsection (1) of Criminal Code, after analysis is done towards the position case in the verdict Number 23/PID.B/2012/PN.PP has been in line compared to the position case or event chronology made based on the information from the defendant and the witness as well as the other proof.

The demand and the indictment of the Public Prosecutor towards Gimán called Dolok is that the demand of the Public Prosecutor is considered too heavy if compared to laws. Besides, in indictment, Public Prosecutor is considered in line with the fact based on the existing proof.

2. Judge's Verdict

Some important consideration parts which become the consideration material of panel of judges as follows⁵:

- a. The consideration regarding to the defendant's right to be accompanied by the legal advisor is in line;
- b. The consideration regarding the demand of Public Prosecutor as in the letter PDM-24/PPJG/Ep.2/05.12 dated May 28 2012;
- c. The consideration regarding to proofs in the trial;
- d. The consideration regarding to the trial fact;
- e. The consideration regarding to the judicial analysis towards the articles indicted;
- f. The consideration regarding to the justification reason and the forgiver reason on the defendant's act;
- g. The consideration regarding to the thing that incriminates and the thing that eases;

The command of the panel of judges' verdict in the decision Number 24/PID.B/2012/PN.PP is as follows⁶:

Judging

1. Stating that the defendant Gimán called Dolok is proven legally and convincing wrong committing criminal act. Menyatakan terdakwa Gimán Panggilan Dolok telah terbukti secara sah dan meyakinkan bersalah melakukan tindak pidana, "Without Rights deliberately participating in gambling companies regardless of whether to use the opportunity depends on him a condition";
2. Impositioning a punishment to the defendant with imprisonment for 3 (three) months and 15 (fifteen) days;

⁵ Court Ruling....., *Loc. Cit*

⁶ *Ibid.*

3. Determining the length of the defendant in the prison lessed completely from the punishment imposed;
4. Memerintahkan agar terdakwa tetap berada dalam tahanan;
5. Determining proofs in form of:
 - a) 1 (one) brown trousers;

This proof is to be returned to the defendant.

- b) Cash of IDR 270.000,- (Twenty Seven Thousands Rupiah) with the detail as follows:
 - 1) 2 (two) banknote of IDR 100.000,- (One hundred thousand Rupiah).
 - 2) 1 (one) banknote of 50.000,- (Five thousands rupiah).
 - 3) 1 (one) banknote of 20.000,- (Two thousands rupiah).

The money is seized for country.

6. Punishing the defendant to pay this case of 1.000,- (One thousand rupiah);

The command of the panel of judges' verdict generally states that the defendant Gimán called Dolok is proven legally and convincing that the defendant has participated in the gambling game and has made it as the income source and punished of imprisonment for 3 (three) months and 15 (fifteen) days lessed by imprisonment period. The punishment seems less fulfilling justice and it will not form the objective of the punishment goal as expected. By being lessed by the imprisonment period noting that the defendant is punished by the investigator started from March 29, 2012 based on the Command Letter of Imprisonment Number SP.Han/17/III/2012 to June 27, 2012 based on the Extension Letter of Imprisonment by Court with Number 24/Pen.Pid/2012/PN.PP. If counted from March 29, 2012 to June 27, 2012, the defendant Gimán called Dolok has been imprisoned for 3 (three) months.

After the verdict red in June 13, 2013, the defendant's imprisonment period will change to be 2 (two) months and 17 (seventeen) days. With the remaining days of imprisonment, the defendant will only undergo the imprisonment punishment for 28 (Twenty Eight) days. The imprisonment punishment got by the defendant Gimán is not with fine punishment.

According to Satjipto Raharjo, law enforcement is a process to implement the legal expectations to be real. What is called as legal expectation is thoughts of the constitution maker agencies formulated in the legal regulation. The thought formulation of the legal maker stipulated in legal regulation will also determine how the law enforcement will be run.⁷

Based on that, the imprisonment imposition towards the gambling crime offender as in the decision Number 24/PID.B/2012/PN.PP, is the effort of law enforcement to be further as the effort of implementing legal expectations in the reality which is to implement the regulation in Article 303 in Criminal Code towards the defendant Gimán. Therefore, the legal instrument must be there in the law enforcement by *criminal justice system* components, like investigator, public prosecutor, judge, and correctional institution.

