

THE EFFORTS OF THE PROSPERITY IN ERADICATING THE CRIME OF MONEY LAUNDERING

(A Research in the Legal Area of the Medan District Attorney)

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Abstract. As for who became objective from study ie For know the role of the prosecutor's office in eradicating money laundering crimes, knowing the obstacles faced by prosecutors in eradicating money laundering crimes and knowing the efforts made by prosecutors in tackling money laundering crimes . Results study This show Role attorney in eradication follow criminal washing Money started from stage tracking , blocking , confiscation , confiscation And stage return . Obstacles encountered attorney in eradication follow criminal washing Money covers constraint juridical like overlap overlapping authority investigation And transaction finances done in a manner cash. Then constraint technical covering lack of understanding follow Criminal Washing Money By Regulated Society In Law No. 8 of 2010., Lack Courage investigator In Carry out the Investigation Process follow Criminal Washing Money , Lack Amount Owning Investigator Honesty High, Lack Quality / ability understanding investigator To follow Criminal Washing Money . Attempts made attorney in cope follow criminal washing Money through effort juridical And effort technical . Effort juridical like do coordination with operational Police And coordination With Affiliated institutions in the Criminal Justice System (CJS). This is Law enforcement officials should coordinate and cooperate well with all relevant agencies in implementing law enforcement against perpetrators of money laundering so that law enforcement efforts can run well and optimally. Coordination between law enforcement agencies needs to be improved so that there are no overlapping investigations nor money laundering investigation for the predicate crime, so that efforts to eradicate money laundering crimes can proceed quickly and in accordance with what is aspired to. It is advisable for law enforcement officers to carry out good socialization to all relevant agencies and the public in the implementation of law enforcement against perpetrators of money laundering crimes so that law enforcement efforts can run well and optimally.

Keywords: Action Criminal , Criminal Law , Money Laundering

I. INTRODUCTION

The Unitary State of the Republic of Indonesia is a state based on law (*rechtstaat*) and not based on power (*machtstaat*). Law functions to regulate the relationship between one human being and another human being and the relationship between humans and the state so that everything runs in an orderly manner. Therefore, the purpose of law is to achieve peace by realizing legal certainty and justice in society. Legal certainty requires the formulation of rules in statutory regulations that must be implemented strictly. Therefore, all Indonesian people really hope that the law will be upheld and cannot take sides with anyone.

The State of Indonesia is a state based on law, which implies that all actions and patterns of behavior of every citizen must be in accordance with the norms and provisions regulated by the state. When talking about legal issues, we will be confronted with matters related to the social activities of human life in society which are manifested as a process of interaction and interrelationship between one human being and another human being in social life.

A criminal act is an act that violates/violates a predetermined law. Where the law that has been determined is contained in the Criminal Code (KUHP). Destruction and damage to goods is one of the criminal acts contained in the Criminal Code (KUHP). This action has several elements, types, and sanctions, this unlawful act has a high risk value, besides the legal term of imprisonment (sanctions) it also has fatal consequences because destruction and destruction can harm other people who have become victims. Basically, the destruction of other people's property is very detrimental to the owner of the goods, whether the goods are damaged only partially or completely, so that the owner of the goods cannot use his property anymore. In addition, goods that have been damaged are something of value to the owner, with the This destruction of goods is very disturbing the peace of the owner of the goods. Destroying other people's property is a crime. Every crime or violation that occurs is not only seen from the point of view of the person who committed the crime, but in certain cases it can also be seen from the perspective of the victim as the person who is harmed in the crime.

Criminal acts committed by individuals or groups create concern in society. The government as the leader of the nation is expected to play a role in maintaining security and order in social life. All crimes need to be tried in court in order to create legal certainty in society. Every crime or violation that occurs is not only seen from the point of view of the person who committed the crime, but in certain cases it can also be seen from the perspective of the victim as the person who is harmed in the crime.

The term money laundering in 1984 when Interpol investigated the laundering of the United States mafia money known as the Pizza Connection. The method of money laundering or money laundering is carried out by using pizzerias in the United States as a business tool to deceive the sources of these funds. How money laundering or money laundering is done by passing money obtained illegally through a series of complicated financial transactions making it difficult for various parties to find out the origin of the money

Literature Review

1. Definition of Crime and Elements of Crime

a. Definition of Crime

Crime is a term in the science of law that has an abstract meaning. In Dutch criminal law it is known as "*strafbaar feit*" which in Indonesian has translations with various terms, because there is no stipulation of the term translation given by the government for these terms which gives rise to various views to equate the term "*strafbaar feit*", such as "criminal incident", "criminal acts", and various other terms. *Strafbaar feit* is behavior (*handeling*) which is punishable by crime, which is against the law, which is related to mistakes and which is carried out by people who are capable of being responsible.¹ Van Hamel formulates *strafbaar feit* as human behavior (*menselijke gedraging*) which is formulated in wet, which is against the law, which deserves to be punished (*strafwaardig*) and is done by mistake.

