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Regulatory Model and Minimum Safeguards for Conditional Prosecution in Corruption Cases

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Abstract

The enactment of Law No. 20 of 2025 on the Criminal Procedure Code has provided a legal basis for deferred prosecution agreements. However, their application in corruption cases still raises questions concerning the limits and minimum safeguards required to prevent prosecutorial discretion from developing into selective leniency. This article examines the juridical implications of conditional prosecution in corruption cases and formulates a regulatory model and minimum safeguards compatible with Indonesia's anti-corruption framework. This study employs normative legal research using statutory, conceptual, and comparative approaches by examining the United States, the United Kingdom, France, and Singapore. The findings show that the recognition of deferred prosecution agreements must be accompanied by rules that limit the cases eligible for this mechanism and ensure accountability in its implementation. The proposed model places the procedural basis within criminal procedure law, while corruption-specific safeguards are regulated through the anti-corruption regime and technical prosecutorial guidelines. The novelty of this study lies in the formulation of operational minimum safeguards, including eligibility criteria and mandatory exclusions, verified obligations for the recovery of state losses and compliance, judicial validation, transparency and monitoring, as well as legal consequences for breach of the agreement.

A. INTRODUCTION

Corruption is not only a violation of criminal norms but also a problem of public finance, institutional capacity, and the protection of public welfare. Recent corruption monitoring in Indonesia shows that corruption cases continue to generate substantial state financial losses, while the recovery of those losses through criminal justice mechanisms remains comparatively limited. This condition indicates that anti-corruption enforcement cannot be assessed merely from the number of cases prosecuted, but also from the extent to which enforcement is capable of restoring state losses and preventing repeated harm to public finance.[1]

The phrase "recovery of state losses" in this article refers to a verified legal process for returning measurable state financial losses through repayment, replacement money, asset recovery, restitution-related obligations, or other legally recognised financial and compliance duties. This clarification is important because recovery should not be understood as a justification for leniency, but as one component of accountable criminal law enforcement. In corruption cases, recovery is relevant only when it is placed within a framework that preserves legality, proportionality, transparency, and public accountability.

This article adopts a legal-institutional theoretical framework that views prosecutorial discretion as a form of public authority embedded within constitutional legality, institutional accountability, and public interest considerations. Under this framework, conditional prosecution is not examined merely as a procedural efficiency instrument, but as an enforcement mechanism whose legitimacy depends on legality, transparency, fairness, proportionality, and institutional control. This theoretical lens is important because agreement-based prosecution mechanisms expand prosecutorial judgment beyond evidentiary assessment into decisions concerning eligibility, recovery obligations, compliance duties, public interest, and the consequences of breach.

A practical dilemma arises when low-value corruption cases are handled through the same full litigation track as serious, organised, repeated, or high-impact corruption cases. Full litigation remains necessary for corruption that involves systemic bribery, obstruction of justice, organised conduct, or significant institutional harm. However,

[1] Comisión Económica para América Latina y el Caribe, *X Seminario Regional de Política Fiscal: Compendio de Documentos* (Santiago de Chile: Comisión Económica para América Latina y el Caribe (CEPAL), 1998), https://repositorio.cepal.org/server/api/core/bitstreams/41e184bd-c91d-4240-8964-5cf421add9e9/content, accessed June 15, 2025.

cases involving limited and measurable losses may raise a proportionality concern when the cost, time, and institutional attention required for litigation are not balanced with the actual recovery obtained. From a criminal law policy perspective, prosecution is not merely a procedural stage, but also a strategic instrument for determining enforcement priorities, allocating institutional resources, and balancing punishment, deterrence, recovery, and public interest.

Comparative experiences show that several jurisdictions have developed agreement-based prosecution mechanisms with different institutional designs. The United States relies largely on prosecutorial policy through deferred prosecution agreements and non-prosecution agreements, particularly in corporate crime and foreign bribery cases. The United Kingdom adopts a statutory deferred prosecution agreement model that requires judicial approval before the agreement becomes effective. France uses the convention judiciaire d'intérêt public as a negotiated public-interest judicial agreement for legal persons in economic and corruption-related offences. Singapore has incorporated deferred prosecution agreements into its criminal procedure framework, particularly for corporate criminal liability. Although these jurisdictions use different legal instruments, they share comparable policy objectives: strengthening enforcement effectiveness, securing recovery or financial penalties, improving corporate compliance, avoiding unnecessary collateral consequences, and maintaining public accountability through oversight and transparency.

