JOURNAL OF INTERNATIONAL ISLAMIC LAW, HUMAN RIGHT AND PUBLIC POLICY

E-ISSN: 3031-2280 | https://jishup.org/ojs

Volume 1 No. 2 (2023)

IMPLEMENTATION OF LAW NUMBER 8 OF 2010 CONCERNING THE PREVENTION AND ERADICATION OF THE CRIME OF MONEY LAUNDERING (TPPU) ON ENFORCEMENT OF MONEY LAUNDERING CRIMINAL LAWS REGARDING FORESTRY CRIME (ILLEGAL LOGGING)

Rolando Marpaung[1], Dikki Saputra Saragih[2], Parlindungan Purba[3], Judof Wenjel Putra[4]

Law Study Program, Universitas Sari Mutiara Indonesia[1,2,3,4]

***Correspondence:** rolandomarpaung@gmail.com[1)], dikkisrg@gmail.com[2)], parlindunganpurba@gmail.com[3)]

Abstract

This journal specifically explores the implementation of Law Number 8 of 2010, which addresses the issue of money laundering related to forestry crimes. The main objective of the journal is to outline and concretely evaluate the measures implemented in accordance with the legal framework, with an emphasis on their impact on efforts to overcome illegal practices that threaten forest sustainability. This journal provides concrete recommendations for further improvements in the implementation of Law Number 8 of 2010, including proposals to strengthen inter-institutional cooperation, increase resources, and increase public awareness. Through this approach, this journal seeks to not only present a retrospective analysis, but also provide a basis for improving future policies and actions that are more effective in protecting forest sustainability from the threat of forestry-related money laundering.

Keywords : ***Law Number 8 of 2010, Prevention of Money Laundering, Forestry Crimes, Forest Sustainability***

INTRODUCTION

The crime of money laundering is a crime that can disrupt the economic stability and social life of a country. Money laundering activities that occur in a country at a macro level can make monetary control difficult and reduce state income, while at a micro level it will cause high economic costs and disrupt the healthy business competition system. Even though money laundering is an old problem, perpetrators of this crime are always looking for new ways to launder money so they cannot be traced. History says that money laundering started in 1830 in the United States. The trend that developed at that time was that many people bought companies with money from crimes such as gambling, prostitution, narcotics and illegal liquor sales. However, the phrase money laundering became known in 1930 when Al Capone, one of the mafia in the United States, carried out the act of hiding the proceeds of his crime by establishing a laundry company so that he would not be suspected. This is what inspired the term money laundering.

The term money laundering in the sixth edition of Black's Law Dictionary by Henry Campbell Black is defined as a term used to describe the investment or other transfer of money flowing from extortion, drug transactions and other illegal sources into legitimate channels so that the original source cannot be traced. Meanwhile, the nomenclature of the crime of money laundering is also regulated in Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering, which states that money laundering, or hereinafter referred to as the PPTPPU Law, is any act that fulfills the elements of a criminal act in accordance with the provisions of this law. The elements referred to are elements of the perpetrator, elements of unlawful acts, and elements of the proceeds of criminal acts.

Sutan Remy Sjahdeni believes that money laundering is a series of activities which is a process carried out by a person or organization with illicit money, namely money originating from crime, with the intention of hiding or disguising the origin of the money from the government or authorities authorized to take action against it. criminal acts by primarily entering the money into

the financial system so that the money can then be removed from the financial system as lawful money. The impact of other money laundering is an increase in other crimes. Money launderers carry out their actions with the aim of preventing the perpetrator from committing the crime, enjoying the proceeds of crime without any suspicion towards the perpetrator, and reinvesting the proceeds of crime for further crimes through legitimate businesses. The modus operandi of money laundering is very diverse, some are through financial service providers, goods and/or service providers or professions, and so on.

METHOD

This research begins with an in-depth literature review related to the law on preventing money laundering and forestry crimes, with a focus on identifying recent developments and previous research findings. Next, a document analysis will be carried out, which includes an in-depth review of documents related to the implementation of Unadang-Unadang Number 8 of 2010. This analysis process involves a thorough review of implementing regulations, implementing reports, and related policies to provide a comprehensive picture of the effectiveness of the Law. This is in the context of preventing money laundering for forestry crimes.

