



## Law Enforcement Against Investment Embezzlement In Gorontalo

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**Abstract:** This research aims to analyze law enforcement against investment embezzlement in Gorontalo and examine the inhibiting factors. Using empirical legal research method with qualitative approach, data is obtained through observation, interview, and documentation study. Descriptive analysis is used to describe the subject and object of research. The results showed that law enforcement by Gorontalo City Resort Police has been in accordance with applicable regulations. However, there are several obstacles in law enforcement, including personnel factors, evidence, witnesses, and suspect absence.

**Keywords :** Prosecution; Fraud; Investment;

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## 1. Introduction

The presentation of investment realization in Indonesia is increasing every year, this is because Indonesia is one of the developing countries, where the majority of the people are more dominant in investing. The investment itself is an investment activity, where Indonesian people are more interested in investing because of one thing the goal is to get a bigger profit. But on the other hand, some people take advantage of other parties. This is what causes the emergence of a criminal offense.

Crime or commonly referred to as crime is a social phenomenon because it cannot be separated from space and time. According to Van Hamel, a crime is a person's behavior (*menselijke gedraging*) which is formulated in the law (*wet*), which is against the law, which deserves to be punished (*strafwaardig*), and is done wrong. In the government of a country, there are laws and sanctions for violating these laws. Law is the whole collection of rules or rules in a common life that can be enforced by a sanction.<sup>1</sup>

In general, criminal acts are divided into 2 types, namely crimes and violations. The meaning of crime itself according to R. Soesilo is an act of behavior that in addition to harming the sufferer, is also very detrimental to society, namely in the form of loss of balance, peace, and order. Meanwhile, a violation is an act against the law that therefore causes harm to another person. Seen from his point of view, crime and transgression refer to the same point. Between crime and violation, the impact of loss on a party. Individuals who take advantage outside the agreement of both parties constitute a crime of embezzlement.

Embezzlement (*verduistering*) is regulated in Chapter XXIV (Book II) of the Criminal Code Articles 372 to 377. The definition of embezzlement itself is not specifically formulated in the Criminal Code. Darkening does not mean making something dark or not bright but has a broader meaning. There are several forms of criminal acts of embezzlement, both in the form of embezzlement in the main form regulated in Article 372 of the Criminal Code which is a juridical provision of the criminal act of embezzlement itself, light embezzlement as regulated in Article 373 of the Criminal Code, embezzlement in the form of weighting where there are special provisions that cause the crime used as a reason for weighting as regulated in Articles 374 and 375 of the Criminal Code and criminal acts of embezzlement in the family as regulated in Article 376 of the Criminal Code.

Embezzlement with different objects and subjects as well as the threat of imprisonment is regulated in Articles 372 to 377 of the Criminal Code, legal instruments in the form of legislation are indispensable to support development in

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<sup>1</sup> Suardi Suardi, Patahillah Asba, dan Muh Nur Iksan, "Penegakan Hukum Terhadap Pelaku Tindak Pidana Penipuan Investasi Melalui Media Internet," *Jurnal Litigasi Amsir* 10, no. 1 (2022): 72–83.

various fields by development demands as well as the level of legal awareness and public views regarding the assessment of behavior.<sup>2</sup>

The crime of embezzlement consists of objective elements in the form of the act of possessing, the object of the crime is an object, partially or wholly belonging to another person, and where the object is in his control not because of a crime and subjective elements in the form of intentional and against the law. In addition, there are several special elements used against criminal acts of embezzlement in office, namely because of the employment relationship, position, and receiving special wages.

The case of embezzlement that occurred in Gorontalo is a Bodong Investment. The fraudulent investment itself is an investment in a fake or fraudulent financial product or business that is asked to invest in a product or business that doesn't exist. So, the person will take the money away. This can happen for many reasons. One of them is the public's unawareness of fraudulent investment fraud and only being tempted by the huge profits offered.<sup>3</sup>

Based on the results of an interview with Mr. Laode Arwansyah as Head of Criminal Investigation at the Gorontalo City Police, he explained that cases of fraudulent investment embezzlement in Gorontalo are still frequently found in the last five years. The following is data on the case of investment embezzlement in Gorontalo City:

**Tabel 1**  
**Data on the Crime of Embezzlement of Investments in Gorontalo City**

NO	YEAR	NUMBER of CASES
1	2016	4
2	2017	6
3	2018	9
4	2019	4
5	2020	10
TOTAL CASES		33

*Sumber data Polres Gorontalo Kota*

Based on the table above, there are 33 cases of investment embezzlement, one of the cases of investment embezzlement in Gorontalo is that the perpetrators offered investment under the pretext of getting high interest. Members who invest their funds will earn 9-15 percent interest on their total investment in just 9-30 working days, but what happens is that interest is not earned and their investment funds are not returned. It is suspected that the total public money that has been collected by the management has reached Rp 60 billion. This amount of money was collected from 10

<sup>2</sup> Tony Yuri Rahmanto, JHRS Kav, dan Jakarta Selatan Kuningan, "Penegakan Hukum Terhadap Tindak Pidana Penipuan Berbasis Transaksi Elektronik," *Jurnal Penelitian Hukum De Jure* 19, no. 1 (2019): 31.

<sup>3</sup> M. Canjaya, "Penegakan Hukum Terhadap Pelaku Tindak Pidana Penipuan Dengan Modus Investasi (Studi Di Kepolisian Resor Asahan)" (PhD Thesis, Magister Hukum, Universitas Islam Sumatera Utara, 2024), <https://repository.uisu.ac.id/handle/123456789/3115>.

agents and 100 sub-agents spread throughout Gorontalo Province. Based on the information from AKBP Bagus Santoso, Head of Public Relations of the Gorontalo Police, "The investment fund manager is unable to pay all at once because the balance is not enough, he asked for 1 month".

This becomes a problem where the meaning of a rule of law is if the crime committed by the community cannot be followed by the rule of law, such as crime through embezzlement is one of the types of crimes against human assets regulated in Article 372 of the Criminal Code, which is a crime that does not exist. inexhaustible and can occur in all fields, including in the field of religion, even perpetrators in various levels of society, both from the lower strata to the upper strata of society can commit criminal acts of embezzlement which is a crime that begins with a belief in other people, and trust is lost because of the weakness of an honesty.

The enforcement of criminal law is a system that involves the harmonization of values with the rules and real behavior of the community. These rules then become guidelines or benchmarks for behavior or actions that are considered appropriate or should be. The behavior or attitude aims to create, maintain, and maintain peace.

What people have interpreted so far as law enforcement seems to only focus on the repressive actions of law enforcement officers in carrying out firm reactions to the prosecution of criminals. The meaning of law enforcement in this way is very narrow because the authority of law enforcement only seems to be the responsibility of law enforcement alone.

Furthermore, in this case, law enforcement is very necessary in a broad context in the realm of real or factual actions, actions or behaviors that are by binding rules or norms. However, to maintain and restore order in social life, the government is the security acto.

This is the concern of the authors to examine how the law is enforced against the criminal act of embezzlement of Investment in Gorontalo, as well as to examine the obstacle factors in law enforcement against the criminal act of embezzlement of Investment in Gorontalo.

## **2. Method**

The research that will be appointed by the researcher is empirical legal research using a qualitative approach. The qualitative approach is a research procedure that produces descriptive data, which is stated by the respondent in writing or orally, and real behavior that occurs in the field. The method used in the process of collecting data in this research is an interview or direct question and answer between the researcher and the respondent or resource person or informant to obtain information. In addition, researchers collect data through library sources in the form of legislation, books, official documents, publications, and research results. The data that has been collected

will then be analyzed descriptively or provide an overview or explanation of the subject and object of research as the results of the research conducted.<sup>4</sup>

### 3. Law Enforcement Against the Crime of Investment Embezzlement in Gorontalo.

Law enforcement related to the protection of the community against crime is certainly related to the problem of criminal law enforcement. The purpose of establishing criminal law is as one of the means of criminal politics, namely for "public protection" which is often also known as "social defense".

Law serves as human protection. The law must be implemented so that human interests are protected. Implementation can take place normally, and peacefully, but it can also occur because of violations of the law. In this case, the law that can be violated must be enforced through law enforcement, this is the law that becomes a reality.<sup>5</sup>

Law enforcement will run well if it has a close reciprocal relationship with the community. Society and order are two things that are very closely related, it can even be said to be two sides of a coin. Order in society is created together. Therefore, in the community, various kinds of guidelines, standards, or rules will be found, each of which contributes to creating an order.