The normative setting in Indonesia has changed after the enactment of Law No. 20 of 2025 on the Criminal Procedure Code. Article 328 of the new Criminal Procedure Code recognises deferred prosecution agreements as part of criminal procedure reform, particularly in relation to corporate criminal cases. Consequently, the research problem is no longer whether Indonesian law can recognise conditional prosecution or deferred prosecution agreements at all. The more specific issue is how this new procedural basis should be interpreted, limited, and operationalised in corruption cases, particularly where the offence involves corporate liability, measurable state losses, and the need for verified recovery. The existence of a legal basis does not automatically answer questions concerning eligibility, the meaning of low-value corruption, the relationship between recovery and criminal accountability, judicial validation, transparency, monitoring, breach consequences, and safeguards against selective leniency or impunity.

Developments in comparative law indicate the emergence of conditional prosecution mechanisms that international literature commonly describes as a *deferred prosecution agreement*. The term refers to a postponement of prosecution through an agreement that imposes specific obligations, such as payment of fines, restitution, compliance programmes, and supervision; fulfilment of these conditions is typically followed by the discontinuation of further proceedings. Lord's study captures the conceptual debate surrounding *non-trial* resolutions in transnational bribery cases, particularly the meaning of the "interest of justice" when cases are resolved without a court trial. [2]

That debate runs alongside concerns about misuse. Fragale and Grilli highlight the risk of *impunity for sale*, a situation in which an agreement-based mechanism is perceived as a "price" paid to avoid accountability.[3] This critique places transparency and oversight as elements that are inseparable from the design of conditional prosecution. In Indonesia's context, these issues should be read against the horizon of the rule-of-law state and the constitutional purposes set out in the 1945 Constitution, the anti-corruption regime under Law No. 31 of 1999 as amended by Law No. 20 of 2001, institutional strengthening in enforcement under Law No. 19 of 2019

[2] Nicholas Lord, 'Prosecution Deferred, Prosecution Exempt: On the Interests of (In)Justice in the Non-Trial Resolution of Transnational Corporate Bribery', *The British Journal of Criminology* 63, No. 4 (July 2023): 848–66, https://doi.org/10.1093/bjc/azac059, p. 850.

[3] Mauro Fragale and Valentina Grilli, 'Impunity for Sale: Are Deferred Prosecution Agreements a Way for Companies to Evade Liability?', *Trento Student Law Review* 6, No. 1 (May 2024): 41–70, https://doi.org/10.15168/tslr.v6i1.2961, p. 53.

on the Corruption Eradication Commission and Law No. 11 of 2021 on the Prosecutor's Office, the sentencing reform under Law No. 1 of 2023 on the Criminal Code, and the procedural reform introduced by Law No. 20 of 2025 on the Criminal Procedure Code. The inclusion of deferred prosecution agreement in the 2025 Criminal Procedure Code changes the direction of the research gap. The issue is no longer whether Indonesian law can recognise an agreement-based prosecution mechanism, but how such a mechanism should be limited, supervised, and operationalised in corruption cases so that it does not undermine legality, equality before the law, transparency, and public accountability.

International scholarship on deferred prosecution agreements generally focuses on three main issues: the legitimacy of non-trial resolutions, the design of oversight, and the risk of accountability deficits. Lord examines the debate on the "interest of justice" in non-trial resolutions for transnational bribery cases, while Fragale and Grilli warn that agreement-based mechanisms may be perceived as a form of impunity when transparency and accountability are weak. Davis compares judicial review models for deferred prosecution agreements and shows that differences in oversight affect openness, consistency, and fairness.[4] Bu further discusses the viability of deferred prosecution agreements in England, particularly in relation to global anti-bribery compliance, enforcement effectiveness, and institutional control.[5] These studies provide an important comparative foundation, yet they mainly operate within jurisdictions that already recognise negotiated or agreement-based enforcement mechanisms.