The law enforcement in the decision Number 24/PID.B/2012/PN.PP is portrayed by the effort to balance, meet, or make in line the values and the norms in Article 303 of the third subsection (1) of Criminal Code by the defendant Gimán aiming to create, preserve, and maintain peace of life association which is fretful because violation on the values and norms in Article 303, subsection (1) of Criminal code has been committed.

⁷ Satjipto Rahardjo, *Loc. Cit*

The law enforcement like in the decision Number 24/PID.B/2012/PN.PP also must pay attention on the Legal Certainty by referring to the regulation in laws. That law enforcement must also pay attention on the advantages, that punishment imposition like in the decision Number 24/PID.B/2012/PN.PP will give deterrent effect for the gambling doers to not to repeat what has been done and it will give advantages as a lesson for all community in order to not to do the doers' act in which if it is done, then the punishment will be given as experienced by the defendant in the decision Number 24/PID.B/2012/PN.PP. The advantage of law enforcement in the decision Number 24/PID.B/2012/PN.PP further is that by no presence of gambling, the peach and the control in the community will improve.

Based on the view of Iskandar, the scope of law enforcement is actually very wide because it covers direct and indirect aspects towards the people working in law enforcement. Law enforcement not only covers *law enforcement*, but it also covers *peace maintenance*.⁸ Law enforcement by imposing punishment to Giman in the decision Number 24/PID.B/2012/PN.PP, will provide justice for community. The justice is in form of the feeling in the community that for every violator or the doer which cause the social control disturbed must be punished based on the legal court like Court of Padang Panjang. Thus, law enforcement is in line with the effort to keep control or *peace maintenance*.

According to Joseph Goldstein cited by Sant Dellya,⁹ law enforcement of crime is differentiated into 3 parts namely:

1. *Total enforcement* is the scope of law enforcement as formulated by *substantive law of crime*. The law enforcement of crime is totally impossible to be done because the law enforcers are limited tightly by Criminal Code Procedures which such as covering regulations of arresting, imprisoning, searching, foreclosing, and investigating initially. Besides, substantive law of crime probably gives limitations like initial report is needed as the requirement of demand on indictment cases (*klacht delicten*). This limited scope is called as *area of no enforcement*.

The implementation of *Total enforcement* in the concrete event is visible in the process starting from investigation, indictment, demand, and decision in the Verdict of Padang Panjang Court Number 24/PID.B.2012/PN.PP, which is the scope of criminal law enforcement as formulated in Article 303, the first subsection (1) of Criminal Code.

2. *Full enforcement*; after the scope of total law enforcement is lessened with *area of no enforcement* in this law enforcement, the law enforcers are expected to do maximum law enforcement.

The implementation of *Full enforcement* in the concrete event is in the Verdict of Padang Panjang Court Number 24/PID.B.2012/PN.PP will be legal material in the law enforcement in the score of *Full enforcement*. The command in order that the community does not commit criminal act of gambling by making example of law enforcement in form of *total enforcement* like in the Verdict of Padang Panjang Court Number 24/PID.B.2012/PN.PP.

3. *Actual enforcement*; according to Joseph Goldstein, this full enforcement is considered *not a realistic expectation*, because of the presence of limitations in form of time, personnel, investigation tools, fund, and so forth, in which all causes a must to do *discretion* and the remaining is called as *actual enforcement*.

The implementation of *Actual enforcement* in the concrete event seems to be known that the criminal act of gambling, that the criminal act case of gambling during 2012-2018 consists of 28 cases handled by the investigate of Police Criminal Investigation Unit of Padang Panjang, that the case does not cover the criminal act of gambling yet completely; there are still many criminal act cases of gambling which occur and solved by using right to make a policy or police discretion as done by the officer of Community Peace Police which directly involves with the community and many criminal act cases of gambling are found which are then solved in the related subdistrict level, until the law enforcement process in form of *total enforcement* is not implemented.

⁸ M. Husein Maruapey, *Loc. Cit*

⁹ Shant Dellyana, *Loc. Cit*.

The law enforcement in the scope of *total enforcement* like in the decision of Padang Panjang Court Number 24/PID.B.2012/PN.PP is influenced by the factor as formulated by Soerjono Soekanto which the the legal factor itself, law enforcement factor, facility and supporting facility factor, community factor and culture factor.

The criminal act of gambling which is once investigated by Police Criminal Investigation Unit of Padang Panjang can be portrayed that during 2012-2018 there are 28 cases of gambling criminal act handed by the investigator in Criminal Investigation Unit of Padang Panjang. In 2012, there were 7 (seven) cases of gambling criminal act consisting of lottery (5), *Song* (1), Place providing (1). In 2013, there was only one gambling criminal act which is lottery. In 2014, there was only 1 (one) case of gambling criminal act specifically lottery. In 2015, there are 3 (three) cases of gambling criminal act in form of lottery. In 2016, there were 7 (seven) criminal acts in form of Lottery (1), *Song* (3), *Ceki* (1), Place Provider (1), *Domino* (1). In 2017, there were 4 (four) types of gambling criminal acts consisting of Lottery (1), ludo (1), *Ceki* (2). In 2018, there were 5 (five) cases of gambling criminal act consisting of *Song* (3) and Place Provider (2).

The type of gambling criminal act with lottery is the gambling game which attempts to guess the particular numbers. The type of gambling criminal act with *ceki* is the gambling game which uses paper of card of *Koa*. The type of gambling criminal act with *song* is the gambling game which uses rummy cards. In addition, the type of gambling criminal act with *ludo* is the gambling game which uses table and or *Android* in which every player has 4 fruit in which the winner is the player which firstly inserts the fruit in to the last place.

3. Legal Certainty with Punishment Impositioning of Imprisonment towards the Gambling Crime Offender in the Decision Number: 24/PID.B/ 2012/PN.PP

As one of the aspects that must be paid attention in the law enforcement, then the legal factor itself becomes the attention point. In the legal factor, there is legal certainty aspect which expects that law enforcement must be in line with the legal regulation itself by not violating the law. In the empirical event happening in the legal area of Padang Panjang Court, the law enforcement in the imprisonment punishment imposition towards the gambling crime offender in the decision Number: 24/PID.B/ 2012/PN.PP must also be analyzed by its legal certainty aspect.

Comparing between the number of judges' verdict with the reality as advised in Article 303 the third subsection (1) of Criminal Code in which someone commits gambling criminal act can be punished with criminal punishment for 10 (ten) years of imprisonment and fine maximum IDR 25.000.000,- (Twenty Five Millions Rupiah), then the criminal decision given by the judge in the decision number 24/PID.B/2012/PN.PP is not in accordance with the demand proposed by Public Prosecutor.

Based on the decision number 24/PID.B/2012/PN.PP the defendant Gimman called Dolok is punished of imprisonment for 3 months and 15 days because the defendant Gima called Dolok proven legally and convincing has committed criminal act as indicted to him which is violating the regulation of Article 303 the third subsection (1) of Criminal Code explaining as follows:

“Threatened with the imprisonment punishment for 10 years maximum or fine twenty millions rupiah at maximum, whoever has not permit to participate in the gambling game as the income source.”

The imprisonment imposition towards Gimman called Dolok. The Decision Number 24/PID.B/2012/PN.PP is based on the regulation in Criminal Code. Besides, in gambling case, it has been set in special Laws which is Laws Number 7 of 1974 Regarding to Gambling Control. As what the researcher has explained previously that Article 2 Laws Number 7 of 1974 regarding Gambling Control has changed the criminal regulation in Article 303 the third subsection (1) of Criminal Code in which previously the Article 303 subsection (1) gives imprisonment punishment for two years eight months at maximum or fine two hundreds thousand rupiah at maximum towards the gambling crime offender.

Gambling criminal act is viewed as the criminal act which starts to be treated specially. Article 4 Laws Number 7 of 1974 Regarding Gambling Control sets that:

Started from the entry into force of legislation in order to control gambling referred to in Article 3 of this Law, revoked the Ordinance dated March 7, 1912 (Staatsblad of 1912 Number 230) as amended several times and added, most recently by Ordinance dated October 31, 1935 (Staatsblad 1935 Number 526).

The stipulation of Article 4 of this Gambling Control Law explains that in order to not have legal emptiness during the absence of laws which set gambling control as this law implementation, then this article is intended to be made as transition rule. Hence, the regulation on gambling will be set further in special laws.

By using Article 303 the third subsection (1) of Criminal Code as the punishment base towards the defendant Gimán called Dolok as in the decision Number 24/PID.B/2012/PN.PP if viewed from *Criminal Justice System*, then the decision number 24/PID.B/2012/PN.PP is based on the indictment and demand from Public Prosecutor, in which the beginning of Public Prosecutor arranges indictment and demand are based on the investigation result done by the Investigator in Padang Panjang Police Unit.

Analyzed from legal certainty theory, that the legal certainty emphasized in order that the law or the regulation is enforced as expected by the law intention/the regulation. Every person expects to implement laws in terms of concrete event. Whatever the laws, it must be prevailing, so that basically it is not allowed to violate although this world breaks, the law must be enforced.¹⁰

Legal certainty in imprisonment of criminal imposition based on Decision Number 24/PID.B/2012/PN.PP, Article 303 subsection (1) of the Criminal Code is a clear and definite rule governing criminal which can be given to gambling offenders. Changes in the amount of imprisonment that can be given to offenders of gambling crime have been amended based on Law Number 7 of 1974 concerning Gambling Control that does not eliminate the essence of regulating criminal acts of gambling in Article 303 paragraph (1) of the Criminal Code, which is changed only at the time of imprisonment very low and change to higher imprisonment period. Imprisonment punishment towards the offenders of gambling crime based on Decision Number 24 /PID.B/2012/PN.PP has a legal certainty that from the point of view of legal certainty itself, that there is a side of legal certainty by law and legal certainty in or from the law.

Legal certainty in imprisonment of gambling offenders is based on Decision Number 24/PID.B/2012/PN.PP because the law provides legal duties namely legal justice where the public is satisfied with court decisions that have convicted gambling offenders such as Gimán. The imprisonment towards gambling offenders based on Decision Number 24/PID.B/2012/ PN.PP has made the law useful because with the involvement of Gimán convicts, it will be a lesson for Gimán not to commit gambling anymore, as well as the community not to imitate Gimán's criminal act. Furthermore, the side of usability can be assessed from that Decision Number 24/PID.B/2012/ PN.PP has sought order in the community not to commit gambling crimes.

Conclusion

The conclusion of this research is as follows:

1. Law enforcement in the decision Number: 24/PID.B/ 2012/PN.PP has been achieved with the implementation of Article 303 subsection (1) of Criminal Code regulation. The article regulation is implemented on the gambling crime offenders. The law enforcement towards the gambling crime offenders is done by judge in the decision number: 24/PID.B/ 2012/PN.PP, the judge has punished the offender by the way which has been set by laws. The law enforcement with law enforcement phases is the effort to guarantee that the decision Number: 24/PID.B/2012/PN.PP has legal certainty.
2. The proof of gambling crime towards the offender by judge in the decision number: 24/PID.B/2012/PN.PP is done by using proof system based on Criminal Code Procedures negatively.

¹⁰ Sulardi and Yohana Puspitasari Wardoyo, *Op. Cit.*, p. 258

The process of proof is done by considering indictment and demand from Public Prosecutor, considering proving tools, trial facts; judicial analysis towards the Article indicted which is Article 303, the third subsection (1) of Criminal Code. The judge then adjudicates the defendant Gimán stating that legally committing crime because there are more than two legal proving tools regarding to the gambling crime committed by the defendant. Based on that, the judge convinces that the defendant has committed gambling crime and gives punishment to the defendant.

References

Books

Dellyana, S. (1988). *Konsep Penegakan Hukum*. Yogyakarta: Liberty.

Dellyana, Shant. *Konsep Penegakan Hukum*. Yogyakarta: Liberty, 1988.

Satjipto Rahardjo, *Law Enforcement as Sociological Review*, Genta Publishing, Yogyakarta, 2009, p. 25.

Soerjono Soekanto and Sri mamudji, *Normative Legal Research: A Short Review*, PT.raja Grafindo Persada, Jakarta, 2001, p. 14.

Sudikno Mertokusumo, *Knowing Law*, The First Printing, Publisher University of Atmajaya, Yogyakarta, 2010, p. 7.

Journals

Maruapey, M. Husein. Penegakan Hukum dan Perlindungan Negara (Analisis Kritis terhadap Kasus Penistaan Agama oleh Patahana Gubernur DKI Jakarta. *JIPSI: Jurnal Ilmu Politik dan Komunikasi*, 2017, 7.1.

Salman Luthan, *Dialectics of Law and Moral in the Perspective of Legal Philosophy*, Legal Journal of Ius Quia Iustum No. 4 Vol. 19 October 2012, p. 509.

Sulardi, Sulardi; Wardoyo, Yohana Puspitasari. Kepastian Hukum, Kemanfaatan, Dan Keadilan Terhadap Perkara Pidana Anak. *Jurnal Yudisial*, 2015, 8.3: 251-268.

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