Legal norms are provisions or guidelines about what should be done in social life. In essence, legal norms are the formulation of opinions or views on how a person should behave. As a guideline, the rule of law is general and passive. The role of law enforcement officers is needed for the passage of a legal norm as stated in Article 13 of Law Number 2 of 2002 where the main tasks of the Police as law enforcement officers are:

1. maintain security,
2. public order,
3. enforce the law and provide protection, protection, and services to the community.

Its implementation must also be accompanied by public awareness of the law itself. This interaction will greatly affect the passage of norms or rules and law enforcement.

Data on Investment Embezzlement Cases in Gorontalo City

NO	YEAR	NUMBER of CASES
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<sup>4</sup> Zainuddin Ali, *Metode penelitian hukum* (Sinar Grafika, 2021).

<sup>5</sup> Nando Mantulangi, "Kajian Hukum Investasi dan Perlindungan Terhadap Korban Investasi Bodong," *Lex Administratum* 5, no. 1 (2017), <https://ejournal.unsrat.ac.id/index.php/administratum/article/view/15138>.

1	2016	4
2	2017	6
3	2018	9
4	2019	4
5	2020	10
TOTAL CASES		33

*Gorontalo City Police data source*

Based on the table above, there are 33 cases of investment embezzlement, one of the cases of investment embezzlement in Gorontalo is that the perpetrators offered investment under the pretext of getting high interest. some parties who invest all their money are promised profits in the form of interest of 9 to 15 percent of the total investment in a period of 9 to 15 working days but in fact, there is no profit from the agreement at all. It is suspected that the total public money that has been collected by the manager has reached Sixty Billion Rupiah. The funds were collected from 10 agents and 100 sub-agents spread throughout Gorontalo Province. Based on the information from AKBP Bagus Santoso, Head of Public Relations of the Gorontalo Police, "The investment fund manager is unable to pay all at once because the balance is not enough, he asked for 1 month".

This regulation means that an act of violation in the form of a criminal crime committed by an individual in the community does not comply with the provisions of the applicable regulations. This is not a crime, it is endless and can occur in all fields, including religion, even being kidnapped by criminals in various walks of life, from all walks of life. the lowest to the highest disappeared because of weakness.<sup>6</sup>

Based on the results of an interview with Mr. Laode Arwansyah as Head of Criminal Investigation at the Gorontalo City Police, he explained that based on the data table of cases of criminal acts of embezzlement of investment in Gorontalo received by the Gorontalo City Police, in the last five years there was an increase and in 2019 it decreased and again experienced an increase. in 2020. This has become a problem in the law enforcement process. According to Mr. Laode Arwansyah's explanation as Head of Criminal Investigation at the Gorontalo City Police, based on information from the perpetrators of embezzlement of investment in Gorontalo in 2016, the perpetrators took this action because they were tempted by the large profits and the desire to get more results, as a result, the following year the same perpetrator was found again. . Based on the information from Mr. Laode Arwansyah as Head of Criminal Investigation Unit of the Gorontalo City Police, in each case of embezzlement of investment in Gorontalo within the last five years, starting from 2016 to 2020, the

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<sup>6</sup> Canjaya, "Penegakan Hukum Terhadap Pelaku Tindak Pidana Penipuan Dengan Modus Investasi (Studi Di Kepolisian Resor Asahan)."

same perpetrators who committed the crime of embezzlement of investments in Gorontalo were found.

Based on the results of an interview with Mr. Laode Arwansyah as Head of Criminal Investigation at the Gorontalo City Police in handling the case, the Gorontalo City Police have made efforts as well as the stages of overcoming the criminal case of investment embezzlement in Gorontalo, but on the other hand, there are perpetrators of investment embezzlement. Who still ignore him and keep repeating his actions for the same reason every year. From an external point of view, the perpetrators and the police have different views. Mr. Laode Arwansyah explained that law enforcement against the crime of investment embezzlement in Gorontalo has been running according to the applicable legal rules, but from the external side what hinders the law enforcement process itself is the legal subject itself, in other words, the legal process has been running as it should but there are still legal subjects or people who still ignore it.