Criminal acts have an abstract understanding of concrete events in the field of criminal law, so that criminal acts must be given a scientific meaning and clearly defined to be able to separate them from the terms used in everyday life in society. Crime is a fundamental basis in imposing a sentence on a person who has committed a criminal act on the basis of a person's responsibility for the actions he has committed, but before that regarding the prohibition and threat of an act, namely regarding the criminal act itself, namely based on the principle of legality (principle of legality) . *legality*) principle which determines that no act is prohibited and punishable by punishment if it is not determined in advance in legislation, usually this is better known in Latin as *Nullum delictum nulla poena sine praevia lege* (no offense, no crime without regulation first), this saying comes from von feurbach, a German criminal law scholar.

In this case, against everyone who violates the applicable legal rules, thus it can be said of that person as the perpetrator of a criminal act or perpetrator of a criminal act. However, it must be remembered that the rules of prohibition and threats have a close relationship, therefore the incident and the person who caused the incident also have a close relationship. In connection with this definition of a crime, Bambang Poernomo, argues that the formulation of a criminal act will be more complete if it is structured as follows, that a criminal act is an act which is prohibited by a rule of criminal law and is punishable by punishment for anyone who violates this prohibition.

Crime is a basic part of an error committed against someone in committing a crime. So for there to be an error in the relationship between the situation and the action that caused reproach, it must be intentional or negligent. It is said that intention (*dolus*) and negligence (*culpa*) are forms of wrongdoing, while the term from the notion of error (*schuld*) which can cause a crime to occur is because a person has committed an act that is against the law so that for his actions he must be held responsible for all forms of criminal acts that have been committed in order to be tried and if it has been proven true that a criminal act has been committed by a person, then he can be sentenced to a criminal sentence in accordance with the article that regulates it.

The criminal act in question is that a criminal act or criminal act is always an act that is inconsistent with or violates a rule of law or an act prohibited by a rule of law accompanied by criminal sanctions in which the rules are aimed at acts while the threats or criminal sanctions are aimed at people who did or the person who caused the incident .

II. METHODS

1. Type of research

The type of research used in this study is a normative juridical approach. The normative juridical approach is used to analyze laws and regulations^{related} to criminal acts of conspiracy to commit narcotic crimes.

2. Nature of Research

This research is analytical descriptive in nature, namely research that only describes the state of the object or event without any intention to draw general conclusions.

3. Data Types and Data Sources

¹I Made Widnyana , *Law Criminal* , Publisher Fikahati Aneska , Jakarta , 2010 , p . 34

The type of data used in this research is library research. The data was obtained through several literatures in the form of scientific books, laws and regulations and other documentation related to the prosecutor's efforts in eradicating money laundering crimes.

The source of data used in this study is secondary data in the form of primary legal materials, secondary legal materials and tertiary legal materials obtained through:

- a. The primary legal material is statutory regulations, in this study used the Criminal Code.
- b. Secondary legal material is in the form of reading books that are relevant to this research.
- c. Tertiary legal materials, for example, encyclopedias, materials from the internet, bibliographies and so on.

4. Data Processing and Analysis

Data collected through literature study were analyzed by qualitative analysis. Qualitative analysis is an analysis based on the paradigm of the dynamic relationship between theory, concepts and data which is constant feedback or modification of theories and concepts based on data collected and related to the prosecutor's efforts in eradicating money laundering crimes.

III. RESULTS AND DISCUSSION

a. follow Criminal And Element follow Criminal

The term criminal act is a translation of " *strafbaar feit* " which is prohibited by a legal regulation prohibiting accompanied by threats (sanctions) in the form of certain crimes, for anyone who violates the prohibition. The Criminal Code does not contain an explanation of what exactly is meant by *strafbaar feit* itself. Criminal acts are usually equated with offenses, which come from the Latin word *delictum*.

The offense is listed in the Big Indonesian Dictionary as follows: "Delict is an act that can be subject to punishment because it is a violation of the criminal act law. The definition of a criminal act is an act that is not only formulated by the Criminal Code. The term crime as a translation of *strafbaarfeit* shows the meaning of a person's behavior. There are also those things that a person does not do, but by not doing that, he is done commit a crime. Regarding the obligation to do but not do, which in law determines in Article 164 of the Criminal Code, the provisions in this article require a person to report to the authorities if a crime is about to occur, it turns out that he did not report, then he can be subject to sanctions. Utrecht prefers to use the term criminal act as a translation of *strafbaar feit*, because the criminal event includes an act (*handelen*), or a negligence (*verzuim* or *nalaten*), as well as the consequence, i.e. a condition caused by that act or omission. The same thing was also stated by Wirjono Prodjodikoro by using the term criminal act which was once used in Article 14 Paragraph 1 of the 1950 Provisional Constitution. Substantively, the term criminal act refers to an event that can be caused either by human actions or by natural phenomena. Therefore, an event could be a natural event that is not the result of human actions.

