

Accountability for the Crime of Money Laundering with the Predicate Crime of Narcotics

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Abstract. Money laundering or money laundering is a series of activities which is a process carried out by a person or organization against illicit money, namely money from criminal acts, with the intention of hiding, disguising the origin of the money from the government or the competent authorities. Money laundering crimes in Indonesia are regulated in Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes. This study uses a normative juridical approach. As for obtaining data from this discussion, researchers use legally binding materials, namely laws. Data analysis using juridical analysis. Data analysis techniques are qualitative analysis in the form of presentations, descriptions, and descriptions of research results. The results of the study that the crime of money laundering (Money Laundering) is a crime that has a characteristic that the crime of money laundering is a double crime because the form of money laundering is a follow-up crime or is called a follow-up crime, while the initial crime or original crime is called a predicate offense or core crime. only drug crime. In Article 2 paragraph (1) letter c of Law Number 8 of 2010 concerning Prevention of Eradication of ML, it states narcotics as one of the proceeds of wealth which includes crimes that can be charged as ML and vice versa in Article 137 of Law Number 35 of 2009 concerning Narcotics alludes to regarding the crime of money laundering or in the sense of the flow of proceeds from the narcotics crime.

Keywords: Crime; Money Laundering; Narcotics.

1. Introduction

The problematic history of money laundering in English known as "money laundering" is now starting to be discussed in textbooks, whether criminal law or criminology textbooks. In fact, the problem of illicit money has become a

concern of the international community because of its dimensions and implications that violate national borders. As one of the phenomena involving crime, especially the world of crime which is called "organized crime", it turns out that there are certain parties who enjoy the benefits of money laundering traffic without realizing the impact of the losses incurred. Closely related to this last matter is the banking world, which on the one hand operates on the basis of consumer confidence, but on the other hand, will the crime of money laundering continue to run rampant.¹

Sutan Remy Sjahdeini defines the notion of money laundering or money laundering as a series of activities which is a process carried out by a person or organization against illicit money, namely money from criminal acts, with the intention of hiding, disguising the origin of the money from the government or the authorities authorized to take action against criminal acts by means of, among other things, and especially entering the said money into the financial system (financial system). So that the money can then be issued with the financial system as lawful money.²

Money laundering generally originates from the following activities:

- a. Money from drug trafficking
- b. Tax manipulation money
- c. Money resulting from corruption and collusion by certain government officials when manipulating the purchase of government goods
- d. Money resulting from corruption and collusion between government officials and businessmen in handling a project
- e. Money resulting from illegal operations in the form of monopolies carried out by state officials or their cronies
- f. Money from illegal levies carried out by state officials
- g. State confiscated money.

The sale of illegal drugs or narcotics is referred to as a predicate crime which causes the crime of money laundering. However, the predicate crimes of money laundering do not only come from the sale of narcotics (drug trafficking), but also

¹Ardian Sutedi, Money Laundering Crime, Bandung PT Citra Aditya Bakti, 2008, p. 1

²R. Wiyono, SH, 2014 "Discussion of the Law on the Prevention and Eradication of Money Laundering Crimes", Sinar Graphic., Jakarta p. 21-22.

corruption, illegal logging, illegal arms trade, prostitution, gambling, and so on. Revealing money laundering criminal cases also means uncovering the original crime. Money laundering crimes in Indonesia are regulated in Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes.

An example of a case related to the criminal act of money laundering originating from narcotics crimes at the Palangkaraya District Court is decision No350/Pid. Sus/2022/Pn. Plk. That the defendant with the initials SBH (Alm) was prosecuted by the public prosecutor who had been legally and convincingly proven guilty of committing a criminal act. transferring, diverting, spending, paying, granting, entrusting, bringing abroad, changing forms, exchanging currency or securities or other actions on assets that he knows or reasonably suspects are the proceeds of the crime of Narcotics with the aim of hiding or disguising the origin of the Assets Wealth as regulated and punishable by crime in Article 137 letter a of Law no. 35 of 2009 concerning Narcotics. Then sentenced to imprisonment for 6 years in prison and a fine of IDR 1,000,000,000 (one billion rupiah) subsidiary 6 months in prison. The panel of judges in their decision stated that the Defendant SBH (Alm) was legally and convincingly proven guilty of committing the crime of paying, or spending, or keep money and assets in the form of movable objects originating from the crime of Narcotics. Sentenced a sentence against the Defendant by imprisonment for 5 (five) years and a fine of IDR 1,000,000,000.00 (one billion rupiah) provided that if the fine is not paid by the Defendant, then it is replaced by imprisonment for 3 (three) years. three months.

