



# Legal argumentation of corporate criminal liability for trading cryptocurrency e-dinar coin (EDC) with ponzi scheme

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## ABSTRACT

The development of technology, information, and industry 4.0, this has an impact on the increasing economic needs of the community, with this development indirectly encouraging the economy in the industrial sector, more and more corporations are carrying out business activities in the field of cryptocurrency trading where the rules for this activity are still gray in Indonesia, and can cause criminal acts including fraud, and fraudulent investment. Therefore, criminal acts on cryptocurrency trading e-dinar coin (edc) with ponzi schemes carried out by corporations must be taken seriously to protect and provide accountability to the people of Indonesia, according to the author's analysis, the unclear rules of Trading cryptocurrency with ponzi schemes carried out by corporations, influenced by law enforcement factors that are still not perfect to fulfill justice in society, therefore there is still a need for laws that explicitly regulate cryptocurrency trading activities with ponzi schemes carried out by corporations, as well as a criminal liability system in corporate criminal acts with ponzi schemes if associated with the theory of corporate liability systems, then those who can be held criminally responsible and bear are corporations and administrators because if only punishing one is not enough to bring a sense of justice and security in society.

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## 1. INTRODUCTION

In modern times, all kinds of public activities have now switched from meeting physically to the digital world, which is due to the development of times that cannot be avoided, one of which is the development of the industrial revolution 4.0, due to the rapid development of technology and information and industry following the times from time to time, this also has an impact on the increasing needs of the community, with the growth of technology, information, and industry this directly boosts the industrial economy in Indonesia, with rapid economic growth, many people are competing to increase income through passive income, which is why trading is a brilliant option to adjust the pace of the economy in sophisticated times like now (Attaran 2023).

The development of the industry in Indonesia itself since the beginning of Covid-19 has decreased and increased, with the decline and increase in the state of the economic industry in Indonesia, this has made a wider audience make more income online, one of which is through Trading

/ investing, aiming to meet human social needs which are always increasing every day in the midst of the COVID-19 pandemic, the emergence of an action carried out by the perpetrators of e-commerce activities by entrusting part of the wealth that can be in the form of money or in other forms of value and placed to a certain party or institution with a short period of time can be called Trader / Trading, this activity aims to get profit or profit.

Trading is an activity of buying and selling various products and services (Santi, Khaer, and Firmansyah 2023). The benefits that can be obtained are in the form of compensation from buyers to sellers (Investopedia n.d.) and Trading itself has many advantages such as ease of access where traders can carry out trading activities anywhere and anytime as long as they have adequate internet access for trading (Aldridge 2013) (Elder 1993). However, there are not a few cases of cryptocurrency trading crimes that have occurred in Indonesia, cryptocurrency trading crime cases have often occurred lately, such as the mode carried out by irresponsible corporate elements and most of these trading activities are accompanied by schemes (schmea) that are not clear rules in Indonesia, among others are ponzi schemes one of them, The purpose of someone who wants to trade cryptocurrency with a ponzi scheme is to maximize returns (Mugarura 2017).

Ponzi scheme is a scheme and was carried out by an American fraudster named Charles Ponzi, Charles Ponzi ran his subterfuge in the form of stamp investments and it happened in the 1920s, fooling a wide audience at that time (Yuspin and Fadhlulloh 2022). Ponzi scheme itself is used to define a method where someone invests their money to make a profit, and the profit comes from investments made by other investors who follow the scheme later (Rhizaldy, W., and M 2019). This Ponzi scheme itself means an investment fraud scheme where the perpetrator promises to provide profits or what is commonly called profits to traders (investors) who have joined using the money of newly joined traders (Rhizaldy, W., and D. P. M 2019). Because it harms many parties, the case of Cryptocurrency Trading Crime with ponzi scheme is a fraudulent investment and fraud with the practice of Money Laundry by having a reference that controls all the money from e-commerce actors (Traders), and provides benefits for parties who carry out this unclear activity, The emergence of Cryptocurrency Trading Crime is influenced by the development of the times towards economic business interests in a country that is not controlled so that there are many criminal crimes with new types in the economic field (Sari and Rinwigati 2023).

There are also many public companies (Issuers) / corporations that use cryptocurrency trading with Ponzi Schemes to launch their business system startups such as decision Number 222/pid.B/2021/PN.Rgt, Decision Number 1465/PID.SUS/2022/PN SBY this company conducts crypto trading activities by issuing / creating cryptocurrencies (digital money) using a ponzi scheme that causes losses to traders who carry out trading activities, then the case of Indra Kenz and Doni Salaman who work as affiliates for overseas companies that carry out crypto trading e-commerce activities with ponzi schemes, All activities or organizers of activities under the guise of commodity trading carried out by corporations do not have business clarity from the Commodity Futures Trading Supervisory Agency (Bappebti) and also use ponzi schemes which in Indonesia itself the rules for this still do not exist in detail, with the lure of fast and large results causing high criminal acts. And also because the rules for cryptocurrency trading itself are still gray.

Based on the example of the case above, the form of liability for the perpetrators of cryptocurrency trading with ponzi schemes in Indonesia still does not have rules that regulate in detail and clearly the case of cryptocurrency trading crimes with ponzi schemes whether the corporation is also involved or only the management alone bears whether the victims can ask for their justice Criminal acts are types of crimes that must be handled by effective law enforcement (Apriliani 2019). This legal event is very important to discuss in order to provide information to the entire general public so that they can find out the form of criminal liability for cryptocurrency trading cases with ponzi schemes carried out by irresponsible corporations (Sudarwanto and Kharisma 2023) (Lupianto 2022).

In Indonesia, the general public is also still fairly unfamiliar or unfamiliar with e-commerce activities called trading cryptocurrency, which ones are allowed and which ones are not, as well as the ponzi scheme, the rules regarding the ponzi scheme itself are still said to be minimal or there are no rules that regulate explicitly (Sacipto, Yasin, and Syah 2023) (Kusuma 2020). Therefore, many people are easily led and exposed to the subterfuge of the perpetrators of the criminal trading cryptocurrency ponzi scheme with promises and unreasonable monthly returns by irresponsible people taking the opportunity because many people in Indonesia do not understand what bad effects will be caused by this e-commerce activity. so it is very necessary to conduct a study.

## 2. RESEARCH METHOD

This research uses normative research type, Law Enforcement Conducted normative research is Normative Legal Research is legal research conducted by studying specialized literature or secondary data (Soekanto and Mamudji 2003) (Ingrams 2017) (Taekema 2018) (Negara 2023), "Normative legal research can also be called doctrinal legal research. According to Peter Mahmoud Marzouki, normative legal research is a mechanism to arrive at legal rules, legal principles and legal doctrine to resolve existing legal issues" (Marzuki 2010). In this type of legal research, law is often understood as what is written in legislation, or law is conceptualized as rules or norms that become standards of human behavior that are considered appropriate (Leeuw and Schmeets 2016) (Budianto 2020) (Murphy and O'Connell 2013).

## 3. RESULTS AND DISCUSSIONS

### Factors of Unclear Rules of Enforcement of E-Dinar Coin (EDC) Cryptocurrency Trading with Ponzi Schemes Conducted by Corporations in Indonesia

Law enforcement in Dutch is called Rechtstoepassing or rechtshandhaving and the term law enforcement here includes both repressive and preventive, law enforcement is an effort to realize the ideas and concepts of law that the people expect to be a reality, the law is enforced before and after the occurrence of acts committed by people who violate the law. Law enforcement is a system where there are several members of the government who act as organized apparatus to protect, deter, or punish people who violate laws and regulations, in Indonesia itself the enforcement of the Law for Cryptocurrency Trading is still unclear so that it makes it difficult for the Indonesian people to seek justice for this problem, According to Prof. Dr. Soerjono Soekanto, There are 5 (Five) Factors Affecting Law Enforcement. These factors include (Soekanto 2007).

#### The Law Factor

The definition of law in a material sense, namely the rules made by the legitimate central and regional authorities. So, in a law there are several conditions that must be met by the rules / rules of the legislation itself. Another dilemma that may arise from the rules made by the authorities is that they have not covered the implementation regulations and also the language / sentences used in the law are still often interpreted because of the use of sentences / language that makes the rules themselves have a broad meaning. So, it can be concluded that this legal factor can at any time affect the law enforcement process when:

- a. Legal requirements are not followed,
- b. The absence of a rule of law that is urgently needed to enact the law,
- c. Ambiguity in the language/sentences of the law which causes confusion in its interpretation and application in the wider community.

#### Law Enforcement Factors

The application discussed in this thesis is still very limited to law enforcement officers who are directly involved in law enforcement, due to the fact that law enforcement agencies have a very important role, namely :

- a. Idealized role,
- b. Expected role,

- c. The role that one considers oneself to be,
- d. Actual role performed,

The issue of this role is considered important because the discussion of law enforcement is actually more about discretion because it is very important :

- a. There is no such comprehensive law that governs all human behavior,
- b. There is a delay in the adjustment of events in society, which causes uncertainty,
- c. Lack of resources to implement the law as legislators intended,
- d. There are individual cases that require specialized care.

#### **Facilities and Infrastructure Factors**

Facilities and Infrastructure Factors These structure and infrastructure factors play a relatively important role in the law enforcement process. This is due to the fact that it is impossible not to regulate individual objects and infrastructures. These infrastructures include, among others, qualified and trained human resources, good organization, adequate equipment, adequate financing, and so on. If these things are not followed, the efforts of law enforcement officers will inevitably have an adverse impact or not be maximized. Conversely, if the problem gets the appropriate answer, the law enforcement efforts echoed by the government and will be achieved as efficiently and effectively as possible. Therefore, it can be concluded that structure and infrastructure play a very fundamental role in ensuring security and order. Without these facilities and infrastructure, law enforcement agencies cannot harmonize their respective functions with their actual functions.

#### **Community Factors**

Community Factors Law enforcement agencies are born from society and aim to bring peace to the general public. Therefore, looking at all the important aspects, the general public can strengthen the implementation of law enforcement, this is confirmed by the statements given by the city and regional governments themselves, as follows :

- a. Law is defined as a science,
- b. Law is defined as discipline.
- c. Law is defined as a rule or regulation, i.e. an act that is proper according to the applicable law,
- d. Law is defined as the legal system (positive law),

#### **Cultural Factors**

Legal culture, especially including the values that form the basis of the applicable law, according to Soeryono Soekanto, has a very important function for humans and society, namely to regulate so that people understand how they should act, act and decide on their ability to solve a problem with other people in communication.

Thus, these values always play a role in the development of law because there is an assumption that law acts as a means to make changes and create new things.

If it is related to positive law enforcement in Indonesia, if there is a legal problem arising from the use of cryptocurrency, among others, which most often arises is damage, unauthorized access, system intrusion which results in damage to electronic documents or electronic information, and fraud, then Law Enforcement for cryptocurrency which is Manuscript Title (First Author) 60 electronic data is very vulnerable to these crimes, among others, Law No. 11 of 2008 concerning Electronic Information and Transactions, Crimes arising or potentially from the use of currency as in Article 378 of the Criminal Code on fraud, and Law No. 8 of 2010 on Money Laundering (Lorien and Tantimin 2020). In addition, there are many more articles that may regulate entities that carry out cryptocurrency trading activities, but the legality of cryptocurrency as a means of payment is not yet legal in Indonesia, while other crypto assets have been legalized as assets that can be traded on crypto markets such as Indodax, Binance, Tokocrypto, and etc., with cryptocurrency rules that are still unclear, it does not rule out the possibility that trading activities using cryptocurrency are safe to do, it still needs more explicit regulations to regulate this activity (Kethineni and Cao 2019).

So if it is associated with Trading Cryptocurrency Factors of unclear law enforcement rules against Cryptocurrency with ponzi schemes according to Prof. Dr. Soerjono Soekanto above include:

- a. The use of cryptocurrency as a legal method of payment is not recognized in Indonesia, therefore cryptocurrency transactions are prohibited in Indonesia. Cryptocurrencies can be used and sold as assets, but not as a means of payment.
- b. Regarding point a, related to legal regulations that are unclear rules of production and distribution, so cryptocurrencies are still gray and there is no international legal framework that can solve this problem.
- c. Cryptocurrency users can only be recognized by numerical codes, which are sometimes stalled by some differences in functions, in Indonesia itself, there is still no proper tool to read cryptocurrency codes.

Cryptocurrency asset owners can create an asset without a name so that it is difficult to identify and trace in Indonesia, this can complicate litigation because ownership is difficult to prove and ultimately cannot be prosecuted, by law.

Ponzi scheme itself is not explicitly regulated in the Law on Trade, but Ponzi scheme can be defined as Pyramid Scheme regulated in Article 9 of Law No. 7 Year 2014 on Trade because Ponzi scheme is one of the fraudulent schemes similar to pyramid scheme, but Ponzi scheme and pyramid scheme are two different things if seen from the form of goods traded. 7 of 2014 concerning Trade because Ponzi Scheme as one of the fraud schemes is almost the same as the pyramid scheme, but Ponzi scheme and pyramid scheme are two different things when viewed from the form of goods traded for Ponzi scheme itself the goods traded are intangible / fictitious while for the pyramid scheme itself the goods traded have a form / physical, (Amanda and Noval 2020), it can be concluded that Ponzi scheme itself in Indonesia is classified as a business activity whose rules are still unclear, by applying this scheme is very vulnerable to destruction to carry out business activities, and also the provisions that apply to law enforcement ponzi scheme is still repressive, there is no specific regulation that really strictly prohibits the practice of Ponzi scheme itself in Indonesia, so that the act with ponzi scheme is still widely used by irresponsible criminals where this scheme is not only in Indonesia is used (Anggriawan et al. 2023).

So if it is associated with the ponzi scheme, the factors of unclear law enforcement rules against cryptocurrency trading with ponzi schemes according to factors above include:

- a. The rapid development of ponzi schemes among the public, so that there is no filter to know that this scheme is a prohibited scheme,
- b. Unclear legal rules regarding the rules on ponzi schemes, so that the ponzi scheme itself is still gray enforcement.
- c. In connection with point b, ponzi schemes are relatively new in Indonesia, so there are still no specific binding rules.

This can hamper the legal process as new problems continue to emerge and in the end can potentially not be charged with the law, hence the need for explicit regulations for this ponzi scheme.

#### **Criminal Liability for E-Dinar Coin (Edc) Cryptocurrency Trading with Ponzi Scheme Conducted by Corporations**

Criminal Liability for E-Dinar Coin (Edc) Cryptocurrency The existence of a criminal offense is the principle of legality, and the basis for punishment of the guilty is the principle of guilt. The principle of no punishment without fault (Geen Straf Zonder Schuld) This principle has the same meaning as the principle of legality itself, therefore this principle can be interpreted as the fundamental principle, namely the principle of legality and no punishment without fault or the principle of guilt (Atmasasmita 2018). Without fault or the principle of guilt, which stipulates that a person who has committed an act contrary to the applicable criminal law cannot be punished because there is no fault in his actions, this means that the perpetrator will only be punished if he is guilty of a crime (Eddy O.S. and Hiarij 2014). This is the basis for being able to impose criminal sanctions on corporations that can be held criminally responsible, then there are 2 things that must be fulfilled, First, the measure to be able to determine a criminal crime committed by the Entity (corporation) must meet the principles/theories that theoretically corporate criminal liability consists of:



- a. Doctrine of Direct Responsibility or Identification Theory or Alter Ego theory: The actions of the board of directors are recognized as the actions / mistakes of the corporation. strictly speaking, only the board of directors (the brain of the company) can be classified as a corporation, and broadly speaking, not only the board of directors but also the subordinate workforce, The most basic thing about this understanding is that the actions of the company can be interpreted with the actions of certain people. Which through people who are closely related to the company, the Company itself can commit the offense directly. Thus, certain people, high-ranking officials and agents in the corporation are considered as directing mind or alter ego ([Mahasena 2018](#)).
- b. The theory of vicarious liability is opposed to the theory of respondeat superior (an employer is liable in certain cases for the acts of his employees and directors for agents): The employer (employee) is primarily responsible for the employees (the acts of the employees are the acts of the directors in law), it can also be based on the principle of delegation, according to which the guilt of the worker can be attributed to the employer if there is an appropriate delegation of powers and duties (it must be a specific delegation of powers and duties) according to the law.
- c. Respondeat superiory theory, the company can be held criminally liable if the company's agents commit crimes in the course of their activities (within the company's territory) and pursue the goal of benefiting the company.

Because to impose criminal sanctions on cryptocurrency trading cases using ponzi schemes carried out by corporations, they can be held criminally liable, then the first thing that must be fulfilled is the measure to be able to determine a criminal offense committed by a corporation, first it must be based on identification theory, respondeat theory and also vicarious liability theory, as Sigid Soeseno said:

*that the theory of resposden superior and alter ego can be used to implement the application of the principle of indirect liability (vicarious liability) by establishing criteria for corporate criminal liability for the actions of the management or agents in accordance with the characteristics of the criminal offense (Arief 2003).*

Secondly, as a result of the first cause, so the entity (company) also has the power to give responsibility for criminal crimes committed, a corporation cannot possibly carry out a will and criminal act without every organ/agent in the corporation, In the Criminal Code contains about Planning (deliberation or dolus) as the one who acts and understands (*willens en wetens*), which means that living beings (humans/individuals) who commit criminal acts on the basis of a conscious and willing soul, corporate responsibility is expressed in the actions of the directors to achieve goals in the company, as well as in company policy (*bedrijfspolitiek*), In principle, it is easier to know that the action is in accordance with the purpose of the work than what is expected by the Company itself ([Shanty 2017](#)). The actions of the management who is the directing mind of a corporation are identified as corporate actions so that criminal acts committed by the corporation as well as the management and also their agents / employees are equally responsible, When the corporation commits a criminal offense (with an additional agent), then the corporation can commit a mistake by being represented by an additional agent (officer or member), then the mistake is not individual, because the body is collective, then the mistakes can be characterized as a collective failure on the part of the leadership of the management ([Priyatno 2017](#)) and also the punishment can be charged to the corporation. If you look at the explanation of the criminal liability system, the corporate element can be held criminally responsible based on the theory of vicarious liability, respondeat superior, and identification theory, this means that the corporation in committing a criminal act with the intermediary of a person who has a high position (directing mind) or employee (agent) whose purpose is to provide benefits to the corporation itself, the second is as a result and the result of the first cause, so the entity (company) also has the power to give responsibility for criminal crimes committed

If it is related to the case of Decision Number 222/pid.B/2021/PN.Rgt about cryptocurrency trading with ponzi scheme, then Decision Number 1465/PID.SUS/2022/Pn sby - 1466/PID/SUS/2022/Pn sby about robot trading with ponzi scheme and the case of Indra Kenz and doni salmanan who use binary option schemes, corporations can be held liable because their embassies are based on orders from superiors / managers and the profits are intended for the corporation itself. then legal entities can be held criminally liable.

It should be understood that the attribution of legal entity to the perpetrator of a criminal offense is based on various logical things, namely:

- a. The mere conviction of workers is not enough to seek redress for wrongs committed by or with the company. Therefore, it is important to sue the company, directors, and managers;
- b. Given that in social and economic life, the role of multinational companies is also increasingly important;
- c. Criminal law should have a function in society, namely protecting society and enforcing the rules and norms that exist in society, if criminal law only focuses on the individual aspect, applying only to people, then this goal is ineffective, so there is no reason to always oppress and oppose the criminalization of corporations;
- d. Punishing the company with criminal penalties is one of the efforts to prevent criminal acts against company employees (Muladi and Priyatno 2012).

In addition, corporate prosecution and punishment are based on the objectives of both preventive and repressive punishment, which on a global scale can be said to be aimed at corporate punishment and integrative punishment, for example:

- a. The purpose of punishment is deterrence (hypernym and hyponym). It is said that there is individual deterrence or specific deterrence, when the offender can be deterred from committing a crime in the future if he has lived and believes that the crime caused him suffering. The second form of deterrence is general deterrence, where the finding of a crime by the court is intended to prevent others from committing the crime.
- b. The Purpose of Punishment is The protection of society is the purpose of punishment because punishment belongs to the broad nature of punishment and is the basis of the purpose of all punishment. Strictly speaking, it refers to the discretion of the court to find a way through punishment to protect society from the danger of repetition of crime.
- c. The purpose of punishment is to maintain social solidarity, that is, to respect social customs and prevent Individual Revenge or Indirect Revenge. Punishing those guilty of crimes not only provides a form of forgiveness to oneself, but at the same time, it also makes us feel very spiritually noble. Criminal justice is a form of acceptance as society reduces aggressive desires in a way that is acceptable to the wider community. Collective guilt relief is designed to strengthen the morale of society and unite its members in the fight against guilt.
- d. Criminal punishment is compensatory/balancing in the sense that there is a balance between punishment and individual responsibility of the perpetrator by considering various factors (Muladi and Priyatno n.d.).

