The Duty to Give Reasons for the Length of Substitute Imprisonment for Replacement Money: An Analysis of Decisions No. 36/Pid.Sus-TPK/2022/PN Plk, No. 2/PID.SUS-TPK/2023/PT PLK, and No. 3802 K/Pid.Sus/2023

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Abstract

Substitute imprisonment for payment of replacement money in corruption cases is subject to a maximum limit, but no indicators guide the selection of its duration. This normative legal study uses statutory and case approaches to describe the rules governing judges' duty to give reasons, assess the reasoning of the District Court and High Court in the Bumi Jaya village-budget case, and explain the scope of the Supreme Court's review on cassation. The analysis is qualitative and deductive, based on three indicators: whether reasons are given, whether a legal basis is identified, and whether the decision is accurate and correct. The duty to give reasons derives from Article 50(1) and Article 53(2) of Law No. 48 of 2009. The District Court imposed one year of substitute imprisonment without specific reasons; the High Court reduced it to eight months on the basis of a sense of justice without specifying a measure; and the Supreme Court dismissed the cassation appeal without discussing the duration. The absence of guidelines does not eliminate the duty to give reasons.

Keywords: *Replacement Money, Corruption, Judicial Duty, Judicial Reasoning, Substitute Imprisonment.*

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A. INTRODUCTION

The additional penalty of payment of replacement money in corruption cases is intended to recover assets obtained by the convicted person through the offense. Article 18(1)(b) of Law No. 31 of 1999 on the Eradication of Criminal Acts of Corruption provides that the amount of replacement money may not exceed the assets obtained from the corruption offense (Law No. 31 of 1999, 1999, art. 18(1)(b), 18(3)). This measure is not identical to the amount of state financial loss, because the judge must calculate it based on what the defendant actually received (Suwardi et al., 2023). If the convicted person does not have sufficient assets to pay, Article 18(3) requires substitute imprisonment whose duration does not exceed the maximum penalty for the principal offense and must be specified in the judgment. The statute therefore establishes a legal ceiling, namely the maximum penalty for the principal offense. What it does not specify in detail is how to select a particular duration within that ceiling. At this point, the restriction of the convicted person's liberty is determined in a single part of the operative order, making the reasons behind it a distinct legal issue.

A court decision must be capable of review, and this requirement is grounded in legislation. Article 50(1) of Law No. 48 of 2009 on Judicial Power provides that a judgment must state its reasons and legal basis, including the relevant provisions of legislation or unwritten legal sources relied on in adjudication (Law No. 48 of 2009, 2009, arts. 50(1), 53(2)). Article 53(2) further requires the judge's legal reasoning to be based on appropriate and correct reasons and legal grounds. A study of Article 50(1) positions judges as accountable for their decisions, with the public serving as an evaluator (Fadhilah & Kamilatun, 2021). This standard applies to every part of the operative order, including a seemingly technical matter such as the duration of substitute imprisonment. The law as it ought to be (das sollen) therefore requires each figure in the operative order to be traceable to written reasons.

Supreme Court Regulation No. 5 of 2014 on the Additional Penalty of Replacement Money in Corruption Offenses contains three distinct matters (Supreme Court Regulation No. 5 of 2014). First, the maximum limit: Article 8(1) sets the maximum term of substitute imprisonment at the maximum principal penalty under the provision found to have been violated. Second, implementation: Article 9 governs the seizure and auction of the convicted person's assets, while Article 10 governs the calculation of the remaining substitute-imprisonment term after partial payment of replacement money. Third, duration criteria: the provisions examined by the author contain no formula for selecting a term within the ceiling. In other words, the regulation governs the limit and execution mechanism, not indicators for selecting the duration. Supreme Court Regulation No. 1 of 2020 on sentencing guidelines for Articles 2 and 3 of the Corruption Eradication Law helps reduce disparities in principal penalties but does not extend to Article 18(3) (Supreme Court Regulation No. 1 of 2020). As late as 2025, a special ad hoc corruption-court judge was still proposing a separate Supreme Court Regulation or Supreme Court Circular Letter on substitute imprisonment (Widiastuti, 2025).