In uncovering drug trafficking cases, the National Narcotics Agency (BNN) always charges drug syndicate networks with money laundering crimes. Disclosure of cases of money laundering in narcotics crimes is one of the state's efforts to impoverish the network of drug syndicates. This impoverishment is expected to provide a deterrent effect for the drug syndicate network. Based on the description above the author wants to examine how the process responsibility for the crime of money laundering with the predicate crime of narcotics. The purpose of this research is to find out the process of law enforcement by law enforcement officials and find out the form of accountability for perpetrators of money laundering crimes with predicate crimes of narcotics.

2. Research Methods

The approach method is a way to approach the object of research so that it relates to how to treat the subject matter in order to find problems in the form of answers to problems and research objectives. The approach used in writing this law is a normative juridical approach, namely discussing legal principles, legal systematics, level of legal synchronization, legal history and comparative law. The author's approach is based on statutory regulations and theories related to

the problem of accountability for money laundering crimes with the predicate crime of narcotics.

Conceptual approach (conceptual approach) is an approach that departs from the views and doctrines that developed in the science of law. The author will find ideas that give birth to legal notions, legal concepts, and legal principles that are relevant to the issue at hand. Understanding of these views and doctrines is a basis for the author in building a legal argument in solving the issues at hand.

Primary legal materials, namely binding legal materials which may consist of: The Criminal Code, The Criminal Procedure Code, Law Number 35 of 2009 concerning Narcotics, Law Number 8 of 2010 concerning Eradication of Money Laundering Crimes, Regulation of the Head of BNN Number 7 of 2016 concerning Investigation and Investigation of Narcotics Crimes, Palangkaraya District Court Decision Case Number No.350/Pid. Sus/2022/Pn. Plk and secondary legal materials, namely legal materials that provide explanations of primary legal materials, namely those which can be in the form of draft laws, research results, scientific work results from legal circles and others.

3. Results and Discussion

Criminal responsibility in foreign terms is said to be *theorekenbaardheid* or criminal responsibility which leads to the punishment of an offender with the aim of determining whether a defendant or suspect is held accountable for a criminal act that occurred or not.³

Roeslan Saleh stated that criminal responsibility is the continuation of objective reproach contained in criminal acts and subjectively fulfills the requirements to be punished for his actions. Or in a simple sense, namely that the principle of legality is the basis for a criminal act, while the principle of no crime without error is the basis for the perpetrator to be punished. This means that the perpetrator of a crime will only be punished if he has a mistake in committing the crime.⁴

As for some of the conditions in criminal liability include being able to take responsibility, mistakes, no excuses, no justification reasons. In connection with the responsibility for laundering crimes, according to Sutan Remy Sjahdeni, money laundering is a series of activities which are processes carried out by a person or organization against illicit money, namely money originating from crime, with the intention of hiding or disguising the origin of the money from the

³Amir Ilyas., *Principles of Criminal Law: Understanding Crime and Criminal Liability as a Condition for Punishment*, (Yogyakarta: Mahakarya Rangkang Offset, 2012), p. 73

⁴Lukman Hakim., *Principles of Criminal Law*, (Yogyakarta: Deepublish, 2020), p. 48

government or the competent authority takes action against criminal acts by primarily entering the money into the financial system so that the money can then be taken out of the financial system as lawful money.⁵

The crime of money laundering (Money Laundering) is a crime that has a characteristic that the crime of money laundering is a double crime because the form of money laundering is a follow-up crime or is called a follow-up crime, while the initial crime or original crime is called a predicate offense or core crime or there is countries that define it as unlawful activity, namely predicate crimes that generate money which is then carried out by the laundering process.