[4] Frederick T. Davis, 'Judicial Review of Deferred Prosecution Agreements: A Comparative Study', *Columbia Journal of Transnational Law* (New York), 2012, https://static1.squarespace.com/static/5daf8b1ab45413657badbc03/t/62893e086c274f65e1db41ba/1653161481142/Judicial+Review+of+Deferred+Prosecution+Agreements+A+Comparative+Study+%28print%29.pdf, p. 43.

[5] Qingxiu Bu, 'The Viability of Deferred Prosecution Agreements (DPAs) in the UK: The Impact on Global Anti-Bribery Compliance', *European Business Organization Law Review* 22, No. 1 (March 2021): 173–201, https://doi.org/10.1007/s40804-021-00203-5, p. 176.

Indonesian scholarship has begun to discuss conditional prosecution and deferred prosecution agreements, particularly in relation to corporate corruption and the recovery of state losses. Burrohim, Suarda, and Azizah position prosecution deferral agreements as a pathway for recovering state financial losses within a restorative orientation.[6] Pravidjayanto, Haq, and Alfatoni propose a deferred prosecution agreement model based on social justice for corporate corruption.[7] Antari and Adnyana identify legality, legal certainty, and public perceptions of impunity as major challenges in applying deferred prosecution agreements to corruption cases.[8] Nelson specifically searches for a deferred prosecution agreement model for Indonesia's anti-corruption framework by emphasising the public interest, transparency, and oversight.

These previous studies have clarified the relevance of deferred prosecution agreements, prosecutorial discretion, corporate corruption, and the recovery of state losses. However, several issues remain unaddressed. First, previous studies have not sufficiently connected the deferred prosecution agreement model with the enacted framework of Article 328 of Law No. 20 of 2025 on the Criminal Procedure Code. Second, they have not formulated operational indicators for determining eligible corruption cases, particularly the meaning of low-value corruption, non-systemic conduct, absence of repeated behaviour, absence of obstruction of justice, and the requirement of verified recovery. Third, they have not developed a structured

6 Habi Burrohim, I. Gede Widhiana Suarda, and Ainul Azizah, 'Pengembalian Kerugian Keuangan Negara Melalui Perjanjian Penundaan Penuntutan Dalam Tindak Pidana Korupsi Oleh Korporasi', *JURNAL RECHTENS* 11, No. 1 (June 2022): 1–16, https://doi.org/10.56013/rechtens.v11i1.1137, p. 5.

7 Rafi Pravidjayanto, Neha Hifa Haq, and Muhammad Aqil Alfatoni, 'Pemidanaan Korupsi Korporasi Melalui Konstruksi Model Deffered Prosecution Agreement Berbasis Keadilan Sosial Di Indonesia', *Jurnal Yuridis* 12, No. 1 (November 2025): 149–67, https://doi.org/10.35586/jyur.v12i1.10751, p. 152.

8 Putu Eva Ditayani Antari and I. Kadek Budiadinata Satriatama Adnyana, 'Deferred Prosecution Agreement Dalam Pemidanaan Tindak Pidana Korupsi', *Fundamental: Jurnal Ilmiah Hukum* 12, No. 1 (May 2023): 182–98, https://doi.org/10.34304/jf.v12i1.96, p. 184.

safeguards model that links eligibility screening, judicial validation, transparency, compliance monitoring, and breach consequences within Indonesia's anti-corruption framework. This article therefore differs from previous works by formulating a hybrid regulatory model and minimum safeguards for conditional prosecution in corruption cases. The proposed model combines the general procedural basis under the 2025 Criminal Procedure Code with corruption-specific safeguards concerning eligibility criteria, mandatory recovery and compliance obligations, judicial validation, oversight and transparency mechanisms, monitoring arrangements, and enforceable consequences for breach. This article advances two focal points: first, it analyses the juridical implications of conditional prosecution in corruption cases in relation to legality, prosecutorial discretion, accountability, and recovery of state losses; second, it formulates a regulatory model and minimum safeguards that are institutionally testable within the Indonesian legal system.