Judicial practice reveals a gap between these normative requirements and their application. A comparative study of judgments reports substantial differences among cases in the amount of replacement money converted into each day of substitute imprisonment (Sudarmanto et al., 2023). The imbalance between the amount of replacement money and the length of subsidiary imprisonment has been reported to create a sense of injustice for the state, convicted persons, and the public, while failing to deter offenders (Mahmud, 2023). Another study identifies the absence of guidance on subsidiary imprisonment as a root cause of these disparities and as a factor weakening the implementation of replacement-money payments (Denasty, 2025). Actual practice (das sein) thus does not yet meet the standard of reviewability required by the governing norms.

The corruption case involving management of the 2019 Bumi Jaya Village Revenue and Expenditure Budget illustrates this gap across a sequence of decisions. In Decision No. 36/Pid.Sus-TPK/2022/PN Plk dated January 5, 2023, the Corruption Court at the Palangka Raya District Court found Dwi Suprayitno, the village head, and Aris Susilo, the treasurer, guilty of joint corruption under the subsidiary charge,

resulting in state financial losses of IDR 277,664,897 (Palangka Raya District Court, 2023). The public prosecutor sought three years of substitute imprisonment for each defendant. The panel ordered Defendant I to pay IDR 200,664,097 in replacement money, with one year of substitute imprisonment, while Defendant II was not ordered to pay because he had deposited IDR 77,000,000 with the prosecutor's office. The reasoning on replacement money discussed the legal basis and amount and addressed the defense submissions, while aggravating and mitigating circumstances were formulated for the principal penalty. In the judgment copy examined, the specific reasons for setting the substitute-imprisonment term at one year were not adequately explained. In Decision No. 2/PID.SUS-TPK/2023/PT PLK dated February 17, 2023, the Palangka Raya High Court stated that it would reconsider the length of substitute imprisonment. Although it agreed with the calculation of replacement money, it disagreed with the amount of the substitute sentence and reduced the term to eight months "for the sake of justice" (Palangka Raya High Court, 2023). The stated reason was a sense of justice, but the measure used to arrive at eight months was not explained.

The public prosecutor appealed to the Supreme Court on cassation, and the Supreme Court dismissed the appeal in Decision No. 3802 K/Pid.Sus/2023 dated August 1, 2023 (Supreme Court of Indonesia, 2023). As summarized in the decision, the cassation grounds concerned an alleged error by the judex facti in finding the defendants guilty under the subsidiary charge and imposing a sentence lighter than the prosecutor had requested. The Supreme Court considered that the High Court had applied the law properly and assessed the legal facts accurately and correctly; it also held that reassessment of the evidence could not be undertaken on cassation under Article 253(1) of the Criminal Procedure Code. The dismissal left the eight-month term in force, and the reasoning did not specifically address the duration of substitute imprisonment. This pattern is consistent with a study reporting the Supreme Court's view that cassation concerns the application of law, not the reassessment of evidence, including in a village-fund case under Decision No. 346 K/Pid.Sus/2023 (Auliya et al., 2024). Because the cassation memorandum is summarized rather than reproduced in full, it cannot be established whether the duration of substitute imprisonment was challenged as a separate issue. The question is whether the selection of the duration constitutes an issue of legal application whose reasoned basis can be reviewed, or instead a matter beyond cassation review.

Legal doctrine on judicial reasoning treats the reasons for a judgment as inseparable from its operative order. Article 197(1) of the Criminal Procedure Code sets out requirements for the contents of a criminal judgment: paragraph (d) concerns consideration of the facts and evidence forming the basis for determining the defendant's guilt, while paragraph (f) concerns the statutory provisions underlying the sentence, together with aggravating and mitigating circumstances (Law No. 8 of 1981, 1981, art. 197(1)(d), (f)). A study of a Supreme Court decision regards a sentence below the prosecutor's demand, without an explanation of the

mitigating reasons, as a decision lacking a ratio decidendi (Renwarin & Adhari, 2023). In another case, the Supreme Court itself considered unclear and poorly structured reasoning by a judex facti to violate Article 197(1)(d) and (f) (Anindya & Yudisetyo, 2025). These studies show that insufficient reasoning is treated as a legal issue, not merely a stylistic deficiency. A sentence that differs from the prosecutor's demand does not, by itself, establish inadequate reasoning; the legal question is whether the judge has explained relevant and sufficient reasons for the penalty selected. Article 197 does not automatically require the duration figure to be explained separately. Whether the duration of substitute imprisonment falls within the duty to give reasons under Article 197(1) and Articles 50 and 53 of the Judicial Power Law has therefore not been specifically resolved, and is the issue examined in this study.