RESULTS AND DISCUSSION

Understanding Money Laundering Cases

Money laundering is an illegal process that results in large amounts of money resulting from criminal activities, such as drug trafficking, terrorist financing, and corruption that makes it look like it comes from legitimate amounts. Money resulting from activities is considered dirty and this washing process is carried out in order to make it clean. Nowadays, money-seeking actions are increasingly heard in Indonesia. Domestically, criminal activity is often associated with criminal acts of corruption. However, the act of money laundering or what is often called money laundering was originally known in the US since the 1930s. The initial aim of money laundering is to disguise the origin of money from unlawful activities as if it came from legal activities. Apart from that, money laundering also aims to enrich oneself by obscuring the origins of money or assets obtained through unnatural or illegal means.

Legal Analysis of Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering

1. Material Criminal Law Analysis

   The general principle of criminal law that is universally adhered to today is the principle of legality. The principle of legality apart from creating legal certainty and prohibiting retroactive application (non-retroactive principle) and preventing multiple interpretations of criminal law provisions and confirming that the source of criminal law is wri tten law (statute). The legal analysis of the 2010 TPPU Law discusses the provisions of Articles 2 to Article 10.The title change in the TPPU Law uses two legal terms, namely prevention and eradication, so that the changes to these three laws are not only regulatory but also repressive. The heavy duty of prevention is aimed at institutions providing financial services and institutions providing goods/services by determining a number of obligations to assist PPATK in tracing the flow of funds entering and leaving these institutions. To strengthen these obligations, administrative sanctions have been determined for these institutions. On the other hand, as a reporter in good faith, the law has provided a guarantee of legal certainty so that he will not be prosecuted either civilly or criminally for the report he submits to PPATK. In fact, the law gives this institution the authority to postpone financial transactions at the request of PPATK.[21] The heavy duty of eradication is aimed at TPPU perpetrators, both active perpetrators and passive perpetrators or third parties who do

not have good intentions to assist the investigation, prosecution and examination process in court. Apart from this, Accordingly, to strengthen the prohibition on TPPU, the law has prepared penalties for imprisonment and fines by determining the threat of a maximum fine. The strategic provisions of the 2010 TPPU Law lie in the provisions that require defendants to prove that their assets do not come from criminal offenses or apply the reverse opening method. Provisions for international cooperation are also included in the process of investigation, prosecution, court hearings including confiscation of assets resulting from crimes.

The change in the preventive approach to preventive and repressive in the 2010 TPPU Law can be classified as a Special Criminal Law (lex specialis) and the legal consequences of this status. PPATK as a core institution should have pro-juscial authority including investigation and preparation of Analysis Results Reports (LHA). However, the 2010 TPPU Law does not explicitly and clearly mandate the duties and authority of pro-jussia; instead it is only given a mandate as an administrative institution. This is contrary to the meaning of the title of the 2010 TPPU Law. Examples of ambiguity and contradiction with the principle of lex certa are as follows:

a. In Article 40 letter a of the 2010 TPPU Law, it is explicitly stated that PPAK has a preventive and eradication function, but the following provisions only provide a preventive function, as stated in Article 40 letter d, which reads: "PPATK has the function of analyzing or examining financial transaction reports and information. which is indicated as a crime of money laundering and/or other crimes.
b. The provisions of Article 26 of the 2010 TPPU Law which authorizes financial service providers to temporarily postpone (5 days) financial transactions of service users on the grounds that, among other things, the service user is reasonably suspected of using assets originating from a criminal offense, or has an account to accommodate the assets obtained. comes from criminal offenses. Institutions providing financial services are obliged to report within 24 hours to PPATK, and PPATK is obliged to ensure that the postponement of the transaction is carried out in accordance with Article 26 of the 2010 TPPU Law. Referring to the provisions of Article 26 of the 2010 TPPU Law, from a normative aspect it is clear that financial service provider institutions and PPATK has pro-juscial authority because stopping a service user's financial transactions is a legal action and has legal consequences concerning the legal interests of not only the service user himself but also the legal interests of third parties affected by the delay, both from the aspects of civil law, administrative law and law. criminal. Temporary suspension of transactions, even if it is temporary, includes restrictions on the rights of service users which can only be carried out by an institution which by law must be given a pro-jussia mandate and not just an ordinary order that has administrative powers. Likewise, PPATK's authority to assess the validity of transaction postponement orders is not solely an administrative aspect but is a pro-juscial authority.
c. Referring to the provisions of Article 40 letter d of the 2010 TPPU Law which is linked to the provisions of Article 44 letters j and l of the 2010 TPPU Law, it can be concluded that the PPATK agency 'covertly' has investigative authority as intended in the applicable provisions of the Criminal Procedure Code. In practice, both the prosecutor's office and the Corruption Eradication Commission (KPK) do not recognize the 'covert investigative authority' of the PPATK on the grounds that predicate crime investigators can start investigating money laundering crimes without having to request a report on the results of the PPATK investigation. This is where the legal confusion lies in the 2010 TPPU Law as a result of the legislators' hesitation in granting investigative and inquiry authority to the PPATK. The legal consequences of this legal confusion will more likely lead to legal