There are also more than one or two people involved in organized crime, including money laundering. Organized in the sense that there is cooperation between actors and each actor can be in a different place. Money laundering as an organized crime is carried out by people who control the world of financial service providers, both banks and non-banks.

However, to proceed to the level of money laundering requires special knowledge of the world of financial services. Even must have computer knowledge. Money laundering is a white collar crime. But there is no clear formulation in the legislation on white-collar crime. The movement of white-collar crime is very broad which can cover the economy, finance and is usually carried out in an organized manner (organized crime).⁶

Money laundering actors have several methods used, including:

a. Buy and Sell Conversions

This method is carried out through transactions of goods and services. An asset can be sold to a conspirator who is willing to buy or sell at a higher price by getting a fee or discount. The difference in price paid is then laundered by business transactions. Goods or services can be converted into legal results through personal or corporate accounts in a bank.⁷

b. Offshore Conversions

The proceeds of crime are converted into areas which are very pleasant places for tax evasion (tax heaven money laundering centers) to then be deposited in

⁵Adrian Formen Tumiwa., "Criminal Act of Money Laundering in the Perspective of Law No. 8 of 2010 Concerning Prevention and Eradication of Crime of Money Laundering", *Lex Crimen*. Vol. VII, No. 2. April 2018. Pg. 75.

⁶Amir, *Op.Cit*, p. 103

⁷*Ibid.*, p. 101.

banks in the area. In countries that are included or characterized as tax heavens, there is a tax law system that is not strict. However, the bank secrecy system is very strict. The business bureaucracy is straightforward enough to allow for strict business secrets and the establishment of a trust fund. To support this effort, perpetrators use the services of lawyers, accountants, and financial consultants and fund managers who are reliable to take advantage of any flaws.

c. Legitimate Business Conversions

This method is carried out by establishing legal business activities as a way of diverting or utilizing the proceeds of dirty money. The dirty money is then converted by transfer, check, or other means of payment to be deposited in a bank account or transferred later to another bank account. usually, perpetrators work with companies whose accounts can be used as terminals to collect dirty money.⁸

The TPPU Law (Money Laundering Crimes) has limited that only assets obtained from 24 types of criminal acts and other crimes punishable by 4 years in prison or more as stated in Article 2, can be charged with money laundering sanctions as stipulated in Article 3 and Article 6. The mode of money laundering crimes from time to time is increasingly complex by using technology and financial engineering which is quite complicated.

The crime of money laundering is closely related to narcotics crime, this is evidenced by the interrelationship between the two laws that regulate both Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes and Law Number 35 of 2009 concerning Narcotics. In Article 2 paragraph (1) letter c of Law Number 8 of 2010 concerning Prevention of Eradication of ML, it states narcotics as one of the proceeds of wealth which includes crimes that can be charged as ML and vice versa in Article 137 of Law Number 35 of 2009 concerning Narcotics alludes to regarding the crime of money laundering or in the sense of the flow of proceeds from the narcotics crime.

The money laundering process must be carried out by taking several stages. Experts have divided the money laundering process into three stages, namely: Placement, Layering, and Integration. Each of these stages can be explained as follows:

a. Placements

⁸Ibid

The first stage of money laundering is placing (depositing) the illicit money into the financial system. At the placement stage, the form of the proceeds of crime must be converted to hide the illegal origin of the money. For example, proceeds obtained from drug (narcotics) trafficking, which generally consist of small denominations of money in big piles and heavier than the drugs themselves, are converted into larger denominations of money. Then the money is deposited directly into an account at the bank, or is used to purchase a number of monetary instruments, such as checks, money orders, etc. and then collects the money and deposits it into accounts at other locations.⁹