Law No. 20 of 2025 on the Criminal Procedure Code (the new Criminal Procedure Code) took effect on January 2, 2026, and repealed the 1981 Code (Law No. 20 of 2025, 2025). Article 361(c) provides that cases already transferred to a court and whose examination has begun must continue to be examined, tried, and decided under the 1981 Code. Accordingly, the three decisions in this study are assessed under the 1981 Code, while the new provisions are treated as subsequent normative developments. Article 250(1)(d) requires clear and complete reasoning; paragraph (f) retains the requirement to state the legal basis for sentencing; and paragraph (2) provides that failure to meet these requirements renders a judgment null and void by operation of law. Article 251(1) and (2) require judges to consider sentencing guidelines and include a dedicated section addressing those considerations in the judgment format. Whether those guidelines cover the duration of substitute imprisonment requires separate examination and is not determined here. At the cassation stage, Article 308(2) and Article 309(2) confirm that the Supreme Court does not reassess whether the act has been proven, and decides issues of legal application rather than facts or evidence.

Previous research has addressed this imbalance from several perspectives. Mahmud (2023) proposed guidelines that group replacement-money amounts into ranges and pair each range with a subsidiary-imprisonment term, based on the principle that a larger amount of replacement money should correspond to a longer substitute-imprisonment term. Denasty (2025) developed the ratio legis of subsidiary imprisonment for replacement money as a basis for more proportionate guidance. Novandra Ali and Tamsil (2026) analyzed a case across the trial, appeal, cassation, and judicial-review stages, but focused on the purpose of imposing replacement money rather than the duration of substitute imprisonment. These studies address policy or sentencing-purpose questions: which guidelines should be used and why replacement money should be imposed. The unanswered question is evaluative: whether the actual decisions at each judicial level complied with the duty to give reasons for the duration of substitute imprisonment. In the author's review of Indonesian-language journal articles published from 2016 to 2026, no study was found that examined this duty across the successive levels of one case.

The importance of this research lies in the severity of the punishment at issue. In practice, the additional penalty of replacement money has been regarded as potentially more burdensome than a principal fine . Recovery of state losses through replacement money has also been considered ineffective, in part because convicted persons may be unable to pay . Substitute imprisonment is a direct consequence of these circumstances, and its duration determines whether the threat is meaningful or can be disregarded by the convicted person. In the Bumi Jaya case, the proposed term fell from three years to one year at the District Court and then to eight months at the High Court, without reasoning that explained the measure used. Analysis of this sequence may inform a guideline proposal that was still only a proposal at the end of 2025 .

This study asks three questions. First, how do the applicable laws and regulations govern the judge's duty to give reasons for the length of substitute imprisonment for replacement money? Second, did the District Court and High Court comply with that duty when setting the term in the Bumi Jaya village-budget corruption case? Third, what is the scope of the Supreme Court's consideration when reviewing the prosecutor's cassation appeal against a decision changing the length of substitute imprisonment? The objectives are to describe the rules governing the duty to give reasons for the term, assess whether the reasoning of the two judex facti courts complied with that duty, and explain the limits of the Supreme Court's role as judex juris in reviewing the duty to give reasons for the selected duration.