Moeljatno states that the term criminal act can be equated with the English term, namely criminal act, first, because a criminal act also means behavior and consequences, or in other words the result of a behavior prohibited by law. Second, because *a criminal act* is also separated from criminal responsibility, which is called *criminal liability* or *responsibility*. For there to be *criminal liability* (for someone to be convicted), apart from committing *a criminal act* (criminal act), that person must also have guilt (*guilt*).

In connection with the definition of the term *strafbaar feit* itself, there are two views that have developed among criminal law experts, namely the monistic view and the dualistic view. A monistic view is a view that unifies or does not separate between criminal acts and their consequences on the one hand, and criminal responsibility on the other. Meanwhile, the dualistic view is the view that separates actions and their consequences on the one hand, and criminal responsibility on the other. In other words that:

1. The monistic view is a view that sees all the conditions for the existence of a crime, all of which are the nature of the act, where this view provides principles of understanding, that in the sense of a crime, it includes prohibited acts (*criminal act*), and criminal responsibility. / error (*criminal responsibility*).
2. The dualistic view sees that all the conditions for the existence of a crime have been attached to criminal acts, where the dualistic view separates criminal acts and criminal responsibility, namely that criminal acts are only included in criminal acts and criminal responsibility *is not an* element of crime.

Furthermore, there is a view that separates criminal acts and criminal responsibility which is called dualism, held by many legal experts, including the following:

- a. Vos, formulates that *strafbaar feit* is a human behavior that is punishable by law.
- b. R. Tresna, who stated that a criminal event is an act or a series of human actions, which are contrary to laws or other laws and regulations, against which acts of punishment are carried out.
- c. Pompe, by formulating that *strafbaar feit* is nothing other than an action which according to a statutory formulation has been declared as a punishable act.

The definition of action turns out to be meant not only in a positive form, meaning doing something or doing something that is prohibited, and in a negative form, meaning not doing something that is required. Acts that can be subject to punishment are divided into two, namely as follows:

1. Actions that are prohibited by law.
2. People who violate the prohibition .

Some of the elements of a crime as follows:

a. Objective Elements

Elements that exist outside the actor. The elements that have to do with the circumstances in which the actions of the perpetrator must be carried out consist of:

- 1) The nature of violating the law.
- 2) The quality of the doer.
- 3) Causality, namely the relationship between an action as a cause with a reality as a result.
 - b. Subjective Element Elements that are contained or attached to the perpetrator, or that are associated with the perpetrator and include everything that is contained in his heart. This element consists of:
 - 1) Intentional or accidental (*dolus* or *culpa*).
 - 2) The purpose of an experiment, as specified in Article 53 paragraph 1 of the Criminal Code.
 - 3) Various purposes such as contained in crime, theft, fraud, extortion, and so on.
 - 4) Planning in advance as stated in article 340 of the Criminal Code, namely premeditated murder.
 - 5) The feeling of fear is contained in Article 308 of the Criminal Code

b . Law Enforcement Theory

Law enforcement in Dutch is called *rechtstoepassing* or *rechtshandhaving* and in English it is called *law enforcement* , which includes both macro and micro meanings. The macro meaning includes all aspects of community, nation and state life, while in the micro sense it is limited to the process of examination in court including the process of investigation, investigation, prosecution up to the implementation of criminal decisions that have permanent legal force . Abdulkadir Muhammad is of the opinion that "law enforcement can be formulated as an effort to implement the law as it should, supervise its implementation so that there are no violations, and if a violation occurs, restore the violated law so that it is enforced again". Jimly Asshidiqie divides the meaning of law enforcement into two, namely in a narrow sense it is "the activity of taking action against any violations or deviations from laws and regulations through the judicial process." crimes that involve the role of the police, prosecutors, advocates or lawyers and judicial bodies.

Meanwhile, in a broad sense, it is an activity to implement and apply the law and take legal action against any violations of the law committed by legal subjects either through judicial procedures or through arbitration procedures and other dispute resolution mechanisms (alternative disputes or conflict resolutions) .

IV. CONCLUSIONS

Based on description discussion above , then can pulled conclusion following this :

1. Role attorney in eradication follow criminal washing Money started from stage tracking , blocking , confiscation , confiscation And stage return .
2. Obstacles encountered attorney in eradication follow criminal washing Money covers constraint juridical like overlap overlapping authority investigation And transaction finances done in a manner cash . Then constraint technical covering lack of understanding follow Criminal Washing Money By Regulated Society In Law No. 8 of 2010., Lack Courage investigator In Carry out the Investigation Process follow Criminal Washing Money , Lack Amount Owning Investigator Honesty High , Lack Quality / ability understanding investigator To follow Criminal Washing Money , Lack Mastery investigator In Use Progress On Information Technology , Lack Facilities , Infrastructure And Budget For necessity investigator In Inspection follow Criminal Washing Money
3. Attempts made attorney in cope follow criminal washing Money through effort juridical And effort technical . Effort juridical like do coordination with operational Police And coordination With Affiliated institutions in the Criminal Justice System (CJS), Do inspection witnesses to transaction finance follow criminal washing Money through cash And organize seminars public to understanding about Constitution Number 8 of 2010.

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b . Legislation

The Criminal Code
Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes