

Legal Regulations Regarding Criminal Acts of Fraud Against Civil Service Candidates Committed by Civil Servants

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Abstract

Regarding the criminal act of fraud in the recruitment of civil servants involving corrupt civil servants, the author believes that Article 378 of the Criminal Code should be maximally applied to the defendant. This crime not only constitutes an individual offense but also undermines public trust, meritocracy, and good governance principles, causing both personal and institutional harm. Hence, the sentence of 1 year and 8 months imposed on Suwari Bin Sukadar by the Mojokerto District Court (Register Number 182/Pid.B/2024/Pn Mjk) seems too light and may not effectively deter potential offenders.

Keywords: *Civil Servant Candidates, Corrupt Civil Servants, Fraud, Law Enforcement*

Introduction

Fraud is a crime that frequently occurs within Indonesian society, happening almost every day. The occurrence of fraud does not recognize social status, religion, race, or gender, meaning this crime can be committed by anyone, against anyone, and at any time. Perpetrators of fraud constantly use new methods or modes to deceive their victims, making the fraudulent acts difficult for victims to realize. Victims typically only become aware once the fraudulent act has actually been committed (Endro Purnomo, Marven A. Kasenda, & Engeli L. Lumaing, 2025).

One common type of fraud that often occurs in Indonesia is fraud targeting prospective civil servants. Employment as a civil servant is viewed as secure, comfortable, and offering long-term financial stability, making it highly desirable among the public. The strong enthusiasm for this profession is reflected in recent recruitment data. For instance, during the 2023 civil servant recruitment process, the National Civil Service Agency (BKN) recorded more than three million applicants competing for approximately 574,000 available positions (Rahmanto, T. Y, 2019).

In such a competitive climate, irresponsible individuals emerge seeking to exploit public anxiety. They offer "special pathways," "insider access," or "privileged connections," promising guaranteed acceptance often accompanied by requests for large sums of money. In some cases involving fraud against prospective civil servants, perpetrators are themselves civil servants. This occurs because their status as state officials makes victims more convinced, believing that the perpetrators have connections within the government and therefore can increase their chances of being accepted as civil servants.

One way to combat fraud is through the enforcement of criminal law. Criminal law governs acts prohibited by legislation, and when an individual commits an act that fulfills the elements set out in the law, a sanction must be imposed. In cases of fraud involving prospective civil servants, most perpetrators are charged under Article 378 of the Indonesian Criminal Code (KUHP), which carries a maximum penalty of four (4) years' imprisonment.

However, the author believes that Article 378 of the Criminal Code remains weak in terms of sentencing, particularly in cases of fraudulent promises of acceptance committed by rogue civil servants, where prison sentences typically fall below two years. An example is the case handled in the Mojokerto District Court under Decision Number 182/Pid.B/2024/Pn Mjk, in which the defendant, Suwari Bin Sukadar, was sentenced to only 1 (one) year and 8 (eight) months in prison.

The defendant's status as a civil servant should, from a legal standpoint, have allowed for a heavier sentence closer to the maximum of four years' imprisonment which in turn would create grounds for dismissing the defendant dishonorably from their position as a civil servant (Muhammad Ardiansyah Satria Dwi Putra, Ifahda Pratama Hapsari, 2025). Based on the above considerations, the author intends to examine criminal law enforcement against civil servants who commit fraudulent acts involving promises of acceptance into the civil service (Jhodi Suprianto, Andika Wijaya, & Ronaldi, 2025).

In line with the general development of society, legal regulations also experience continuous evolution. The development of legal science aside from depending on methodological advances, research activities, and scholarly imagination cannot be separated from the legal theories that serve as its foundation. The function of legal theory is to explain legal values up to their philosophical underpinnings. Based on this definition, the theoretical framework used in this study consists of the following:

Methods Research

In this study, the author employs a qualitative descriptive analysis approach. Qualitative analysis is a method used to examine data derived from legal materials based on concepts, theories, statutory regulations, doctrines, legal principles, expert opinions, and the researcher's own perspective. Descriptive qualitative analysis relies on minimal theoretical framework and is not burdened by prior theoretical or philosophical commitments. Its purpose is to provide a comprehensive and factual depiction of a phenomenon or event without involving variable manipulation. This research produces a descriptive summary of selected events, maintaining a focus on *what* occurs rather than *how* or *why* it occurs.