B. METHOD

This is a normative legal (doctrinal legal) study with a prescriptive-analytical design, focusing on review of judicial ratio decidendi and the adequacy of the reasons given for the duration of substitute imprisonment for replacement money (Soekanto & Mamudji, 2009, pp. 13–14). The approaches comprise a statutory approach, examining Article 18 of the Corruption Eradication Law, Articles 50 and 53 of the Judicial Power Law, the Criminal Procedure Code (including its relationship to sentencing guidance in Law No. 1 of 2023 on the new Criminal Code), and Supreme Court Regulation No. 5 of 2014; and a case approach, conducting a vertically sequenced analysis of Palangka Raya District Court Decision No. 36/Pid.Sus-TPK/2022/PN Plk, Palangka Raya High Court Decision No. 2/PID.SUS-TPK/2023/PT PLK, and Supreme Court Decision No. 3802 K/Pid.Sus/2023. The legal materials consist of primary sources, namely legislation and official copies of the decisions from all three judicial levels in the Bumi Jaya village-budget corruption case, and secondary sources, including legal scholarship, accredited journal articles, and expert opinions. Materials were collected through library research and systematically inventoried and categorized by issue. The data were analyzed qualitatively and deductively by formulating normative indicators for the duty to give reasons and applying them to assess whether judicial reasoning at each level can be reviewed, leading to prescriptive conclusions de lege ferenda.

C. RESULTS AND DISCUSSION

1. Rules Governing the Judge's Duty to Give Reasons for the Length of Substitute Imprisonment

Article 18(3) of Law No. 31 of 1999 provides that a convicted person whose assets are insufficient to pay replacement money is subject to imprisonment for a term that does not exceed the maximum principal penalty, with the term specified in the court judgment (Law No. 31 of 1999, 1999, art. 18(3)). This provision operates after paragraph (2), which allows one month from the date the judgment becomes final before the prosecutor seizes and auctions the convicted person's assets (Law No. 31 of 1999, 1999, art. 18(2)). Law No. 20 of 2001 did not amend Article 18, so the wording has remained unchanged since 1999 (Law No. 20 of 2001, 2001). A grammatical interpretation reveals three rules: (a) the condition for imposing the penalty, namely insufficient assets; (b) the upper limit, namely the maximum principal penalty; and (c) where the term is set, namely in the court judgment. The final element is important because it makes the duration of substitute imprisonment an express part of the operative order, not an automatic consequence calculated later. Putri (2018) adds that sociological considerations, not merely legal ones, influence the determination of subsidiary punishment. Article 18(3) therefore requires the judge to specify a term but does not prescribe a measure for selecting it.

Supreme Court Regulation No. 5 of 2014 elaborates Article 18 in three respects (Supreme Court Regulation No. 5 of 2014, 2014, arts. 8–10). Article 8 confirms the upper limit for substitute imprisonment: no longer than the maximum principal penalty under the proven offense, capped at 20 years where the principal offense carries life imprisonment, and with Article 12(4) of the Criminal Code declared inapplicable to substitute imprisonment. Article 9 regulates seizure and auction of the convicted person's assets if replacement money is not paid in full within one month after the judgment becomes final, while Article 10 governs the calculation of the remaining substitute-imprisonment term after partial payment. These provisions concern the limit and implementation, not the method for selecting a term within the limit. Widiastuti (2025), an ad hoc corruption-court judge, identified this gap and proposed separate guidance because Supreme Court Regulation No. 1 of 2020 reaches only the principal penalties under Articles 2 and 3. The absence of duration indicators also affects implementation: under Article 10, payment reduces the remaining substitute-imprisonment term proportionally, so the term selected by the judge becomes the basis for calculating the reduction. An unexplained term carries the same uncertainty into enforcement.

The general duty to give reasons arises from Law No. 48 of 2009 on Judicial Power. Article 50(1) requires a judgment to state its reasons and legal basis, together with the particular statutory provisions or unwritten legal sources relied on in deciding the case (Law No. 48 of 2009, 2009, art. 50(1)). Article 53(1) states that judges are responsible for the determinations and judgments they make, while paragraph (2) requires legal reasoning to rest on appropriate and correct reasons and legal grounds (Law No. 48 of 2009, 2009, arts. 53(1)–(2)). These provisions address

judgments as a whole and make no exception for an operative term that may appear technical. The length of substitute imprisonment is part of the operative order and restricts the convicted person's liberty; a systematic interpretation of the two articles therefore places it within the duty to give reasons. Sibuea et al. (2020) describe judicial reasoning as crucial to achieving justice and legal certainty, and note that legal considerations must be included in a judgment. Kusyandi and Yamin (2023) emphasize that judicial independence also carries accountability and is bounded by the law.

Criminal procedure law adds a dimension of legal consequences. Article 197(1)(h) of the Criminal Procedure Code requires a criminal judgment to include a finding of guilt, a statement that all elements of the offense have been satisfied, and the penalty or measure imposed; this requirement is discussed in the legal literature (Law No. 8 of 1981, 1981, art. 197(1)(h); Sibuea et al., 2020). Substitute imprisonment is part of the punishment imposed, so it must be stated in the operative order. Article 197(2) provides that failure to comply with specified requirements in paragraph (1) renders a judgment null and void by operation of law, although such invalidation, according to the literature, must be pursued through a higher court on appeal or cassation (Law No. 8 of 1981, 1981, art. 197(2); Sibuea et al., 2020). Kovalaski and Rustamaji (2023) found that judicial considerations in corruption cases were consistent with Article 193(1), the basis for imposing punishment, even though sentence lengths and additional penalties differed between cases. In the author's view, compliance with the provision that supplies the basis for sentencing does not answer whether a particular term is adequately reasoned. Article 197 requires the pronouncement of a sentence, not a detailed explanation of how its length was calculated. The duty to explain the duration of substitute imprisonment therefore rests primarily on Articles 50 and 53 of the Judicial Power Law. Inadequate reasons do not automatically make the judgment null and void under Article 197(2), but may constitute a defect in reasoning that can be reviewed on appeal or cassation.

Based on these provisions, the author formulates three indicators for assessing judgments, summarized in Table 1. The first indicator is the presence of reasons: the judgment must explain why the substitute-imprisonment term was set at that length, rather than merely stating a number in the operative order. The second is the presence of a legal basis: the judgment should identify Article 18(3) and the maximum principal penalty under the provision found to have been violated. The third is accuracy and correctness: the term must not exceed the statutory limit and must be capable of being linked to the facts discussed by the judge. Relevant factors identified in the literature include the amount of replacement money—Mahmud (2023) proposes that a larger amount should correspond to a longer substitute-imprisonment term, and the defendant's circumstances, given Putri's (2018) finding that sociological considerations affect subsidiary punishment. These three indicators are the author's formulation derived from Articles 50 and 53 of the Judicial Power Law and Article 18(3), not a rule expressly contained in a single provision.

Table 1. Indicators for Assessing the Duty to Give Reasons for the Length of Substitute Imprisonment

Indicator	Normative Basis	Review Question
Reasons provided	Article 50(1) of Law No. 48 of 2009	Does the judgment explain the basis for the duration of substitute imprisonment, beyond merely stating it in the operative order?
Legal basis identified	Article 18(3) of Law No. 31 of 1999; Article 8 of Supreme Court Regulation No. 5 of 2014	Does the judgment identify the legal basis for substitute imprisonment and the maximum principal penalty?
Accuracy and correctness	Article 53(2) of Law No. 48 of 2009	Does the term stay within the statutory limit and can it be linked to the facts discussed by the judge?

The preliminary answer to the first research question is that a gap in guidelines does not mean that the duty itself is absent. The law already requires reasons for every part of a judgment, whereas Article 18(3) and Supreme Court Regulation No. 5 of 2014 provide only an upper limit and an enforcement mechanism. As a prescriptive matter, the author considers that a judge imposing substitute imprisonment should explain at least: (a) the amount of replacement money ordered; (b) the basis for the duration in relation to the maximum principal penalty; and (c) the concrete justice-related reasons for choosing a term that differs from the prosecutor's demand. This explanation does not depend on adopting new guidelines because the duty already exists. Guidance of the kind proposed by Widiastuti (2025) may clarify the relevant measures, but it is not the source of the duty. The next question is whether the three Bumi Jaya decisions complied with these indicators.