According to Raoling's criteria, an entity can be considered to have committed a crime if the prohibited act was committed in the performance of its duties and/or to achieve the entity's objectives. Stein further explains that in functional crimes, if the connection between the prohibited act and the function performed by the entity shows a stronger connection, then it is generally accepted that the entity can be held liable, e.g. a chemical waste disposal plant can more easily be considered a criminal. Meanwhile, if the relationship between the crime and the function performed by the entity is not established, then the entity cannot be held liable.

In addition, Strein argues that the Raoling standard cannot be applied to general matters, because the question of improper conduct is not asked when determining the legal entity as the perpetrator of the crime. the roling standard can only be used as a first filter. If the prohibited act does not fall within the scope of the company's obligations and objectives, then the company cannot be held

criminally liable. Therefore, Strein believes that in addition to the Roling Standard, the criteria of "barbed wire" or Ijzeerdaad should be considered:

Under the Ijzeerdaad criteria, corporate criminal liability must be based on the following criteria for :

- a. The element of power is present if in this case the entity actually has the power to regulate and/or order the person who actually commits the prohibited act. If the legal entity has absolute power, does it attempt to counteract or stem the prohibited act.
- b. Whether the board of directors has the authority (power) to counteract the actions of the company, If the board of directors has the power to contain the company but fails to take swift steps to stop / prevent prohibited activities and tends to allow the actions of the perpetrator due to lack of supervision or the activity is actually part of the organization's policy.

Criminal acts as well as criminal liability, more emphasis is placed on the System of liability because, characterized and by the apparent recognition in the formulation of the law, a criminal act can be committed by a partnership (association) or entity (corporation), but the responsibility lies with the Entity itself as well as the directors, At the same time, criminal responsibility is transferred from agents/employees to the directors (executives) and the company itself.

The criminal liability system is the beginning of direct liability of the entity. In this system, it is possible to sue the company and request a form of responsibility in accordance with criminal law, so Muladi states that in this third system of responsibility there has been a shift in view, that corporations can be held criminally responsible as makers, in addition to natural humans (*natuurlijk persoon*) (Amir 2020).

About corporations can be held criminally liable for their actions through people who have important positions and can represent the power of the corporation, have the authority to make decisions or the authority to be able to exercise control over agents associated with the application of the principle of directing mind / a guilty mind that makes the actions and state of mind of the board that leads a corporation can be considered as the actions and thoughts and will of the corporation to state that a real action to be carried out for the corporation itself, according to the author's analysis from what is described above, the actions of the board, and also agents / employees are and can be said to be the actions of the corporation itself because the goal is for the benefit of the corporation.

If it is related to the case of Decision Number 222/pid.B/2021/PN.Rgt regarding cryptocurrency trading with ponzi scheme, Decision Number 1465/PID.SUS/2022/Pn sby - 1466/PID/SUS/2022/Pn sby robot trading with ponzi scheme and the case of Indra Kenz and doni salmanan as corporate affiliates who use the ponzi scheme system then, corporations can be held responsible because their embassies are based on orders from superiors / administrators and the profits are intended for the corporation itself. then legal entities can be held criminally liable.

In terms of corporate criminal liability, three models of liability can be identified, among others:

- a. The directors of the company as producers, and the workforce are liable. This is based on the assumption that the entity cannot be held criminally liable, as the directors will always be held liable as a result of the offense.
- b. The entity is the producer and the directors are responsible. Entities may be producers, but the responsibility remains with the directors. Corporate crime is a crime committed by certain people in their position as directors of a company/entity. The person who leads the corporation must be held accountable, whether the leader knows the act or not.
- c. This form pays attention to the development of the subject itself, because it seems that it is not enough just to set the directors as the subject to be punished, because sometimes the corporation is the subject that benefits more from the commission of the crime. punishment to the directors cannot be ensured that the company will not commit a crime again (Eddy O.S. and Hiarij 2014).