Based on the results of an interview with Mr. Laode Arwansyah as Head of Criminal Investigation at the Gorontalo City Police, he explained that cases of investment embezzlement in Gorontalo were still frequently found in the last five years. One of the cases of embezzlement of investment in Gorontalo is that the perpetrators offer investments under the pretext that they will get high interest. Members who invest their funds will earn 9-15 percent interest on their total investment in just 9-30 working days, but what happens is that interest is not earned and their investment funds are not returned. It is suspected that the total public money that has been collected by the management has reached Rp 60 billion. This amount of money was collected from 10 agents and 100 sub-agents spread throughout Gorontalo Province.<sup>7</sup>

Judging from the number of cases of investment embezzlement in Gorontalo which has increased every year, this is because the legal system that regulates investment embezzlement in Gorontalo and its law enforcement is considered less than optimal, the public should be expected to be more careful and wise. Coupled with the prevention efforts that are not yet fully comprehensive to all levels of society, it is difficult for the community to rely on the legal process, but this is also exacerbated by the condition of the community itself. People's way of thinking is still limited, their response to the law is only limited to their environment. If they know something deviant, they will only be indifferent or try to be sincere.<sup>8</sup>

Just like most people who know or have even been victims of investment embezzlement in Gorontalo, some of them are just resigned and sincere with what is happening to themselves, even though they really hope to get justice and the

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<sup>7</sup> Yopy Ariansyah dan M. Zen Abdullah, "Perlindungan Hukum Terhadap Korban Tindak Pidana Penipuan Investasi Bodong Sapi Perah Di Wilayah Kabupaten Muaro Jambi (Studi Kasus CV. Nur Asrof Sejahtera)," *Legalitas: Jurnal Hukum* 13, no. 2 (2021): 201–8.

<sup>8</sup> Muhammad Iqbal Mustapa, Zamroni Abdussamad, dan Mellisa Towadi, *Rasiolegis Kewenangan Mengadili Perkara Fiktif Positif Dalam Perundang-Undangan*, 1 ed. (UII Press), diakses 19 Desember 2024, <https://dpsd.uui.ac.id/uui-press/katalog/rasiolegis-kewenangan-mengadili-perkara-fiktif-positif-dalam-perundang-undangan/>.

perpetrators are punished severely. Many people who are victims of investment embezzlement in Gorontalo are reluctant to report what happened to them for reasons of shame because they have been deceived by things that should have been known from the start.<sup>9</sup>

The rapid case of investment embezzlement in Gorontalo itself has made many people think that the legal and judicial processes are not going well. The law is only in favor of the interests of people who are in power but does not side with the interests of the community at large. The current legal condition does not make the perpetrators of the criminal case of investment embezzlement in Gorontalo afraid of the punishment and sanctions are given.

This becomes a problem where the meaning of a rule of law is if the crime committed by the community cannot be followed by the rule of law, such as crime through embezzlement is one of the types of crimes against human assets as regulated in article 372 of the Criminal Code, which is a crime that does not exist. inexhaustible and can occur in all fields, including in the field of religion, even the perpetrators in various levels of society, both from the lower strata to the upper strata of society can commit the crime of embezzlement which is a crime that begins with a belief in other people, and that belief lost because of a lack of honesty.<sup>10</sup>

Furthermore, in law enforcement against the criminal case of investment embezzlement in Gorontalo by the Gorontalo City Police based on the interview of the researcher with Brigadier Erwin Madiko as a Member of the General Criminal Investigation Department of the Gorontalo City Police, he explained that of course, in this case, it has been regulated as in the Criminal Code, namely on Article 372 that:

“Whoever deliberately and unlawfully owns something which wholly or partly belongs to another person, but which is in his control not because of a crime, is threatened with embezzlement, with a maximum imprisonment of four years or a maximum fine of nine hundred rupiah”.

The crime of embezzlement is closely related to the abuse of rights or trust obtained without any unlawful element or goods obtained not from the proceeds of crime, this clear element that can distinguish between embezzlement and fraud.

The following is a discussion regarding the law enforcement process carried out by the Gorontalo City Police for the crime of embezzlement of investment in Gorontalo:

## 1) Investigation

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<sup>9</sup> Iqbal Mustapa, Zamroni Abdussamad, dan Mellisa Towadi, “Positive Fictional Authority Legislative Ratio in Government Administration Laws and Job Creation Laws,” *Damhil Law Journal* 2, no. 1 (28 Mei 2022): 17–35, <https://doi.org/10.56591/dlj.v1i1.1726>.