2. District Court and High Court Reasoning on the Length of Substitute Imprisonment

The Palangka Raya District Court found Defendant I Dwi Suprayitno and Defendant II Aris Susilo guilty under the subsidiary charge, namely Article 3 in conjunction with Article 18 of Law No. 31 of 1999, and imposed principal imprisonment of one year and six months on Defendant I and one year on Defendant II (Palangka Raya District Court, 2023, pp. 97–98). Item 5 of the operative order required Defendant I to pay IDR 200,664,097 in replacement money; if it was not paid within one month, the prosecutor could confiscate the defendant's assets, and if those assets were insufficient, the unpaid amount would be replaced by one year of imprisonment. The prosecutor had sought replacement money of IDR 200,664,097 from Defendant I and IDR 77,000,000 from Defendant II, each accompanied by three years of substitute imprisonment, so the panel imposed one-

third of the requested term (Palangka Raya District Court, 2023, p. 3). Defendant II was not ordered to pay replacement money because he had deposited IDR 77,000,000 with the prosecutor's office, which the panel considered equivalent to the assets he had obtained (Palangka Raya District Court, 2023, pp. 93–98). Substitute imprisonment was therefore an issue only for Defendant I. The ceiling was broad because Article 3 provides for life imprisonment or a maximum term of 20 years, and Article 8 of Supreme Court Regulation No. 5 of 2014 likewise limits substitute imprisonment to 20 years where the principal penalty is life imprisonment (Law No. 31 of 1999, 1999, art. 3; Supreme Court Regulation No. 5 of 2014, 2014, art. 8).

The District Court's reasoning is assessed using the three indicators formulated in Section 3.1. Under the first indicator, presence of reasons, the judgment explained the legal basis and amount of replacement money in reasonable detail: the panel rejected Defendant I's claim that IDR 143,650,000 had been spent on infrastructure because no evidence supported it, and agreed with the prosecutor's calculation (Palangka Raya District Court, 2023, pp. 93–98). However, the judgment did not explain why substitute imprisonment was set at one year rather than the three years requested or another term within the ceiling. Its reference to a sense of justice stated that the punishment imposed caused physical and psychological suffering, but this referred to punishment generally, not the duration of substitute imprisonment. Under the second indicator, the reasoning referred to Article 18(1)(b), but not Article 18(3) or Supreme Court Regulation No. 5 of 2014; the list of legal provisions cited only Article 3 in conjunction with Article 18 without specifying a paragraph. Under the third indicator, the one-year term did not exceed the ceiling and thus met the correctness element, but its accuracy cannot be reviewed because the judgment did not link the number to any facts. If the replacement-money amount were divided across one year, the equivalent would be approximately IDR 550,000 per day, according to the author's calculation; that figure does not appear in the decision and cannot be treated as a reason given by the panel.

The Palangka Raya High Court reviewed the prosecutor's appeal and stated that it would not address the counter-memorandum of appeal submitted by Defendant I except on the length of substitute imprisonment, which it would reconsider (Palangka Raya High Court, 2023, p. 32). The appellate panel agreed with the first-instance court's calculation and determination of the amount of replacement money, but disagreed with the length of the substitute sentence and reduced it to eight months "for the sake of justice" (Palangka Raya High Court, 2023, pp. 33–34). The specific attention to duration shows that the High Court treated it as a distinct issue, consistent with the standard proposed in Section 3.1. The only reason stated was a sense of justice, without facts or a measure explaining why eight months was fairer than one year or another term. The legal provisions listed included Article 3 in conjunction with Article 18(1), (2), and (3), so the legal-basis indicator was met to a greater extent than at the District Court, although paragraph (3) was not explained in the reasoning. The change occurred on the prosecutor's appeal, reducing substitute imprisonment from one year to eight months without changing the

amount of replacement money. According to the author's calculation, the conversion therefore shifted from approximately IDR 550,000 to IDR 825,000 per day, assuming 365 days in a year and 30.4 days in a month.

The results of applying the indicators to the two judgments are summarized in Table 2.

Table 2. Assessment of the District Court and High Court Reasoning

Indicator	District Court	High Court
Reasons provided	Reasons concerning the amount of replacement money were given; no reason for the one-year duration was found.	A sense of justice was cited, without a measure or supporting facts.
Legal basis identified	Article 18(1)(b) was cited; Article 18(3) and Supreme Court Regulation No. 5 of 2014 were not cited.	Articles 18(1), (2), and (3) were listed in the provisions section.
Accuracy and correctness	The term did not exceed the ceiling; its accuracy cannot be assessed.	The term did not exceed the ceiling; its accuracy cannot be assessed.

Both judgments complied with the upper limit but did not adequately satisfy the reasons indicator. This finding is consistent with Renwarin and Adhari (2023), who found that a sentence lighter than the prosecutor's demand, without an explanation of the mitigating reasons, lacks a ratio decidendi. A sense of justice is relevant to judicial reasoning, and Putri (2018) emphasizes that sociological considerations help shape subsidiary punishment. However, Kusyandi and Yamin (2023) remind us that judicial independence is accompanied by responsibility and statutory limits. A sense of justice may therefore be a valid reason, but it is not a sufficient explanation without the facts considered. Mahmud (2023) proposes the principle that the larger the amount of replacement money, the longer the substitute-imprisonment term should be. That principle could at least help explain the one-year or eight-month term in relation to the replacement-money amount of IDR 200,664,097, but neither judgment referred to it.

The answer to the second research question is therefore differentiated. The District Court did not satisfy the reasons indicator and only partially met the legal-basis indicator, while the High Court identified a more complete legal basis but did not satisfy the reasons indicator because its reference to a sense of justice was unsupported by a measure. Both courts satisfied the correctness aspect of the third indicator because neither term exceeded the ceiling, but accuracy could not be assessed. This assessment is limited to the copies of the judgments examined and does not assert that the one-year or eight-month term was itself wrong. As a prescriptive matter, the author considers that reasoning for substitute imprisonment in this case should state: (a) the amount of replacement money and its daily conversion value; (b) the maximum principal penalty that serves as the ceiling; and

(c) concrete justice-related reasons where the term differs from the prosecutor's demand. The next question is whether the Supreme Court can review the lack of reasons on cassation.

3. Scope of the Supreme Court's Review on Cassation of the Length of Substitute Imprisonment

The prosecutor filed a cassation appeal on March 13, 2023. In Decision No. 3802 K/Pid.Sus/2023, the Supreme Court found the application formally admissible because it had been filed within the statutory time limit and in the prescribed manner (Supreme Court of Indonesia, 2023, pp. 7–8). The cassation grounds, which the decision states are set out in full in the case file, were summarized as alleging that the judex facti had misapplied the law by finding the defendants guilty under the subsidiary charge and imposing a sentence lighter than the prosecutor had requested (Supreme Court of Indonesia, 2023, p. 8). The summary does not mention the length of substitute imprisonment, so it cannot be established whether the duration was challenged separately. The Supreme Court rejected the arguments on three grounds: (a) the High Court had applied the law properly and reasoned accurately and correctly in light of the legal facts; (b) the legal facts showed a state loss of IDR 277,664,897, of which IDR 200,664,097 was to be imposed as replacement money on Defendant I; and (c) the assessment of evidence could not be reconsidered during cassation proceedings (Supreme Court of Indonesia, 2023, pp. 8–10). The third ground relies on Article 253(1) of the Criminal Procedure Code, which limits cassation review to failures to apply legal provisions or their improper application, procedural irregularities, and excess of authority (Supreme Court of Indonesia, 2023, p. 10; Law No. 8 of 1981, 1981, art. 253(1)). The application was dismissed, leaving the eight-month term in force (Supreme Court of Indonesia, 2023, pp. 10–11).

The Supreme Court's reasoning is assessed using the same indicators. For the reasons indicator, the decision says nothing about the eight-month duration; the legal facts cited stop at the amount of replacement money. For the legal-basis indicator, the provisions section refers to Article 3 in conjunction with Article 18(1), (2), and (3), while the reasoning invokes Article 253(1) of the Criminal Procedure Code to define the scope of review. For accuracy and correctness, the Supreme Court states that the High Court's reasoning was accurate and correct, consistent with Article 53(2) of Law No. 48 of 2009, but this statement concerns the reasoning generally and does not address the duration of substitute imprisonment. This approach is understandable if the duration was not among the cassation grounds. Because the cassation memorandum is not reproduced in full, the only warranted conclusion is that the cassation decision did not resolve the duration issue, not that it rejected the issue on its merits.