B. RESEARCH METHOD

This study employs normative legal research with a prescriptive-analytical specification through three approaches, namely the statutory approach, conceptual approach, and comparative approach. The comparative approach examines the United States, the United Kingdom, France, and Singapore. The legal materials consist of primary, secondary, and tertiary legal materials obtained through library research and document tracing. These legal materials are qualitatively analyzed through systematic interpretation and legal argumentation to formulate a regulatory model and minimum safeguards applicable within Indonesia's anti-corruption legal framework.

C. RESEARCH RESULTS AND DISCUSSION

1. Juridical Implications of Conditional Prosecution in Corruption Cases

The enactment of Law No. 20 of 2025 on the Criminal Procedure Code changes the juridical basis for discussing conditional prosecution in Indonesia. Unlike the 1981 Criminal Procedure

Code, the new framework recognises deferred prosecution agreements, particularly in corporate criminal cases. The central issue is therefore no longer whether such a mechanism can be recognised, but how it should be interpreted and limited when applied to corruption cases.[9]

For conceptual consistency, this article uses "conditional prosecution" as the broader concept for prosecution deferred or conditionally discontinued upon fulfilment of legally defined obligations. "Deferred prosecution agreement" refers specifically to the mechanism recognised under the 2025 Criminal Procedure Code and comparable foreign models, while "penuntutan bersyarat" denotes the Indonesian conceptual formulation proposed in this article. Although related, these terms are not treated as entirely identical.

Article 328 of the 2025 Criminal Procedure Code narrows rather than eliminates the regulatory problem. Although it provides a procedural basis for deferred prosecution agreements, it does not specify the safeguards required when the mechanism concerns corruption, where state financial losses, abuse of public authority, public trust, and the risk of impunity require stricter institutional control. Its application therefore raises questions concerning eligibility, recovery verification, judicial validation, transparency, monitoring, and the consequences of breach.

A conditional agreement requires prosecutors to assess not only evidentiary sufficiency but also public interest, proportionality, recovery obligations, and the fairness of the proposed conditions. Such discretion requires traceable criteria and review mechanisms to prevent inconsistent treatment and preserve legality, legal certainty, and accountability.

Because conditional prosecution depends on evaluative judgment, unclear eligibility and public-interest criteria may produce disparities between comparable corruption cases. Indonesian scholarship on plea

[9] I. Nengah Nuarta and Mochamad Sukedi, 'Penanggulangan Tindak Pidana Korupsi Oleh Korporasi Dengan Konsep Deferred Prosecution Agreement', *KERTHA WICAKSANA* 19, No. 2 (September 2025): 142–50, https://doi.org/10.22225/kw.19.2.2025.142-150, p. 146.

agreements similarly emphasises explicit limits on prosecutorial authority to prevent negotiation from becoming an unstandardised practice.[10] Conditional prosecution therefore requires criteria capable of producing predictable and reviewable decisions.

A further implication arises when recovery of state losses becomes a condition of the agreement. Unlike recovery through judgment and execution, conditional prosecution places recovery before final adjudication and may affect whether prosecution continues. Regulation must therefore clarify the legal status, verification, and timeframe of financial obligations, as well as their relationship with sanctions available under the anti-corruption regime.[11] Recovery cannot by itself replace criminal accountability; it must operate within legally defined conditions governing the deferral and possible discontinuation of prosecution.

Where an agreement includes compliance or monitoring obligations, enforcement extends beyond the conventional prosecution process. The regulatory framework must therefore identify the monitoring authority, applicable compliance standards, and reporting requirements. Conditional prosecution is not merely an alternative resolution mechanism, but a continuing enforcement process whose implementation must remain accountable.

Comparative practice demonstrates different institutional approaches to controlling agreement-based prosecution. In the United States, deferred and non-prosecution agreements rely predominantly on prosecutorial discretion, with corporate resolutions commonly incorporating

10 Tolib Effendi and Fendi Setyawan, 'Kemandirian Jaksa dalam Proses Plea Agreement di Negara-Negara dengan Indeks Persepsi Korupsi Rendah (Perbandingan Pelaksanaan di Indonesia, Argentina dan Filipina)', *INICIO LEGIS* 6, No. 1 (June 2025): 39–55, https://doi.org/10.21107/il.v6i1.30187, p. 45.