Data analysis is used to explain the mechanisms of processing such data so that it becomes information or material that can be utilized within the research. The type of research applied in this study is normative juridical research, which refers to legal norms found in statutory regulations, court decisions, and the prevailing legal norms within society. The type of data used in this research consists of secondary data, which are obtained from official documents, research reports, previous theses or dissertations, and statutory regulations. The secondary data include:

- a. Primary Legal Materials, consisting of:
 - The 1945 Constitution of the Republic of Indonesia,
 - Law Number 1 of 1946 concerning Criminal Law Regulations,
 - Law Number 20 of 2023 concerning State Civil Apparatus,
 - Regulation of the Minister for Administrative and Bureaucratic Reform of the Republic of Indonesia Number 6 of 2024 concerning the Recruitment of State Civil Apparatus Employees.
- b. Secondary Legal Materials, consisting of literature and books related to the research.
- c. Tertiary Legal Materials, consisting of the *Kamus Besar Bahasa Indonesia* (Great Dictionary of the Indonesian Language).

Results and Discussion

Legal Basis for Fraud Against Prospective Civil Servants

Fraud is an act that harms others, thus classified as a criminal offense subject to punishment. The definition of fraud illustrates that it can take various forms, either through false statements or actions intended to unlawfully gain personal benefit from others. Such benefits may be material or abstract in nature, such as undermining someone's position. The provisions regarding fraud are regulated in the Indonesian Criminal Code (KUHP), specifically in Chapter XXV on acts of deceit under Article 378. According to Article 378 of the Criminal Code:

“Anyone with the intent of unlawfully benefiting themselves or another person, by using a false name or false position, deceit, or a series of lies, leads another person to hand over an object to them, or to provide debt or eliminate receivables, shall be punished for fraud with imprisonment of up to four years.” There are both objective and subjective elements within this article that must be examined, especially in relation to fraud involving false promises of acceptance into the civil service:

1. Objective Elements

a. *Inducing another person*

“Inducing another person” (*iemand bewegen*) refers to persuading someone to surrender an object, enter into debt, or eliminate a receivable. In fraud against prospective civil servants, this element is fulfilled when the perpetrator convinces the victim that they have the ability to guarantee acceptance into the civil service either through passing the test or bypassing it entirely.

b. *To hand over property, provide debt, or eliminate receivables*

The term “property” in fraud has the same meaning as in theft and embezzlement: tangible, movable objects. Unlike other property crimes, the law does not explicitly require that the property belong to someone else.

In this type of fraud, the property handed over is usually money, given by the prospective civil servant as payment for the promised acceptance.

c. *Using false pretenses (false name, false status, deceit, or a series of lies)*

The criminal nature of fraud is determined by the method used to induce the victim. In cases involving prospective civil servants, perpetrators may use false names such as regional officials or committee members of the recruitment process.

2. Subjective Elements

a. *Intent to benefit oneself*

This element is fulfilled when the perpetrator asks the victim for a specific amount of money in exchange for guaranteed acceptance.

b. *Unlawfulness*

The perpetrator must be aware that their actions are unlawful. In these cases, perpetrators knowingly violate the law by engaging in deceitful practices during civil servant recruitment, often involving collusion or nepotism.

Criminal Law Enforcement Against Rogue Civil Servants Who Commit Fraud Against Prospective Applicants

Law Number 20 of 2023 on State Civil Apparatus emphasizes that civil servants must uphold integrity, professionalism, accountability, and be free from corruption, collusion, and nepotism (KKN). Their role is not merely administrative; they carry the public trust (Yonatan, Wijayanta, T., Sugiri, B., Sukarmi, & Sulistio, F, 2024). Criminal liability for rogue civil servants who commit fraud in civil servant recruitment must be assessed not only through Article 378

of the Criminal Code but also through the lens of the offender's status as a state official. Several aspects are relevant:

a. Element of Fault (*Schuld*)

Based on doctrines by Simons and Vos, criminal liability requires:

1. Capacity for responsibility Civil servants are presumed capable and competent, having passed formal selection and training.
2. Intent (*dolus*) Fraud typically involves direct intent (*dolus directus*) to deceive for financial gain.
3. Absence of justifications There is no valid excuse such as coercion or emergency.

b. Abuse of Position as an Aggravating Factor

Although Article 378 does not explicitly state enhanced penalties for officials, judicial practice often treats abuse of office as an aggravating circumstance. Article 52 KUHP provides a normative basis for harsher punishment when offenses involve exploitation of official authority.

c. Relation Between *Mens Rea* and Civil Servant Status

Civil servants take an oath to maintain integrity and neutrality in recruitment. Fraud committed by exploiting public trust aggravates the moral and legal severity of the act, demonstrating deliberate premeditation.

d. Sentencing Theory

According to sentencing theory, punishment functions as proportional retribution. Since civil servants symbolize the state, their betrayal warrants harsher punishment, ideally approaching the statutory maximum, to ensure both general and specific deterrence.

e. Dual Consequences: Criminal and Administrative

Criminal sanctions do not eliminate the possibility of administrative penalties such as dismissal, as regulated in Law No. 20/2023. Criminal punishment restores justice, while administrative action preserves institutional integrity.

Case Study of the Mojokerto District Court Decision Register Number 182/Pid.B/2024/PN Mjk

A court judgment is a formal statement delivered by a judge in an open court session, in which the defendant may either be convicted or acquitted in accordance with procedures established by law. In the Mojokerto District Court Decision Register Number 182/Pid.B/2024/PN Mjk, the judge imposed a sentence on Suwari Bin Sukadar (deceased), sentencing him to 1 (one) year and 8 (eight) months of imprisonment. This sentence was handed down because the defendant was proven and convincingly found to have committed an unlawful act, namely the criminal offense of fraud as described in Article 378 of the Indonesian Criminal Code (KUHP).

Because the indictment was drafted in an alternative form (*alternative accusation* or *alternative tenlastelegging*), the panel of judges, in accordance with doctrine and jurisprudence in criminal procedural practice, was granted the freedom to determine which article most accurately corresponded to and fulfilled the concrete actions of the defendant. For the sake of procedural order, the court referred to the First Alternative Charge Article 378 of the Criminal Code, the elements of which are as follows:

1. The element of "whoever"
2. The element of having the intent to unlawfully benefit oneself or another person
3. The element of using a false name or false status, deceit, or a series of lies to induce another person to hand over goods or to provide debt or eliminate receivables

Since all elements of Article 378 of the Criminal Code were fulfilled and proven during the trial, the Defendant must therefore be declared legally and convincingly guilty of committing the criminal act as charged in the First Alternative Indictment.

Author's Analysis of the Sentencing in the Mojokerto District Court Decision Register Number 182/Pid.B/2024/PN Mjk

A judicial process concludes with a final verdict, in which the judge imposes a criminal sanction and presents the court's reasoning and ultimate decision. Before reaching that stage, however, the court must first go through the evidentiary phase to determine the defendant's guilt.

In the Mojokerto District Court Decision Register Number 182/Pid.B/2024/PN Mjk, the defendant, Suwari Bin Sukadar, was sentenced to 1 (one) year and 8 (eight) months of imprisonment. This sentence should be analyzed not only in terms of the criminal elements involved but also within the broader framework of the legal system, law enforcement theory, and criminalization theory. These theoretical perspectives help explain why the sentence may be considered too lenient and why, ideally, a harsher punishment would be more appropriate.

Legal system theory views law as part of an integrated normative structure consisting of formal norms (laws and regulations) as well as social norms (public trust, moral expectations, and integrity standards). In any legal system, the expectation is not only to adjudicate individual cases but also to maintain systemic stability preserving public trust, legal certainty, and substantive justice. When the legal system fails to deliver an adequate response to serious violations of public trust, such as fraudulent promises of civil servant acceptance committed by bureaucratic insiders, the credibility of the legal system is compromised (Fauzi, M. I., Akbar, M. G. G., & Abbas, M,2025).

Law enforcement theory focuses on how legal norms are translated into concrete actions through investigation, prosecution, trial, and enforcement. The theory emphasizes effectiveness, consistency, transparency, and access to justice. When imposed sentences fall significantly below public expectations and do not reflect the gravity of the offense, there is a risk of creating a disincentive effect potential perpetrators may view the risks as minimal, making similar violations more tempting.

Although the sentence of 1 (one) year and 8 (eight) months is somewhat higher than several other decisions in similar cases, it remains insufficient when analyzed through the lens of the legal system and law enforcement theory. From the legal system perspective, the statutory norms already exist (Article 378 of the Criminal Code and civil service regulations governing disciplinary sanctions), yet their implementation is inconsistent and fails to reflect the seriousness of offenses that erode public trust. From the law enforcement perspective, considerations such as general deterrence, victim protection, and the strengthening of bureaucratic integrity appear to have been insufficiently emphasized.

Criminalization theory asserts that criminalization aims to protect fundamental legal interests in this context, the integrity of the civil servant recruitment process and public trust in state institutions. When these protected legal interests concern public confidence and bureaucratic legitimacy, criminal sanctions must function not merely as retribution but also as an instrument to restore social order and prevent similar crimes. A sentence of 1 (one) year and 8 (eight) months does not adequately reflect the need for deterrence and falls short of fulfilling the preventive function of criminal punishment. Given the maximum four-year penalty under Article 378, the judge should ideally have imposed a sentence closer to the maximum, especially considering the defendant's status as a civil servant which significantly increases the moral and social weight of the offense (Sari, R. N. P,2023).

From the perspective of criminal policy, a harsher sentence would send a strong signal to civil servants that abusing official positions to deceive citizens is a serious offense that will not be tolerated. Moreover, imposing a higher penalty would reinforce the principle of legal interest protection and strengthen public confidence that the judicial system genuinely safeguards them from crimes committed by bureaucratic insiders.

Conclusion

Based on the provisions of Article 378 of the Indonesian Criminal Code, both the objective and subjective elements of fraud are clearly defined and can be linked to cases involving false promises of acceptance into the civil service. Criminal liability for rogue civil servants who commit fraud against prospective civil servants should not be assessed solely through the formal elements of Article 378, but must also consider the offender's position as a state civil apparatus.

In the case of the defendant Suwari Bin Sukadar, the imposed sentence of 1 (one) year and 8 (eight) months does not adequately reflect the need for deterrence and is not in line with the objectives of criminal punishment, which emphasize general prevention. With a maximum penalty of four years under Article 378, the judge should ideally have imposed a sentence closer to the maximum, especially given the defendant's status as a civil servant, which adds significant moral and social weight to the offense.

The public is advised not to trust deceptive practices carried out by rogue civil servants or other individuals who promise guaranteed acceptance into the civil service in exchange for money. The government must strengthen its role in educating the public about the legitimate and official recruitment procedures for civil servant candidates.

Judges are also encouraged to be more meticulous and courageous in imposing sentences closer to the maximum penalty in cases involving fraud against prospective civil servants through false promises made by rogue civil servants. Such strict sentencing will enable the dismissal of these individuals in a dishonorable manner, thereby helping to uphold integrity and maintain the credibility of government institutions.

Bibliography

- Agustian Fery Fernando Sitanggang, *Pertanggungjawaban Pidana Terhadap Pelaku Tindak Pidana Penipuan Dengan Cara Hipnotes*, 2024
<https://digilib.pancabudi.ac.id/books/27548/pertanggungjawaban-pidana-terhadap-pelaku-tindak-pidana-penipuan-dengan-cara-hipnotes>
- Endro Purnomo, Marven A. Kasenda, & Engeli L. Lumaing. (2025). Perlindungan Hukum Terhadap Konsumen Penipuan Transaksi Online di Era Digital. *Jurnal Sosial Humaniora Dan Pendidikan*, 5(1), 782-797. <https://doi.org/10.55606/inovasi.v5i1.5581>
- Fauzi, M. I., Akbar, M. G. G., & Abbas, M. (2025). Analisis Yuridis Tindak Pidana Penipuan Dengan Modus Arisan Online Melalui Media Sosial (Studi Putusan Nomor 37/Pid.B/2024/PN Mad). *Jurnal Ilmu Hukum, Humaniora Dan Politik*, 6(1), 162-171. <https://doi.org/10.38035/jihhp.v6i1.6078>
- Iswandi. *Pertanggungjawaban Hukum Terhadap Tindak Pidana Penipuan Dan Penggelapan (Analisis Putusan Nomor: 170/Pid/2019/Pt.Bna)*, 2022
<https://repository.pancabudi.ac.id/website/detail/24794/penelitian/pertanggungjawaban-hukum-terhadap-tindak-pidana-penipuan-dan-penggelapan-analisis-putusan-nomor-170pid2019ptbna>.
- Jhodi Suprianto, Andika Wijaya, & Ronaldi. (2025). Criminal Accountability for Fraud Committed by Intermediaries in the Civil Servant Recruitment Process in Palangka

- Raya City. *Journal of Law, Politic and Humanities*, 5(2), 1282–1290. <https://doi.org/10.38035/jlph.v5i2.1111>
- Marselino Clifer Tuju, Suci Ramadani, Chairuni Nasution, *Penegakan Hukum Terhadap Tindak Pidana Cyber Dalam Kasus Penipuan Jual Beli Online dalam Perspektif Kriminologi*, INNOVATIVE: Journal Of Social Science Research Volume 5 Nomor 2 Tahun 2025 Page 1763-1776 <https://j-innovative.org/index.php/Innovative> Diakses Pada Minggu Tanggal 25 Mei 2025 Pukul 13:36 Wib
- Muhammad Ardiansyah Satria Dwi Putra, Ifahda Pratama Hapsari. (2025). Implikasi Sanksi Pemidanaan di Dalam KUHP Baru Terhadap Delik Penipuan Transaksi Secara Online. *UNES Law Review*, 7(3), 1063-1070. <https://doi.org/10.31933/unesrev.v7i3.2406>
- Muhammad Arif Sahlepi, *Tinjauan Yuridis Terhadap Tindak Pidana Penipuan Secara Online Di Tinjau Dari Undang-Undang Nomor 19 Tahun 2016 Tentang Informasi Dan Transaksi Elektronik*, INNOVATIVE: Journal Of Social Science Research Volume 3 Nomor 6 Tahun 2023 Page 1402-1412 <https://j-innovative.org/index.php/Innovative> Diakses Pada Minggu Tanggal 25 Mei 2025 Pukul 13:02 Wib
- Rahmanto, T. Y. (2019). Penegakan Hukum terhadap Tindak Pidana Penipuan Berbasis Transaksi Elektronik. *Jurnal Penelitian Hukum De Jure*, 19(1), 31–52. <https://doi.org/10.30641/dejure.2019.V19.31-52>
- Sahlepi, Muhammad Arif, (2022) *Memahami Dasar-Dasar Ilmu Hukum Pidana Secara Sistematis Dan Praktis*, Medan
- Sari, R. N. P. (2023). Perlindungan Hukum Terhadap Korban Tindak Pidana Penipuan Yang Mengatasnamakan E Commerce. *Journal Transformation of Mandalika*, E-ISSN: 2745-5882, P-ISSN: 2962-2956 , 4(9), 372-379. <https://doi.org/10.36312/jtm.v4i9.1669>
- Yonatan, Wijayanta, T., Sugiri, B., Sukarmi, & Sulistio, F. (2024). Criminalizing Civil Law Actions of Default into Criminal Acts of Fraud: A Human Rights Perspective. *Yuridika*, 39(3), 303–328. <https://doi.org/10.20473/ydk.v39i3.51329>