

RINGKASAN

**PEMBUKTIAN TINDAK PIDANA ASAL (PREDICATE CRIME)
DALAM TINDAK PIDANA PENCUCIAN UANG**

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Dewasa ini tindak pidana yang berskala besar dengan keuntungan harta kekayaan dalam jumlah besar semakin meningkat. Untuk mengamankan harta kekayaan yang diperoleh dari hasil kejahatan tersebut, para pelaku berusaha dengan sungguh-sungguh untuk menyembunyikan atau menyamarkannya sehingga tidak nampak sebagai hasil tindak pidana. Karena menyangkut harta kekayaan dalam jumlah besar, upaya yang mereka lakukan tidaklah sederhana, melainkan harus dilakukan secara rapi dan sistematis. Pencucian uang (*money laundering*) merupakan upaya yang sering dilakukan oleh para pelaku tindak pidana dengan keuntungan harta kekayaan dalam jumlah besar.

Harta kekayaan yang berasal dari berbagai kejahatan atau tindak pidana tersebut, pada umumnya tidak langsung dipergunakan atau dibelanjakan oleh para pelaku kejahatan. Karena apabila harta kekayaan yang berasal dari berbagai kejahatan langsung dipergunakan akan mudah dilacak oleh penegak hukum mengenai sumber diperolehnya harta kekayaan tersebut. Biasanya pelaku kejahatan terlebih dahulu mengupayakan agar harta kekayaan yang diperoleh dari kejahatan tersebut masuk ke dalam sistem keuangan (*financial system*), terutama ke dalam sistem perbankan (*banking system*). Dengan cara tersebut asal usul harta kekayaan tersebut diharapkan tidak dapat dilacak oleh penegak hukum. Upaya untuk menyembunyikan atau menyamarkan asal usul harta kekayaan yang diperoleh dari tindak pidana sebagaimana dimaksud dikenal dengan pencucian uang (*money Laundering*).

Tindak pidana pencucian uang selalu didahului dengan terjadinya tindak pidana lain (tindak pidana asal). Tindak Pidana Pencucian Uang

merupakan salah satu mata rantai dari bentuk kejahatan/pidana. Tindak Pidana Pencucian Uang merupakan bentuk penyertaan partisipasi, khususnya kelanjutan dari suatu tindak pidana. Tanpa adanya pidana asal yang mendahuluinya tidak dapat terjadi perbuatan pidana pencucian uang. Hal ini dapat dilihat sebab perbuatan pidana pencucian uang mempunyai tujuan membersihkan uang haram dari hasil kejahatan agar menjadi uang yang sah.

Hambatan-hambatan atau kendala yang muncul pada pemeriksaan perkara tindak Pidana Pencucian Uang apabila tindak pidana asal belum terbukti. Dalam Penjelasan Pasal 3 ayat 1 Undang-undang No 25 tahun 2003 tentang perubahan undang-undang Tindak Pidana Pencucian Uang dinyatakan bahwa terhadap harta kekayaan yang diduga merupakan hasil tindak pidana tidak perlu dibuktikan terlebih dahulu tindak pidana asalnya untuk dapat dimulai pemeriksaan Tindak Pidana Pencucian Uang. Penjelasan tersebut akan menyulitkan. Hal tersebut berbeda apabila perkara Pencucian Uang tersebut telah terbukti dan diputus oleh pengadilan yang sudah berkekuatan hukum tetap, karena materi pemeriksaan di pengadilan atas tindak Pidana asal (predicate crime) tersebut dapat dijadikan rujukan untuk melakukan pemeriksaan perkara tindak Pidana Pencucian Uang. Bahwa akhirnya tetap saja untuk melakukan pemeriksaan terhadap pelaku tindak Pidana Pencucian Uang, harus ada dan berangkat dari adanya pidana asal (Predicate Crime).

SUMMARY

THE CASE OF VERIFICATION OF PREDICATE CRIME IN THE CRIMINAL OFFENCE OF MONEY LAUNDERING

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These days the criminal offence which have big scale with the advantage of properties estate in gross progressively mount. To pacify the properties estate obtained from the badness result, all perpetrator try very seriously to hide or disguise so that not look as result of the criminal offence. Because concerning properties estate in gross, effort which they do is not modestly, but must be done nattyly and systematic. Money laundering representing effort which is often done by all perpetrator of the criminal offence with the advantage of properties estate in gross.

Properties estate coming and various the the criminal offence or badness, generally is indirectly utilized or expended by all arsonist. Because if properties estate coming from various utilized direct badness will easy to traced by enforcer punish to hit the source obtaining of the properties estate. Usually arsonist beforehand strive estate to properties obtained from the badness enter into financial system, especially into banking system. By the properties estate genesis expected cannot be traced by enforcer punish the. Effort to hide or disguise the genesis of properties estate obtained from the criminal offence as referred to recognized with the money laundering.

The criminal offence of money laundering is always preceded with the happening of the others criminal offence (the criminal offence before). The criminal offence of Money laundering represent one of link from crime. The criminal offence of money laundering is form and also participate, specially continuation from the criminal offence. Without existence of predicate crime preceding it cannot be happened by the crime of money laundering. This matter is visible of cause of crime of money laundering have a purpose to clean the illicit money from badness result in order to become the valid money.

Resistance or constraint which emerge at session of the court of the criminal offence of Money laundering if the the criminal offence before not yet been proven. Eludiation on article 3 of Laws Number 25 of 2003 is said that to anticipated properties represent result of criminal offence, needn't be proved the predicate crime to be able to start of inspection. It is difficult. This matter different if the Money laundering case have been proven and judgment entered, because decision for the criminal offence before (predicate crime) the can be made by a reference to do the session of the court of the criminal offence of Money laundering. That finally just remain to conduct the inspection to perpetrator of the criminal offence of Money laundering, there must be and leave from existence of the criminal offence before (predicate crime).



ABSTRACT

THE CASE OF VERIFICATION OF PREDICATE CRIME IN THE CRIMINAL OFFENCE OF MONEY LAUNDERING SHALAHUDIN SERBABAGUS

The criminal offence of money laundering is an offence in which produce the amount of wealth, is done by the individual and also cooperatively. Effort to hide or disguise the genesis of properties estate obtained from the criminal offence as referred to recognized with the money laundering. This criminal offence is done without violence and the doer usually have a high intellectual stage, and also social status in the community.

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This research uses a normative and doctrinal approaching, that is a research that stands on the normative includes statutory law, legal values and legal doctrines requirements concerning the TPPU offence as being arranged in the laws in knowing the constraint or obstacle of positively law in the laws number 15 of 2002 concerning of money laundering as have to be changed to the laws number 25 of 2003, especially verification of predicate crime.

What will be to claim that an estate is got from an offences is later on disguised with the deed of money laundering. Is hence needed some verification for predicate crime. Felt inequitable if only with the anticipation of last for claiming have been happened the criminal offence.

That is thereby needed some verification for an offences before (predicate crime). The verification remain to must be done by institute in charge in this case through by session of judiciary. Here inafter verification in judiciary will give the answer of whether/what have been happened a crime.

Keyword: Laws Number 25 of 2003 concerning of money laundering,
verification of the predicate crime