11 Susan Hawley, Colin King, and Nicholas Lord, 'Justice for Whom? The Need for a Principled Approach to Deferred Prosecution Agreements in England and Wales', in *Negotiated Settlements in Bribery Cases*, ed. Tina Søreide and Abiola Makinwa (Cheltenham, Gloucestershire, UK: Edward Elgar Publishing, 2020), 309–46, https://doi.org/10.4337/9781788970419.00022, p. 316.

statements of facts, financial obligations, cooperation, and compliance commitments. England and Wales adopt a statutory model requiring judicial approval based on the interests of justice and fair, reasonable, and proportionate terms. France combines prosecutorial negotiation with judicial validation and compliance monitoring through the *convention judiciaire d'intérêt public*, while Singapore incorporates deferred prosecution agreements into its criminal procedure framework with court approval, publication, and rules governing breach and variation.

The Goldman Sachs Malaysia/1MDB, Rolls-Royce, Airbus, and Seatrium resolutions illustrate these different institutional configurations. Their relevance lies not in identifying a single model for transplantation, but in comparing the legal basis, oversight, transparency, compliance, and breach mechanisms that may inform safeguards for Indonesia. Table 1 summarises these elements and their regulatory implications.

Table 1. Design Elements of Conditional Prosecution in Comparative Practice

Country	Legal Basis and Model	Key Safeguards and Practice	Relevance for Indonesia
United States	DPAs and NPAs developed primarily through prosecutorial policy in corporate criminal enforcement.	Prosecutorial discretion is dominant; agreements commonly include statements of facts, financial obligations, cooperation, and compliance commitments. *Goldman Sachs Malaysia/1MDB* illustrates this model.	Demonstrates the need for documented prosecutorial reasons, clear factual bases, and stronger review of prosecutorial discretion.
United Kingdom	Statutory DPA under Schedule 17 of the Crime and Courts Act 2013.	Court approval is required based on the interests of justice and fair, reasonable, and proportionate terms. Agreements and judicial reasoning are generally published. *Rolls-Royce* illustrates this model.	Supports judicial validation and transparency as safeguards against unaccountable negotiated settlements.
France	*Convention judiciaire d'intérêt public* for legal	Prosecutorial negotiation is combined with judicial validation, financial	Shows the importance of linking recovery,

	persons in corruption and related economic offences.	obligations, and compliance monitoring. *Airbus* illustrates this model.	compliance monitoring, and consequences for non-compliance.
Singapore	DPA incorporated into Part 7A of the Criminal Procedure Code for corporate criminal liability.	Court approval, publication, financial obligations, compliance requirements, and rules on breach, variation, and expiry. *Seatrium* illustrates this model.	Provides a relevant regional model for integrating DPA into criminal procedure with judicial control and breach mechanisms.
Indonesia	Article 328 of Law No. 20 of 2025 recognises DPA within criminal procedure.	Operational safeguards for corruption cases remain undeveloped, particularly regarding eligibility, recovery verification, judicial validation, transparency, monitoring, and breach.	Requires a hybrid model combining general procedural rules with corruption-specific safeguards and prosecutorial guidelines.

Source: Processed by Author, 2026.

The table shows that each jurisdiction adopts a different institutional route and also faces different weaknesses. The United States demonstrates the strength of prosecutorial flexibility, but also reveals the risk of limited judicial control when discretion remains dominant. The United Kingdom strengthens legitimacy through judicial approval and publication, although the model still raises questions concerning sanction discounts and negotiated facts. France links negotiated settlement with anti-corruption compliance and monitoring, yet its focus on legal persons requires continued attention to individual accountability. Singapore provides a relevant regional example because its DPA framework is incorporated into criminal procedure and supported by court approval, breach rules, variation, expiry, and publication mechanisms. Indonesia is now positioned differently after the enactment of Law No. 20 of 2025. The issue is no longer the absence of legal recognition, but the absence of corruption-specific safeguards that can guide eligibility, recovery verification, judicial validation, transparency, monitoring, and breach consequences.