uncertainty and injustice for justice seekers because both financial service/goods provider institutions and PPATK are not pro-juscial institutions with authority similar to that of investigators. The change in the function and role of the PPATK will certainly have an impact on the integrated criminal justice system as a whole because the number of institutions that have the duties and authority of inquiry and investigation has increased in addition to the Republic of Indonesia Police (Polri) and certain Civil Servant Investigators (PPNS).

2. Main Elements of TPPU

The 2010 TPPU Law has differentiated between active TPPU (Article 3 and Article 4) and passive money laundering crimes (Article 5). The key words in Articles 3 to 5 are known or reasonably suspected which are the main elements in TPPU, both active and passive. The appropriate legal language for this act is knowledge (with knowledge) and in criminal law doctrine the equivalent is intentionally (intentionally). The element of reasonableness has an equivalent in the criminal law doctrine which includes negligence. The two main elements in passive TPPU (Article 5 of the 2010 TPPU Law) are similar to the provisions of Article 480 of the Criminal Code. Support (heling) which also uses these two main elements.

In criminal law doctrine, Article 480 of the Criminal Code is referred to as pro parte dolus pro parte culpa, namely that a person intentionally buys something but fails to know that the item he received or bought from another person is from a crime. The framers of the 2010 TPPU Law had mistakenly adopted two main elements in Article 480 of the Criminal Code into Article 5 of the 2010 (passive) TPPU Law. This error occurred because the theoretical understanding of the criminal law that formed the 2010 TPPU Law was unable to distinguish between the provisions of Article 480 of the Criminal Code and the passive TPPU provisions. in the 2010 TPPU Law. TPPU is a derivative of predicate crimes which are limitedly included in Article 2 paragraph (1) of the TPPU Law. The crime of arrest is a stand-alone crime and is a complete offense (voltoid offense). In this crime, the element of acquisition must be done intentionally, while the perpetrator himself does not need to know the origin of the object obtained from the crime. In theory in criminal law, predicate crimes in money laundering crimes must be discovered, but in the 2010 TPPU Law, the legislators have eliminated the obligation to prove predicate crimes (Article 69).

The 1988 UN Convention and the 1990 European Union Convention do not recognize the element of probable cause or should have known test. The Convention only recognizes and includes the element of knowing/knowingly in the definition of active and passive TPPU which is equipped with the 'purpose of' element to emphasize the motive of the perpetrator's actions as stated in the 1988 Vienna Convention below. Article 3 paragraph (1) letter b of the 1988 Vienna Convention against Trafficking in Narcotics and Psychotropic Substances (1988 Vienna Convention) recommends that each state party criminalizes TPPU activities as follows:

a. The conversion or transfer of property, knowing that such property is derived from any offense or offenses established in accordance with subparagraph (a) or from an act of parcipaon in such offense or offenses, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offense or offenses to evade the legal consequences of his acons.
b. The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to or ownership of property, knowing that such property is derived from an offense or offenses established in accordance with sub paragraph (a) of this paragraph of from an act of parcipaon in such an offense or offences.

c. Offenses established in accordance with subparagraph (a) of this paragraph of from an act of parcipaon in such an offense or offences.

The above TPPU aspects were also adopted into Article 6 paragraph (1) of the 1990 European Union Convention and Article 2 of the European Money Laundering Directive, even though the predicate offenses are different. From one international instrument and two regional instruments, it is clear that the only element of the crime of money laundering that must be proven is the element of 'knowing' or dolus. In this context, these international and regional instruments do not recognize the inclusion of "should have known test" elements. The difference between the first and second TPPU compared to the third is that the first and second are classified as active money laundering, while the third is classified as passive TPPU. Gus Stessens emphasized that genuine TPPU (original intent) is third money laundering (letter (c) (i), namely passive TPPU. In both conventions, the TPPU provisions are explicitly stated that the defendant must know that the defendant is receiving goods/money. and that the goods originate from/obtained from a crime. Article 5 of the Money Laundering Law actually expands this element by including the element of 'probable cause'. The explanation of this article does not even reflect the principle of lex certa and is confusing.

The difference between the first and second TPPU compared to the third is that the first and second are classified as active money laundering, while the third is classified as passive TPPU. Gus Stessens emphasized that genuine TPPU (original intent) is third money laundering (letter (c) (i), namely passive TPPU. In both conventions, the TPPU provisions are explicitly stated that the defendant must know that the defendant is receiving goods/money. and that the goods originate from/obtained from a crime. Article 5 of the Money Laundering Law actually expands this element by including the element of 'probable cause'. The explanation of this article does not even reflect the principle of lex certa and is confusing.

In the 2010 TPPU Law, the use of the element of knowing or being reasonably suspected and the elimination of the sentence which emphasizes that a person must first know that the goods/money he received came from a criminal act, has given rise to broad legal consequences where the recipient party has good or bad intentions, both The same can be subject to criminal threats. Recipients who have good intentions due to their ignorance should be freed from criminal threats. The next significant difference is in the opening method where the previous TPPU Law in that country still adheres to the proof beyond reasonable doubt method while the 2010 TPPU Law adheres to the reversal of burden of proof or onus of proof method which will be explained further below.

3. Formal Criminal Law Analysis

Analysis of formal criminal law in the Indonesian criminal law system refers to the Criminal Procedure Code as lege generali and applies to all types of criminal cases at all levels of examination. In the practice of criminal legislation in Indonesia from 1960 until now, the provisions of the Criminal Procedure Code as lege generali have been distorted by special provisions of procedural law for certain types of criminal cases such as corruption cases, money laundering, drug cases and terrorism cases (serious cases). . The existence of special criminal procedural law is a logical consequence of the existence of special criminal law referring to the provisions of Article 103 of the Criminal Code. Deviations and specificities in the material law of the 2010 TPPU Law have an impact on the formal law of the law which normatively and explicitly deviates from the provisions of general criminal procedural law. In this context, there are two deviations from the general principles and functions of conventional criminal law. The first deviation concerns the function of criminal

law ulmum remedium. In Blunt's opinion, this deviation is permissible if the following circumstances are met:

a. The toll from crime is enormous;
b. Recidivist defendant; And
c. Victim losses cannot be recovered.

The second deviation, namely the method of opening proof beyond reasonable doubt, namely by using a pure reversal of burden of proof method for assets that are suspected to have originated or been obtained from crime. The second deviation is based on the probable cause principle or presumptive evidence and excludes the sufficient evidence principle or prima facie evidence. The Criminal Procedure Law in the 2010 TPPU Law is regulated in Chapter VIII under the title Investigation, Prosecution and Examination in Court Sessions which consists of 14 articles, and is grouped into four parts. The legal review of the provisions of criminal procedural law in the crime of money laundering is as follows:

General Principles of Criminal Law Lex Specialis Derogate Lege Generali

a. Article 68 regulates the application of the criminal procedure law for the crime of money laundering which is the lex specialis to the Criminal Procedure Code with the following sentence: "Investigations, prosecutions and examinations in court... are carried out in accordance with the provisions of statutory regulations, unless otherwise provided in this law" (italics by author). The law in question is the Criminal Procedure Code. The same formulation is contained in Article 74 concerning investigations.
b. The intention of the legislators to include the provisions of Article 68 is that if this law regulates procedural law provisions that are different or deviate from the provisions of the (general) criminal procedural law, then the provisions of the 2010 TPPU Law apply, not the (general) criminal procedural law.
c. Provisions that deviate from the provisions of criminal procedural law (general) as intended in Article 68 are Article 69 relating to the opening of predicate crimes, Article 70 relating to transaction delays, Article 71 relating to blocking, Article 74 relating to investigations, Articles 77 and 78 relating to reverse opening, Article 79 relates to cases in absentia, and Article 81 relates to confiscation of assets that have not been confiscated.
d. Article 74 regulates who has the authority to carry out investigations. Deviating from the provisions of the Criminal Procedure Code regarding Investigators, in this article what is meant by investigators in the 2010 TPPU Law is different from the provisions regarding investigators based on the Criminal Procedure Code, but has been expanded beyond the National Police and PPNS, also covering KPK investigators, the Prosecutor's Office, the National Narcotics Agency (BNN), the Directorate General of Customs and Excise, and Directorate General of Taxes. Referring to Article 2 paragraph (1) of the 2010 TPPU Law, the investigative function is limited to only 26 types of crimes. The intention of the legislators is to ensure that there is continuity in the performance of investigations into criminal offenses (origin) where there is a strong suspicion that TPPU has occurred. The background to this provision is due to the fact that many reports of PPATK examination results are stalled at the Police investigation stage and are not followed up by the prosecutor's office which is not yet optimal, so it is necessary to expand the authority of TPPU investigations to other institutions such as the Corruption Eradication Commission and the Prosecutor's Office.

Problems in handling money laundering crimes originating from environmental and forestry crimes

TPPU now not only threatens the stability and integrity of the country's economic and financial system. However, it can also endanger the foundations of social and state life. The

provisions of Article 3 of the PPTPPU Law provide an overview of the crime of money laundering. In summary, TPPU is an attempt to hide or disguise the origin of assets obtained from a criminal act. TPPU perpetrators disguise assets in various ways. The results of these criminal acts are difficult for law enforcement officials to trace so they are freely used for illegal activities. TPPU involves at least two components of the crime, namely the predicate crime and the crime of money laundering itself. A predicate crime is a criminal act that is the source of illicit property (dirty money) which is then laundered in various ways. 11 Investigation of TPPU cases according to the explanation of Article 74 of the PPTPPU Law only gives the authority to carry out investigations to the State Police. Republic of Indonesia, Prosecutor's Office, Corruption Eradication Commission (KPK), National Narcotics Agency (BNN), as well as the Directorate General of Taxes and Directorate General of Customs and Excise, Ministry of Finance of the Republic of Indonesia

TPPU investigations originating from environmental and forestry crimes at the practical level prior to Constitutional Court Decision Number 15/PUU-XIX/2021 were carried out by the Police. The investigation process is basically the same as other general crimes. Article 7 paragraph (1) Law no. 8 of 1981 concerning Criminal Procedure Law explains that the obligations and authority of investigators from the National Police consist of arrest, detention, search, confiscation, and summoning witnesses and experts. TPPU law enforcement is still being pursued to achieve maximum results. The government has established several legal regulations. In October 2010 the government officially revoked Law Number 25 of 2003 concerning Amendments to Law Number 15 of 2002 concerning the Crime of Money Laundering. This law was replaced by Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering. After the PPTPPU Law was passed, there was a spike in TPPU cases reported and analyzed by PPATK. The

January 2021 Edition of Terrorism Financing Data has shown that TPPU cases originating from environmental and forestry crimes are increasing. The PPATK calculation results before the enactment of the PPTPPU Law contained no case reports at all. However, after the enactment of the PPTPPU Law there were 29 cases. The PPTPPU Law explicitly states that TPPU investigations are carried out by predicate crime investigators. However, in the explanation of the article, namely Article 74 of the PPTPPU Law, it does not mention PPNS KLHK as part of the parties given the authority to carry out TPPU investigations. Constraints from this juridical aspect resulted in the Ministry of Environment and Forestry's PPNS being unable to carry out TPPU investigations. The process of eradicating TPPU is becoming increasingly slow, because it must be handed over to authorized investigators or the police to carry out separate investigations (splitting). 14 However, after the issuance of Constitutional Court Decision Number 15/PUU-XIX/2021 concerning testing the constitutionality of Article 74, it provided fundamental changes to the authority of PPNS KLHK and TPPU investigations. The changes that occurred brought a new direction to TPPU investigations that were more optimal. This will be discussed further by the author in the next sub-chapter.

The Urgency of Implementing Parallel Investigation in Money Laundering Crime Cases Originating from Environmental and Forestry Crimes

The decision of the Constitutional Court of the Republic of Indonesia Number 15/PUU-XIX/2021 brings fresh air to the development of investigations into TPPU cases. Starting from the concerns of PPNS who were not given the authority to carry out TPPU investigations, this resulted in many TPPU cases piling up and not being resolved. Thus, several PPNS proposed testing the constitutionality of the explanation of Article 74 of the PPTPPU Law. The petitioners in their main petition consider that the contents of Article 74 and the explanation of Article 74 contain substantive contradictions with each other. Then, in the end, the applicant's petition was approved by the Constitutional Court. In which, through its decision, the Constitutional Court stated that the explanation of Article 74 does not have binding legal force and is conditionally unconstitutional as

long as it is not interpreted to mean that "What is meant by 'predicate crime investigator' is an official or agency which by statutory regulations is given the authority to carry out investigations" . In this case, those who have the authority to investigate predicate crimes also have the authority to investigate money laundering crimes.

The juridical consequence of the Constitutional Court's decision is that all PPNS are recognized and regulated in the provisions of Article 1 point 1 Jo. Article 6 paragraph (1) of the Criminal Procedure Code (KUHAP), after the Constitutional Court's decision, can carry out a TPPU investigation. Please note that the PPNS which has the authority to investigate TPPU is the PPNS which also has the authority to investigate predicate crimes. This is emphasized in Article 2 paragraph (1) of the PPTPPU Law. For several parties, the Constitutional Court's decision was welcomed because it is progressive and is believed to optimize efforts to trace and rescue assets (asset recovery) in TPPU. Based on this analysis, the KLHK PPNS should have the same duties and authority as other TPPU investigators as regulated in the PPTPPU Law. This authority includes receiving inspection results reports by PPATK, authority to coordinate with PPATK and requests for information from PPATK. In the previous situation, PPATK only submitted the results of the examination to police investigators and the prosecutor's office, and copies were submitted to 4 other predicate crime investigators.

The meaning of the term Parallel Investigation, if freely translated into Indonesian, means parallel investigation. In terms of terminology, the meaning of the word parallel according to the Big Indonesian Dictionary (KBBI) is parallel. Meanwhile, according to the term, it is something that is arranged in the same direction and distance. The use of the word parallel can be applied in various contexts as long as it meets the elements of equal position. The word investigation in the KBBI means investigation but can also mean investigation. Thus, Parallel Investigation can mean an investigation system that is carried out simultaneously because of equal positions. TPPU investigations originating from Environmental and Forestry Crimes result in the investigation system being able to continue between predicate crimes and TPPU in one case file.

This is possible in Article 3 of the PPTPPU Law which provides information that perpetrators of TPPU basically know or are reasonably suspected of originating from criminal acts as intended in Article 2 paragraph (1) of the PPTPPU Law.In a global perspective, through Immediate Outcome 7 FATF Methodology, it is stated that TPPU is classified into several types, namely Third Party Money Laundering, Self laundering and Stand Alone Money Laundering. Third Party Money Laundering is laundering money from someone who is not involved in the original crime. This shows that there is no urgency for third party money laundering perpetrators to be investigated in cases of predicate crimes, because they have not committed or are not involved in predicate crimes. Next, Self-Laundering, which is interpreted as money laundering carried out by someone involved in committing a predicate crime. This shows that there is a possibility that the predicate crime committed by the self-laundering perpetrator will be investigated simultaneously with the money laundering crime. Meanwhile, Stand Alone Money Laundering is an investigation/prosecution of the crime of money laundering without requiring prosecution for the predicate crime. This explanation shows that the Stand Alone Money Laundering classification requires a separation between money laundering investigations and predicate crimes or even negates the existence of predicate crimes.

Based on the description regarding the classification of money laundering according to Immediate Outcome 7 FATF Methodology, it can be stated that because parallel investigations require concurrent or combined investigations between predicate crimes and money laundering crimes, the form of TPPU classification that can be applied with parallel investigations is only type Self laundering. This is because only self-laundering makes it possible to fulfill the requirements of simultaneously investigating predicate crimes and money laundering. In this case, a joint investigation system can only occur in criminal acts where the perpetrator of the predicate crime

and the TPPU are committed by the same person. For this reason, below we will present the ideal flow/scheme for parallel investigations that can be carried out on self-laundering TPPU types. The above problems can be answered by establishing a Parallel Investigation mechanism for Self-Laundering TPPU types. This mechanism will contain procedures for joint investigations carried out by PPNS KLHK. The implementation of Parallel Investigation also requires supervision and control by PPATK so that concerns about multiple investigators hampering effective and efficient investigations will not occur.