b. Layering

In this stage, money launderers try to disconnect the proceeds of crime from the source. This is done by transferring the money from one bank to another and from one country to another several times, which is often done by dividing the amount, so that by splitting and transferring several times it is random. It is no longer possible for the money proposal to be traced by monetary authorities or by law enforcement agencies. Money launderers do this by seeking conversion or moving the funds away from their source.¹⁰

c. Integration

At this stage the laundered money is brought back into circulation in the form of net income, even as a tax object. Once the money has been successfully sought as halal money through layering, the next step is to use the money that has become halal money for business activities or criminal operations activities of criminals or criminal organizations that control the money. Money launderers can choose to use the funds by investing in real estate, luxury goods or companies.¹¹

Decision Number 350/Pid. Sus/2022/Pn. Plk. That the defendant with the initials SBH (Alm) was prosecuted by the public prosecutor who had been legally and convincingly proven guilty of committing a criminal act: transferring, diverting, spending, paying, granting, entrusting, bringing abroad, changing forms, exchanging currency or securities or other actions on assets that he knows or reasonably suspects are the proceeds of the crime of Narcotics with the aim of hiding or disguising the origin of the Assets Wealth as regulated and punishable by crime in Article 137 letter a of Law no. 35 of 2009 concerning Narcotics. Then sentenced to imprisonment for 6 years in prison and a fine of IDR 1,000,000,000

⁹Sutan Remy Sjahdeini. 2004. *The Ins and Outs of Money Laundering and Terrorism Financing*. Jakarta: Graffiti, p. 33-34

¹⁰*Ibid.*, p. 34-35

¹¹*Ibid.* Matter. 37

(one billion rupiah) subsidiary 6 months in prison. Defendant committed the crime of buying and selling narcotics of the methamphetamine type, the amount of sales money that the Defendant had received from the sale of a total of 48 (forty eight) packages of medium crystal methamphetamine + 5 (five) grams per package amounted to IDR received from the buyer still in debt in the amount of IDR 92,000,000.00 (ninety-two million rupiah). for the benefit of transactions that the Defendant made since January 2021 starting to do business buying and selling methamphetamine, until August 2021 the Defendant used it to buy 1 (one) unit of silver Avanza car with NOPOL KH 1124 FG, with a price of IDR 120,000,000.00 (one hundred twenty million rupiah) and cash in the amount of IDR 63,000,000.00 (one hundred sixty three million rupiah) kept by the Defendant in a BRI Syariah account in the name of the Defendant's wife, namely SAHRIAH.

The judge in his consideration said that the defendant had fulfilled the element of Who places, pays, or spends, deposits, exchanges, hides, or disguises, invests, stores, grants, bequeaths, and/or transfers money, property, and objects or assets both in the form of objects movable or immovable, tangible or intangible originating from the crime of Narcotics, and/or the crime of the Narcotics Precursor" so that the defendant has been proven legally and convincingly guilty of committing the crime of "paying, or spending, or keeping money and assets in the form of goods movement originating from the crime of Narcotics. As a result of the actions of the defendant who had committed the crime of money laundering with the initial crime of narcotics,

4. Conclusion

The crime of money laundering (Money Laundering) is a crime that has a characteristic, namely that the crime of money laundering is a double crime because the form of money laundering has a follow-up crime focus or is called a follow-up crime. The crime of money laundering is closely related to narcotics crime, this is evidenced by the interrelationship between the two laws that regulate both Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes and Law Number 35 of 2009 concerning Narcotics. Defendant committed the crime of buying and selling narcotics of the methamphetamine type, the amount of sales money that the Defendant had received from the sale of a total of 48 (forty eight) packages of medium crystal methamphetamine + 5 (five) grams per package amounted to IDR received from the buyer still in debt in the amount of IDR 92,000,000.00 (ninety-two million rupiah). for the benefit of transactions that the Defendant made since January 2021 starting to do business buying and selling methamphetamine, until August 2021 the Defendant used it to buy 1 (one) unit of silver Avanza car with NOPOL KH 1124 FG, with a price of IDR 120,000,000.00 (one hundred twenty million

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