The central question is whether insufficient reasons for a term can be reviewed on cassation. Two matters must be distinguished: (a) the selection of a number within the ceiling; and (b) the duty to explain the reasons for that number. Selecting a number lies within the authority of the judex facti as long as it does not

exceed the ceiling in Article 18(3), and, like the assessment of evidence, is generally outside cassation review. A study of village-fund cases also records the Supreme Court's view that cassation concerns the application of law rather than the assessment of evidence (Auliya et al., 2024). The duty to give reasons is different: Articles 50(1) and 53(2) of Law No. 48 of 2009 are statutory provisions, and failure to comply may constitute improper application of law within the meaning of Article 253(1). The Supreme Court has treated unclear and poorly structured judex facti reasoning as a violation of Article 197(1)(d) and (f) of the Criminal Procedure Code (Anindya & Yudisetyo, 2025), while Sibuea et al. (2020) explain that a defective decision is set aside through a higher court. The absence of reasons for the duration can therefore be characterized as an issue of legal application open to cassation, while the eight-month figure itself remains beyond review unless it exceeds the ceiling. This distinction allows the Supreme Court to assess whether reasons were provided without substituting its own term for the trial court's assessment.

The distinction is summarized in Table 3.

Table 3. Matters Subject to Cassation Review Concerning Substitute Imprisonment

Matter under review	Nature of the issue	Open to cassation review?
Selection of a term within the ceiling (one year or eight months)	Assessment by the judex facti of facts and justice	Generally, no, unless the term exceeds the ceiling in Article 18(3).
Whether reasons were given for the selected term	Duty under Articles 50(1) and 53(2) of Law No. 48 of 2009	Yes, as an issue of legal application or procedure.
Legal basis and statutory ceiling	Application of Article 18(3) and Supreme Court Regulation No. 5 of 2014	Yes, as an issue of legal application.

The new Criminal Procedure Code does not alter this distinction. Article 308(1) continues to permit cassation where a legal provision was not applied or was applied improperly, or where the procedure did not comply with the law; paragraph (2) and Article 309(2) preclude reassessment of whether the act was proven and of factual matters and evidence (Law No. 20 of 2025, 2025, arts. 308(1)–(2), 309(2), 361(c)). The selected duration therefore remains outside review, while the duty to give reasons remains reviewable. Article 361(c) confirms that the new provisions do not apply to the Bumi Jaya case, so they are treated as a development that reinforces the analysis, not as the legal basis for the judgment.

The answer to the third research question is that the Supreme Court's scope of review includes examining whether reasons were given for the duration of substitute imprisonment, but does not include replacing the eight-month term with a different term. In this case, the Supreme Court did not exercise that scope because, based on the judgment copy examined, the summarized cassation grounds do not

appear to have challenged the duration. As a prescriptive matter, the author considers that a prosecutor challenging the duration should expressly plead the absence of adequate reasons, and that the Supreme Court should address that issue specifically in its reasoning.

D. CONCLUSION

The judge's duty to give reasons for the duration of substitute imprisonment for replacement money derives from Article 50(1) and Article 53(2) of Law No. 48 of 2009. Article 18(3) of Law No. 31 of 1999 and Supreme Court Regulation No. 5 of 2014 regulate only the upper limit and implementation, without providing indicators for selecting a duration; the absence of guidelines therefore does not mean the absence of a duty. In the Bumi Jaya village-budget corruption case, the District Court did not provide specific reasons for the one-year substitute-imprisonment term and only partially satisfied the legal-basis indicator. The High Court identified a more complete legal basis but relied only on a sense of justice, without a measure, to set the term at eight months. Neither term exceeded the ceiling, but its accuracy could not be assessed. The Supreme Court dismissed the cassation appeal without discussing the duration; its review may include determining whether reasons were given, but not replacing the selected term with another. The author recommends that judges explain the amount of replacement money, the maximum principal penalty, and concrete reasons when the term differs from the prosecutor's demand; that the Supreme Court develop indicators for determining substitute-imprisonment terms; and that prosecutors expressly raise objections to the duration in cassation memoranda.

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