<sup>10</sup> I. Kadek Andika, Gede Putra Arjawa, dan Benny Hariyono, “Perlindungan Hukum Terhadap Korban Tindak Pidana Investasi Ilegal di Polresta Denpasar,” *AL-DALIL: Jurnal Ilmu Sosial, Politik, dan Hukum* 1, no. 3 (2023): 54–60.



According to the Criminal Procedure Code (KUHAP) Article 1 number 5, the investigation is:

“A series of investigators' actions to seek and find an event that is suspected of being a criminal act to determine whether or not an investigation can be carried out according to the method regulated in this law.”

Before carrying out an investigative action, an investigation is carried out by the investigator, with the intent and purpose of collecting "preliminary evidence" or "sufficient evidence" so that a follow-up investigation can be carried out. After receiving a report and an indication of a criminal act of embezzlement of investment, an investigation is carried out. At the investigation stage, the investigating police take a series of actions, including:

a.) Receive reports or complaints

Based on an interview with Brigadier Erwin Madiko a Member of the General Criminal Investigation of the Gorontalo City Police, he explained that before carrying out the law enforcement process against the criminal act of embezzlement of investment, the police wanted to know that there was indeed a crime by way of a report submitted to the Gorontalo City Police through Integrated Police Service Center (SPKT), reports received will then be analyzed which then appoints one of the sub-directorates who are authorized to handle them. Furthermore, the police will start taking action and carry out investigations after the administration of the investigation in the form of an Assignment Order and a Complete Investigation Warrant.

Based on an interview with Brigadier Erwin Madiko, initially, the Gorontalo City Police received reports of criminal cases of investment embezzlement as stated in Article 372 of the Criminal Code, totaling 33 reports from the public/sub-agents and victims of the crime of embezzlement of stock investments, then a report was made which then analyzed.<sup>11</sup>

b.) Looking for information and evidence

Based on an interview with Brigadier Erwin Madiko a Member of the General Criminal Investigation Department of the Gorontalo City Police, he explained that in seeking information and evidence in the case of the criminal act of embezzlement of investment, investigators summoned and examined the reporting witnesses or victims. Summons and examinations of reporting witnesses or victims are carried out to obtain information about the alleged crime of investment embezzlement reported by the reporting party. In one of the cases of embezzlement of investment, when the police asked for information from the victim, the victim explained that the perpetrator made an investment offer to her on the pretext of getting high interest. The investment offered will earn 9-15 percent interest on the total investment within 9-30 working days. However, the funds from the investment were not obtained or were not returned.

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<sup>11</sup> Andika, Arjawa, dan Hariyono.

c.) Preparation of reports on the results of the implementation of investigation actions.

Based on an interview with Brigadier Erwin Madiko a Member of the General Criminal Investigation Unit of the Gorontalo City Police, he explained that after several investigations were carried out, the investigator was obliged to make and submit a written report on the results of the investigation for the sake of accountability and supervision of the case, so that the action taken by the investigator was in the form of summons. as well as an examination of the complainant and witnesses and the collection of information from a company or individual investment bidder listed in the report on the results of the implementation of the investigative action .

After collecting sufficient evidence at the investigation stage of the criminal act of embezzlement of investment a minimum of two pieces of evidence such as statements of witnesses (reporters) or victims and instructions for an investigation.<sup>12</sup>

## 2) Investigation

The investigation is described in the Criminal Procedure Code Article 1 Paragraph 2, where the investigation is

"A series of actions by investigators in terms of and according to the method regulated by this law to seek and collect evidence which with that evidence makes clear about the criminal act that occurred and to find the suspect".

After the investigation warrant and assignment warrant have been issued, the investigating police will immediately investigate the crime of investment embezzlement. The investigative actions carried out by the investigating police are as follows:

### a.) Arresting

This arrest is carried out for investigation, and investigators and assistant investigators are authorized to make arrests. Investigating police in making arrests based on the reason that a suspect is strongly suspected of committing a crime and the strong suspicion is based on sufficient preliminary evidence.