The comparative value of these models therefore lies not in direct transplantation, but in identifying minimum safeguards that should accompany Article 328 of the 2025 Criminal Procedure Code. For Indonesian corruption cases, especially those involving corporate liability and measurable state losses, conditional prosecution should be designed through a hybrid model. The general procedural basis should remain in criminal procedure law, while corruption-specific safeguards should be regulated through the anti-corruption framework and technical prosecutorial guidelines.

2. Regulatory Model and Minimum Safeguards for Conditional Prosecution in Corruption Cases

The regulatory model for conditional prosecution in corruption cases must build on Article 328 of Law No. 20 of 2025, which provides the current procedural basis for deferred prosecution agreements. References to the Draft Criminal Procedure Code are therefore relevant only as legislative history.[12] As no settled prosecutorial or judicial practice has yet developed in Indonesian corruption cases, the regulatory task is to specify corruption-specific safeguards governing eligibility, verified recovery of state losses, public interest, judicial validation, monitoring, transparency, and breach consequences. These safeguards are necessary to prevent deferred prosecution from becoming an informal settlement, selective leniency, or a substitute for accountability.

Three regulatory options may be considered. The first places conditional prosecution entirely within general criminal procedure law; the second treats it as a *lex specialis* within the anti-corruption regime; and the third adopts a hybrid model combining general procedural rules with corruption-specific requirements. This article favours the hybrid model because the mechanism involves both general

[12] Siti Zainab Yanlua, Fauzia Rahawarin, and Muhammad Nasir Prawira, 'Dinamika Kewenangan Jaksa: Peran Dalam Penuntutan Saat Ini Dan Arah Perubahan Dalam Ruu Kuhap', *Jurnal Al-Ahkam: Jurnal Hukum Pidana Islam* 7, No. 1 (March 2025): 14–23, https://doi.org/10.47435/al-ahkam.v7i1.3637, p.18.

procedural authority and the distinctive features of corruption offences. Criminal procedure law should govern prosecutorial authority, validation, the legal effect of deferral, monitoring, and breach, while the anti-corruption regime and prosecutorial guidelines should regulate recovery of state losses, exclusions, public interest criteria, and institutional coordination. The location of these norms is not merely a matter of codification, since an expansion of prosecutorial authority requires explicit limits that permit consistent supervision and review.[13] The hybrid structure provides such limits without eliminating the procedural role of prosecutorial discretion.

Under the hybrid model, conditional prosecution should follow a traceable sequence: eligibility screening, drafting of the agreement, judicial validation, monitored implementation, and either closure or reactivation of prosecution. The prosecutor conducts the initial screening and formulates the obligations, while validation prevents the agreement from resting solely on internal prosecutorial judgment. Fulfilment of recovery and compliance obligations may lead to closure, whereas a material breach should reactivate prosecution. This sequence preserves prosecutorial responsibility while subjecting negotiated resolution to institutional control.

The first safeguard concerns eligibility, which should be assessed cumulatively rather than by monetary value alone. Eligible cases should involve low-value and measurable state losses, non-systemic conduct, no repeated misconduct, no obstruction of justice, no money laundering or concealment of proceeds, and a positive public interest assessment. "Low-value" refers to losses that can be clearly calculated, audited, and recovered within a defined period, while "non-systemic" excludes organised bribery, procurement manipulation with broader institutional consequences, and conduct affecting essential public services. Repeated misconduct and

[13] Alfajri Firmansyah, 'Tinjauan Hukum Kewenangan Jaksa Dalam Pemeriksaan Tambahan Menurut Asas Dominus Litis Berdasarkan Kuhap', *Jurnal Hukum Jurisdictie* 2, No. 1 (February 2020): 54–80, https://doi.org/10.34005/jhj.v2i1.19, p. 62.

obstruction should operate as mandatory exclusions, while public interest must be demonstrated through recovery, cooperation, compliance improvement, and prevention of recurrence.

The second safeguard concerns the core obligations of the agreement. Recovery of state losses must be measurable, independently verifiable, subject to a defined timeframe, and accompanied by consequences for non-compliance. Recovery as a condition of deferred prosecution must remain distinct from restitution, forfeiture, or other sanctions imposed through judgment. In corporate cases, compliance programmes and audits should likewise contain measurable obligations and reporting requirements rather than declaratory commitments.