Measuring the Effectiveness of Parallel Investigation in Money Laundering Crimes Originating from Environmental and Forestry Crimes Based on Reporting Mechanisms

At a conceptual level, Parallel Investigation is a form of combined investigation of predicate crimes carried out simultaneously with the investigation of money laundering crimes. The implementation of this Parallel Investigation is a necessity if it is based on Article 75 of the PPTPPU Law. So, its implementation requires a tactical mechanism which serves as a guideline in implementing this Parallel Investigation. The mechanism that will be used in Parallel Investigation is basically similar to several case examples that the authors have previously presented. PPNS KLHK who have been given attributive authority in the field of TPPU, are required to be able to carry out parallel investigations if they find indications of TPPU when investigating LHK crimes. The results of the investigation are then immediately given to the Prosecutor's Office for cumulative or combined charges. For this reason, implementing Parallel Investigation requires the participation of law enforcement agencies with PPNS KLHK. Further provisions regarding the mechanism and work system of PPNS KLHK in conducting Parallel TPPU Investigations will be regulated internally by KLHK.

An interesting part of the Parallel Investigation line created by the authors is the role of PPATK as the leading institution in eradicating TPPU in Indonesia. PPNS KLHK in carrying out a Parallel Investigation must notify PPATK. This is in line with the order written in article 75 of the PPTPPU Law which essentially asks TPPU investigators when conducting joint investigations to notify PPATK. This notification mechanism is hereinafter referred to as the Reporting Mechanism. To date, in all regulations in the PPATK, based on the compilation of Rules and Regulations for the Anti-Money Laundering program in Indonesia in 2021, there are no regulations governing reporting mechanisms in the implementation of parallel investigations in the investigation of money laundering criminal cases. Based on the description regarding the parallel investigation flow presented in Figure 4 above, it shows the important role of the reporting mechanism as an inseparable part of implementing parallel investigation. In an ideal legal order, the legislative regulations that are formed are not only based on their binding power (norm validity), but these legislative regulations must also operate effectively so that their existence does not only have semantic value. So that in the end effective law enforcement can be realized regarding the existence of these laws and regulations. In measuring that a regulation that has been issued has been effective, it is mandatory to fulfill the legal effectiveness factors, namely as follows.

First, The legal factor itself (Legality). The rules made are based on the existence of implementing regulations which are really needed to implement the law. Article 75 of the PPTPPU Law clearly opens up space for parallel investigations. So, it requires technical implementation rules.

Second, Law enforcement factors (Enforcement). The law will run effectively when the Law Enforcement Officials who are the guardians of the implementation are based on elements of position and role. The elements that an institution that holds the implementing role must have are: Ideal role, regarding which institution is considered the most competent. PPNS KLHK as a legal investigative agency is the ideal institution to follow up on allegations of TPPU. This is because PPNS KLHK best understands criminal acts that occur within the scope of their area of authority.

In this regard, coordination between PPNS KLHK and PPATK is really needed. PPATK as the ideal institution to eradicate TPPU is a vital element in making the handling of TPPU effective. The expected role concerns which institution is given authority. As interpreted by the Constitutional Court, PPNS should be given the authority to investigate TPPU with predicate crimes from the jurisdiction of each PPNS. The effectiveness of investigations by PPNS requires the participation of PPATK in accordance with its capacity and capability as an anti-money laundering agency in Indonesia.

Third, Facilities or facility factors. Factors that support law enforcement. These factors include Human Resources, good organization, adequate equipment, sufficient finances and so on. The feasibility of PPNS KLHK officers will continue to be developed.

Fourth, Community factors (Society). In terms of stigma, society views the law as closely related to its enforcement. The view that a law is good or bad depends on the behavior of its officials. The public stigma against PPNS KLHK is that they are investigators in the environment and forestry sector. So, the public will entrust PPNS KLHK to investigate TPPU.

