

ABSTRACT

This research aimed to know that with the enactment of the law No.8 1981 concerning the Criminal Code Procedure (KUHAP) LN.1981 No.76 TLN.No.3209, the Investigation Suspension was known in accordance with article 109 paragraph (2) of the Criminal Code Procedure and the Investigation Suspension of Criminal Acts (article 140 paragraph (2) letter a of the Criminal Code Procedure). This had taken judicial consequences of the investigation and prosecution suspension intended, both on the protection of the interests of the reporting witness/victim, of the suspect part, and the interests of the legal enforcers (Investigator and Public Prosecutor), through prejudgemental measure as a means to control legal enforcement and justice.

The existence of "Prejudgemental Institution" was intended as an examinational institution of a legal application about the legality or illegality of an arrest, detention; the legality or illegality of investigation and prosecution suspension, and; the occurrence of confiscated objects that were not included as proofs of the Criminal act under article 1 part 10, article 77, article 82 paragraph (1) letter b of the criminal Code Intended that were eligible to be a cause of proposing compensation and rehabilitation claims in accordance with article 80, 95 and 97 of the Criminal Code Procedure.

Similarly, the authority of prejudgemental institution aimed to protect the interests of legal enforcers in carrying out their tasks, i.e., the investigator and public prosecutor in suspending investigation and suspending prosecution intended (article 80 of the Criminal Code Procedure) as a means to control legal enforcement in the case of horizontal supervision.

Especially for the protection of the justice seekers i.e., the rights of the suspect in the case that his case was suspended at the investigation or prosecution level, and, in the contrary, the third party (the reporting witness/victim) could also propose a prejudgemental measure in the case of examining "the legality or illegality

of an investigation or prosecution suspensions in intended" -- the two legal interests might be served through prejudgemental institution.

However, it was pitiful indeed that in the application of the Criminal Code Procedure (the Law No.8 1981), the tendency towards interests/rights protection had been excessively in favor of legal enforcer parts (investigator or public prosecutor) because in the case that the prejudgemental verdict stipulated "that an investigation or prosecution suspension is not legal", the investigator or public prosecutor was granted rights to appeal i.e., to summon a final verdict to the higher courts within their jurisdiction (article 83 paragraph (2) of the Criminal Code Procedure), but, in the contrary, in the case that the prejudgemental verdict stipulated that the investigation suspension or prosecution suspension was legal, the third party (the reporting witness/victim) was not granted rights to appeal (article 83 paragraph (1) of the Criminal Code Procedure).

Keyword : Prejudgement of investigation and prosecution suspension protects all parties.