Based on the verdict cases of Decision Number 222/pid.B/2021/PN.Rgt regarding cryptocurrency trading with ponzi scheme, Decision Number 1465/PID.SUS/2022/Pn sby -



1466/PID/SUS/2022/Pn sby robot trading with ponzi scheme and the case of Indra Kenz and doni salmanan as affiliators of corporations doing business using ponzi schemes that can be held criminally liable and bear criminal responsibility are the management of the corporation and the corporation itself as a corporation in line with the opinion of muliadi, Dwidja Priyatno, and Eddy O. This form looks at the development of the company itself, apparently it is not enough to determine the board of directors as a person charged with criminal sanctions, because the company is sometimes the party that gets the most benefit from a crime, so that the punishment of the directors cannot guarantee that it will not be repeated. In this case, it explains and further refines the criminal liability of corporations as perpetrators and can be held criminally liable and bear criminal responsibility. If only the management can be held accountable, this is not enough because the corporate entity is sometimes the beneficiary of the crime, so that sanctions from the board of directors cannot provide a form of confidence that the company will not commit crimes again.

Attributed to the various provisions of the legislation, a corporation can commit a criminal offense if the act is carried out based on a working relationship or other relationship and is carried out within a legal entity. This means that a corporation in terms of committing a certain act and a criminal offense has a close relationship with every organ in the corporation, namely the head of the corporation and the management of the corporation which is carried out based on work relationships or other relationships carried out within the corporate environment and based on the doctrines of Direct Liability, vicarious liability, and respondeat superior, suggesting that criminal liability can be requested criminally against the corporation, even though the corporation is not an entity that can stand alone. By using the provisions contained in Article 55 paragraph (1) to 1 of the Criminal Code in the case between the corporation and the management can be used as a legal subject either as a "perpetrator", "ordering" or "participating" in committing a criminal offense. If the corporation is the perpetrator, the management can be the party who "participates" or "assists" as referred to in Article 56 of the Criminal Code (Amir 2020).

Based on the analysis described by the author in this third chapter, it answers corporate criminal liability for the crime of cryptocurrency trading with ponzi schemes carried out by corporations, although e-commerce activities in terms of trading are still new in Indonesia, but the actions committed cannot be allowed and must be punished accordingly, therefore those who can be held criminally liable and bear criminal responsibility are both as perpetrators, including management and corporations, corporations as perpetrators and administrators / agents participating / assisting, based on the theory of Direct Liability, vicarious liability, Based on the theory of Direct Liability, vicarious liability, and respondeat superior due to cryptocurrency trading activities with ponzi schemes carried out by corporations, these 3 (three) theories that can punish and can be held liable by corporations to the perpetrators of criminal cryptocurrency trading with ponzi schemes carried out by corporations in Indonesia, because every activity carried out by the management as the brain and acting agent whose purpose is for the benefit of the corporation, the corporation and management can be held liable, if only punishing the management / agent alone is not enough to create justice and security for the community in Indonesia, in the case of cryptocurrency trading with ponzi schemes in Indonesia.

#### 4. CONCLUSION

The unclear rules of cryptocurrency trading with ponzi schemes carried out by corporations in Indonesia are influenced by law enforcement factors that are still not perfect to fulfill justice in society because cryptocurrency trading with ponzi schemes itself in Indonesia is still relatively new and foreign in terms of facilities and infrastructure that are not yet extensive, therefore there is still a need for laws that explicitly regulate cryptocurrency trading activities with ponzi schemes carried out by corporations in Indonesia, so that the form of criminal liability, in the case of Decision Number 222/Pid.B/2021/PN.Rgt regarding trading cryptocurrency e-dinar coin with ponzi scheme, then verdict number 1465/PID.SUS/2022/Pn.sby, and 1466/PID/SUS/2022/Pn.Sby about Robot Trading

using Ponzi Scheme, as well as the case of Indra Kenz and Doni Salmanan who are corporate affiliates using Ponzi scheme, if associated with the theory of corporate liability system can be held criminally liable, then those who are held criminally liable and bear are the corporation and the management because if only punishing one is not enough to bring a sense of justice and security in society, let alone only punishing agents / employees who work who follow orders from directors / managers, based on the theory of Direct Liability, vicarious liability, and respondeat superior.

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