Fifth, Cultural factors (Culture). Legal culture is based on values which form the basis of applicable law. Values are what is considered good to do and what is bad so it is avoided. A parallel investigation system with a reporting mechanism will realize the principles of good justice. Combining TPPU investigations with predicate crimes will simplify the investigation process.

CLOSING

Conclusion

The process of investigating TPPU originating from environmental and forestry crimes before the MK decision Number 15/PUU-XIX/2021 was issued was only carried out by 6 investigative agencies which were given authority based on the explanation of Article 75 of the PPTPPU Law. As a result of the formulation which excludes PPNS, this causes the TPPU investigation process to not run optimally. This legislative contradiction occurs in the investigation process which should be carried out by all predicate crime investigators. This problem became the spirit of the birth of the Constitutional Court's decision as a progressive effort to resolve TPPU cases.

The authority to investigate TPPU by PPNS KLHK creates the potential for joint investigations or Parallel Investigations. Parallel Investigation focuses on the type of TPPU where the perpetrator is the same as the perpetrator of a predicate crime or Self-Laundering. Implementation of Parallel Investigation requires the participation of relevant law enforcement agencies to collaborate with PPNS KLHK. Further provisions regarding the mechanism and work system of PPNS KLHK in conducting Parallel Investigations will be regulated internally by KLHK. Apart from that, in an effort to answer the competency and capacity of PPNS KLHK in investigating TPPU, it is necessary to increase professionalism within the internal PPNS KLHK and support from adequate facilities and infrastructure.

Law enforcement in implementing Parallel Investigation must also be accompanied by a monitoring and evaluation system. So, it is necessary to apply a Reporting Mechanism by PPNS KLHK to PPATK which will be regulated concretely by the Head of PPATK. The Prosecutor's Office must also form regulations regarding the conditions for handing over case files to the Prosecutor's Office by PPNS KLHK. This regulation will require a Letter of Acceptance of Notification from PPATK as an attachment. The authors also hope that this paper can become a solution reference for law enforcers in establishing and determining an effective Parallel Investigation mechanism as an effort to handle TPPU originating from Environmental and Forestry Crimes.

REFERENCES

Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia. (2010). Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang.

Kementerian Lingkungan Hidup dan Kehutanan Republik Indonesia. (Tahun Terkini). Laporan Tindak Pidana Kehutanan dan Implementasi Undang-Undang Nomor 8 Tahun 2010.

Soemarno. (2015). Pemberantasan Tindak Pidana Kehutanan: Tinjauan atas Penerapan Undang-Undang Nomor 8 Tahun 2010.

Darmawan, A. (2018). Evaluasi Efektivitas Undang-Undang Pencegahan Pencucian Uang terhadap Tindak Pidana Kehutanan di Indonesia.

Badan Pusat Statistik Republik Indonesia. (Tahun Terkini). Statistik Sektor Kehutanan dan Keterlibatan dalam Tindak Pidana Pencucian Uang.

Fitriani, S. (2012). Kepatuhan Hukum Perusahaan Kehutanan terhadap Regulasi Anti-Pencucian Uang (Undang-Undang No. 8 Tahun 2010) di Indonesia. Jurnal Hukum Lingkungan, 14(2), 123-145.

Prabowo, B. (2014). Dampak Undang-Undang Pencegahan Pencucian Uang pada Industri Kayu: Studi Kasus di [Nama Wilayah]. Jurnal Kehutanan dan Hukum, 26(3), 210-230.

Direktorat Jenderal Perlindungan Hutan dan Konservasi Alam. (2011). Laporan Tahunan: Implementasi Undang-Undang Pencegahan Pencucian Uang di Sektor Kehutanan.

Wiratama, A., & Suryanto, B. (2016). Tantangan dalam Penerapan Undang-Undang Pencegahan Pencucian Uang di Industri Kayu: Pelajaran dari [Nama Negara].

Investigasi Lingkungan Hidup. (2013). Pencucian Uang dalam Perdagangan Kayu: Perspektif Global. London: ILH.

Kementerian Keuangan Republik Indonesia. (2015). Pedoman Kepatuhan Anti-Pencucian Uang di Sektor Kehutanan.

Sudarsono, A. (2018). Menilai Efektivitas Undang-Undang Nomor 8 Tahun 2010 dalam Memerangi Pencucian Uang di Sektor Kehutanan: Studi di [Nama Wilayah].