The arrests were made by several officers. In the case of investment embezzlement, police investigators in making arrests of suspects must bring a letter of assignment. In addition, the investigating police must show an arrest warrant from the Gorontalo City Police Criminal Investigation Unit which contains the identity of the suspect, the reason for the arrest, a brief description of the criminal case, and the place where the suspect is being examined. The arrests were made because based on the statements of witnesses, as well as the available evidence, it was strongly suspected that he had committed a criminal act as referred to in Article 372 of the Criminal Code, then the

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<sup>12</sup> Andika, Arjawa, dan Hariyono.

suspect was taken to the Gorontalo City Police Criminal Investigation Unit for further investigation. Upon the arrest of the suspect, a Minutes of Arrest is made.<sup>13</sup>

b.)detention

Furthermore, based on the results of an interview with Brigadier Erwin Madiko for the investigation and based on the results of the examination, sufficient evidence was obtained, and the suspect is strongly suspected of committing a criminal act of embezzlement as regulated in Article 372 of the Criminal Code which may be subject to detention, the suspect is feared to escape, damage or lose the property. evidence and repeat the crime, the suspect can be detained with a Detention Order for the Criminal Investigation Unit of the Gorontalo City Police. Detention is carried out after examination, at the Detention Center for further investigation. Upon the detention, a Minutes of Detention is then made.

c.) Shakedown

Based on the results of interviews with Brigadier Erwin Madiko that the purpose of the search was to find and collect facts and evidence and was intended to find people who were strongly suspected of being perpetrators of criminal acts. In the case of a criminal act of embezzlement of investment, for the purposes of the investigation, the investigator may conduct a house search or a clothing search or a body search according to the procedure specified in Article 32 of the Criminal Procedure Code. A search for the purpose of investigating a criminal act of embezzlement of shares is carried out to find evidence of a crime that has harmed many victims by searching all assets suspected of being the proceeds of a crime. Goods resulting from the search by the Investigating Police shall be confiscated for the purpose of evidence in the investigation, prosecution and trial.

d.) foreclosure

The Investigating Police apart from detaining the suspected investigators also confiscates evidence. Confiscation can only be carried out by investigators with a permit from the head of the local district court, under the provisions of Article 38 paragraph (1) of the Criminal Procedure Code. Confiscation by investigators is carried out by first showing identification by the provisions of Article 128 of the Criminal Procedure Code. After searching in the presence of the village head or neighborhood and two witnesses by the provisions of Article 129 paragraph (1) of the Criminal Procedure Code. The investigator makes a report which is read and signed and a copy

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<sup>13</sup> TAMBAH TAMBAH SUMARTONO, "Aspek Hukum Tindak Pidana Penggelapan Investasi Terhadap Cv Cahaya Mulia Semarang (ditinjau Dari Uu No 25 Tahun 2007 Tentang Penanaman Modal)" (PhD Thesis, Universitas Wahid Hasyim, 2016), <http://eprints.unwahas.ac.id/497/>.

is submitted to the investigator's superior, the person confiscated, the family, and the village.<sup>14</sup>

#### e.) Summoning

Based on the results of an interview with Brigadier Erwin Madiko that to conduct an examination, investigators summoned witnesses who were deemed necessary to be examined. The summons of witnesses was carried out by investigators carefully and thoroughly. The summons of witnesses must be under and guided by the criteria determined by Article 1 point 26 of the Criminal Procedure Code, namely someone who hears for himself, sees for himself, experiences the criminal event himself, and the person concerned will hear what he hears he sees and understands.

#### f.) Inspection

The investigative examination is carried out on the suspect because his actions/conditions are based on preliminary evidence, namely the testimony of the witness (reporter) and evidence of instructions, it is appropriate to suspect that he is the perpetrator of a crime against the witness who is deemed necessary to be examined and the expert needed in connection with the examination of the case because in some cases the investment embezzlement using the network as a means of committing a crime. So involving experts in their field of expertise is needed.<sup>15</sup>

Based on the results of an interview with Brigadier Erwin Madiko that during the examination of the suspect in the crime of investment embezzlement, the perpetrator admitted that from these investment offers, a sum of 60 billion Rupiah was collected from 10 agents and 100 sub-agents spread throughout Gorontalo Province. The manager or perpetrator of the embezzlement of investment also admitted that he was unable to pay all at once because the balance was not sufficient, this was after the police investigated that it turned out that the money was used by the perpetrator for his interests in the form of buying a car unit and traveling outside the region and so on.

#### g.) Inspection

After the investigator thinks that all necessary examinations are considered sufficient, the investigator on the power of the oath of office shall immediately make an official report. For completeness of the official report, each investigative examination is attached to the official report of the investigation prepared by the investigator. The files are bound and combined into one file. After the case file has been finalized, it is then submitted to the Public Prosecutor. Submission of case files to the Public Prosecutor is carried out in two stages, namely the first stage, the investigator only

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<sup>14</sup> Sri Rahayu, "Upaya Badan Pengawas Pasar Modal dan Lembaga Keuangan Dalam Rangka Memberikan Perlindungan Hukum Terhadap Investor Dari Risiko Kehilangan Investasi Akibat Tindak Pidana Penggelapan: Studi Di BAPEPAM" (PhD Thesis, Universitas Brawijaya, 2011), <http://repository.ub.ac.id/111027/>.

<sup>15</sup> Rahayu.

submits the case file and in the second stage, the investigator submits responsibility for the suspect and the confiscated evidence to the Public Prosecutor.

Based on an interview with Brigadier Erwin Madiko, the Gorontalo City Police have carried out several crime prevention efforts against an act to prevent an increase in crime in the community against investment embezzlement in Gorontalo, namely:

1. Preventive efforts carried out by the Gorontalo City Police in tackling the prevention of criminal acts of embezzlement of investment in Gorontalo, namely the Gorontalo City Police have collaborated with the government in the Investment Alert Task Force which aims to educate the public to avoid investment embezzlement business, which is carried out by several ways including press releases and socialization..
2. Repressive efforts are carried out by giving penalties in the form of sanctions such as fines, and imprisonment if a criminal act of embezzlement of investment in Gorontalo is found.<sup>16</sup>

Based on the results of the discussion described above, the law enforcement of the criminal act of embezzlement of investment in Gorontalo by the Gorontalo City Police is carried out according to the applicable mechanism, starting from the existence of reports or complaints from victims of criminal acts of embezzlement and the stages to uncovering criminal acts committed. Carried out by the police until the transfer of files to the Prosecutor's Office.

#### **4. Obstacles Factors in Law Enforcement Against the Crime of Investment Embezzlement in Gorontalo**

Law enforcement factors are one of the keys to success in law enforcement is the mentality or personality of the law enforcers themselves. In the context of law enforcement by every law enforcement agency, justice and truth must be stated, felt, seen, and actualized. Factors of facilities and facilities supporting facilities and facilities include educated and skilled human resources, good organization, adequate equipment, and adequate finances. Without adequate means and facilities, law enforcement cannot run smoothly and law enforcers cannot carry out their proper role. Community factors the community has a strong influence on the implementation of the law enforcement because law enforcement comes from the community and aims to achieve within the community. The most important part of determining law enforcement is the legal awareness of the community. The higher the legal awareness of the community, the more it will be possible for good law enforcement.<sup>17</sup>

Similarly, the theory put forward by Soerjono Soekanto that the main problem of law enforcement lies in the factors that might influence it. These factors have a neutral

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<sup>16</sup> Debby Astuti dkk., "Tindak Pidana Penipuan Dan Penggelapan Investasi Bit Kingdom," diakses 19 Desember 2024, <https://www.academia.edu/download/110283913/478601396.pdf>.

<sup>17</sup> Andika, Arjawa, dan Hariyono, "Perlindungan Hukum Terhadap Korban Tindak Pidana Investasi Ilegal di Polresta Denpasar."

meaning so the positive or negative impact lies in the content of these factors. These factors are as follows:

- 1) The legal factor itself, for example the law.
- 2) Law enforcement factors, namely the parties that form and apply the law.
- 3) Factors of facilities and activities that support law enforcement.
- 4) Community factors, namely the environment in which the law applies or is applied.
- 5) Cultural factors, namely a result of work, creativity, and taste based on the human initiative in social life.

Based on the results of empirical research by researchers in law enforcement against the crime of embezzlement of stock investment in Gorontalo by the Gorontalo City Police, there are still some indications of factors that become obstacles in the enforcement process. The following is a discussion of several factors that hinder law enforcement of the crime of investment embezzlement in Gorontalo.

#### 1. Personnel Factor

Based on the results of interviews with Brigadier Erwin Madiko that the obstacle in law enforcement against the crime of embezzlement of investment in Gorontalo is the lack of police personnel of the Gorontalo City Police in handling the criminal case of investment embezzlement, this is because the number of cases received by the Gorontalo City Police exceeds the personnel owned. With the limited number of personnel, the Gorontalo City Police cannot speed up the action against the investment embezzlement criminal case, because when the Gorontalo City Police received a report in which there was an investment embezzlement case, the Gorontalo City Police also received various reports from the Gorontalo City Police. different cases, some of which also require a long period in the enforcement process. Based on the results of an interview with Brigadier Erwin Madiko, the number of existing Gorontalo City Police Criminal Investigation personnel when compared to the number of incoming cases at that time, more cases were received than the number of personnel owned by the City Gorontalo Police. This of course affects the effectiveness of law enforcement, especially the crime of embezzlement of investment in Gorontalo.

#### 2. Evidence Factor

Based on an interview with Brigadier Erwin Madiko that the next obstacle in handling the criminal case of embezzlement of investment in Gorontalo is the lack of evidence found by the Gorontalo City Police. In handling the criminal case of investment embezzlement, the Gorontalo City Police found that some of the money collected from several agents/sub-agents resulting from the investment was used by the perpetrators to buy a car as well as travel out of the area and others for personal interests. Meanwhile, the investment funds collected by the perpetrators are thought to have reached 60 billion Rupiah. It is not possible for the perpetrator to spend this amount of money only on a car and also traveling outside the area, this causes the police

themselves to find it difficult to prove the amount of money used by the perpetrator. Due to the lack of evidence found, the Gorontalo City Police handling the case took a very long time.

### 3. Witness factor

Based on an interview with Brigadier Erwin Madiko that the next obstacle received by the Gorontalo City Police was the difficulty of asking for witness statements, this was because at the investigation stage the Gorontalo City Police had difficulty in bringing in witnesses, on the contrary, at the investigation stage, the witness explained that which case was true. the criminal act of embezzlement of investment committed by the perpetrator. In the process of law enforcement against the crime of embezzlement of investment, the Gorontalo City Police had difficulty obtaining information from witnesses. This of course affects the effectiveness of law enforcement against the criminal case of investment embezzlement in Gorontalo.

### 4. Suspect factor is not in place

Based on an interview with Brigadier Erwin Madiko explained that from one of the criminal cases of embezzlement of investment in Gorontalo, in which the perpetrator was only a sub-agent, it was explained that the perpetrator had a superior who was in Surabaya. In this case, the Gorontalo City Police are following up on the case and trying to collect evidence that the perpetrator is a sub-agent/subordinate of the described perpetrator. Based on the results obtained by the Gorontalo City Police Criminal Investigation Unit, no evidence was found that led to the explanation of the perpetrator, the Gorontalo City Police Police itself has examined the contents of the perpetrator's cellphone to find the truth, the relationship between the perpetrator and the perpetrator in question but not the discovery of the perpetrator's connection with the intended perpetrator. This is what affects the law enforcement process against the crime of embezzlement of investment in Gorontalo.

Based on the discussion above, the writer concludes that among several cases of investment embezzlement in Gorontalo, the factors that often occur are more dominant or found in personnel factors and evidence. Judging from the personnel factor itself, the Gorontalo City Police in handling similar cases is still not optimal, because the number of cases received by the Gorontalo City Police exceeds the personnel they have.<sup>18</sup>

The next factor is the evidence factor, seen in the many cases of embezzlement of stock investment in Gorontalo where the evidence factor also gets a lot of attention because, among several cases of investment embezzlement that occurred, the Gorontalo City Police gave opinions from several perpetrators of investment embezzlement in Indonesia. Gorontalo uses some money for personal gain. This is what causes the police themselves to find it difficult to prove the amount of money used by the perpetrators.

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<sup>18</sup> Andika, Arjawa, dan Hariyono.

## 5. Conclusion

Law enforcement against the criminal act of embezzlement of investment in Gorontalo carried out by the Gorontalo City Police is based on applicable regulations, namely starting with the investigation stage based on the Criminal Procedure Code (KUHAP) Article 1 point 5. As explained in Article 1 Paragraph 2 of the Criminal Procedure Code, the investigative actions carried out by the investigating police are as follows, namely arrest, detention, search, confiscation, summons, and filing. Some factors hinder law enforcement against the crime of embezzlement of investment in Gorontalo, namely the personnel factor, the evidence factor, the witness factor, and the suspect factor being absent.

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