The third safeguard combines oversight, validation, and transparency. Prosecutorial decisions based on public interest should be documented and subject to hierarchical approval, while the court should validate legality, voluntariness, proportionality, public interest, and the fairness of the proposed obligations.[14] Verification of state losses and recovery may involve BPK or BPKP, while implementation remains subject to prosecutorial monitoring and, where necessary, independent compliance review. Public accountability should be supported by publication of an agreement summary containing the essential facts, the amount of loss and recovery, principal obligations, monitoring period, and breach consequences, subject to the protection of confidential investigative information and personal data.

The fourth safeguard concerns breach. Regulation should define material breach, the procedure for determining non-compliance, its effect on the agreement, and the circumstances in which prosecution is reactivated. It should also clarify the evidentiary status of statements or information submitted during the agreement process if the case subsequently proceeds to trial. Clear

[14] Yodi Nugraha, 'Optimalisasi Asas Oportunitas Pada Kewenangan Jaksa Guna Meminimalisir Dampak Primum Remedium Dalam Pemidanaan', *Veritas et Justitia* 6, No. 1 (June 2020): 213–36, https://doi.org/10.25123/vej.v6i1.3882, p. 224.

breach rules ensure that deferred prosecution does not operate as an irreversible route to case closure. Table 2 translates these safeguards into regulatory stages, responsible institutions, accountability mechanisms, and consequences for non-compliance.

Table 2. Map of Minimum *Safeguards* and Regulatory Focus

Minimum Safeguard	Regulatory Focus	Responsible Actor	Accountability and Consequence
Eligibility	Low-value and measurable losses; non-systemic conduct; no repeated misconduct, obstruction, or money laundering; verified recovery capacity; public interest assessment.	Prosecutor with hierarchical approval.	Written eligibility assessment and review of exclusions. The agreement does not proceed if the criteria are not met.
Core obligations	Verified recovery of state losses, financial and compliance duties, implementation schedule, and reporting requirements.	Prosecutor, BPK/BPKP, and compliance monitor where necessary.	Audit-based verification and measurable obligations. Unclear or unverifiable obligations prevent approval.
Validation	Review of legality, voluntariness, proportionality, public interest, and fairness of the agreement.	Court or competent judicial authority.	Reasoned judicial approval is required before the agreement takes legal effect.
Oversight and transparency	Publication of essential agreement information, monitoring, reporting, and protection of confidential information.	Prosecutor, court, audit institution, and compliance monitor where necessary.	Periodic reporting and public disclosure. Serious deficiencies may trigger review or prevent case closure.
Breach response	Definition of material breach, procedure for determining non-compliance, evidentiary treatment, and reactivation of prosecution.	Prosecutor and court or competent judicial authority.	Material breach terminates the benefit of deferral and may reactivate prosecution.

Source: *processed by Authors, 2026*

Table 2 shows that each safeguard operates at a specific decision point, from eligibility screening and verification of obligations to validation, monitoring, and breach response. Their implementation also requires sufficient administrative capacity and consistent prosecutorial guidelines. Core legal requirements should therefore remain within criminal procedure law and the anti-corruption regime, while technical guidelines may specify operational indicators. This layered structure preserves consistency and accountability without removing the flexibility required to address differences between individual cases.

D. CONCLUSION

The application of *deferred prosecution agreements* in corruption cases following the enactment of Law No. 20 of 2025 requires clear legal limits to prevent the mechanism from becoming a form of prosecutorial leniency. Although the procedural basis has been established within criminal procedure law, its application to corruption cases still requires specific safeguards. This article proposes a hybrid regulatory model that connects the provisions of the Criminal Procedure Code with the anti-corruption regime and technical prosecutorial guidelines. The model is based on *minimum safeguards* consisting of eligibility criteria, obligations for the recovery of state losses, judicial validation, implementation oversight, and consequences for breach of the agreement. This framework is intended to ensure that *deferred prosecution agreements* remain within the boundaries of legality and can be held accountable within anti-corruption law enforcement.

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