





Parallel Investigation As An Effective Step In Handling Cases Of Money Laundering Crimes Arising From Forestry And Environmental Crimes

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Abstract

Introduction: Parallel Investigation, is a concept in the enforcement of money laundering or money laundering, in Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering or hereinafter referred to as the Anti-Money Laundering Law Article 74 stipulates that "The ML investigation is carried out by investigators predicate offense in accordance with the provisions of the procedural law and the provisions of laws and regulations, unless otherwise provided for by this law". Money laundering is a further crime from the predicate crime, one of the predicate crimes that has a high risk of money laundering is forestry and environmental crimes, the provisions of the Anti-Money Laundering Law article 74 and the issuance of the Constitutional Court decision Number 15/PUU-XIX/2021, which applies the principle of parallel investigation in money laundering originating from forestry and environmental crimes.

Purposes of the Research: The purpose of this study is to find out the effectiveness of using the principle of parallel investigation in handling money laundering offenses originating from forestry and environmental crimes.

Results of the Research: The results of the study show that Parallel Investigation is an effective step in handling money laundering offenses arising from forestry and environmental crimes because Parallel investigation is a concept where investigators of predicate crimes, namely PPNS, can handle money laundering offenses investigations if there are findings in the investigation of predicate crimes, which will reduce the total costs. and it will not take a long time because there is no longer a need for a new investigation by combining ML investigations and forestry and environmental crimes into a single investigation process.

Keywords: Parallel Investigation; Money Laundering; Forestry and Environmental Crimes

1. Introduction

Parallel Investigation , is a concept used in enforcing money laundering or what is known as money laundering . The term *money laundering* ring was first discovered in the United States in 1986 which originated from the activities of the big mafia who bought clothing companies as a place to invest or mixing their very large crime proceeds from extortion, illegal sale of liquor, gambling and prostitution. In fact, the

crime or practice of money laundering has existed since the 17th century when fugitives from France tried to hide and protect escape funds. The crime of money laundering *does* not have the definition stated explicitly in the TPPU Law, but in Article 3 of the TPPU Law which stipulates that "everyone who places, transfers, diverts, spends, pays, grants, deposits, takes abroad, changes form, exchanging with currency or securities or other actions on assets that are known to result from crime or reasonably suspected to be the result of a crime as referred to in Article 2 paragraph (1) with the aim of hiding or disguising the origin of assets" and Article 4 of the TPPU Law which stipulates that "everyone who hides or disguises the origin, source, location, designation, transfer of rights, or actual ownership of assets that he knows or reasonably suspects is the result of a criminal act as referred to in Article 2 paragraph (1)" , then it can be seen that money laundering is the act of placing, transferring, m transfer, spend, pay, donate, deposit, take abroad, change form, exchange with currency or securities and hide or disguise the origin, source, location, allotment, transfer of rights, or ownership of known or suspected assets originate from a crime. Yunus Husein tries to define money laundering as an attempt to obscure the origin of assets resulting from criminal acts so that the assets appear to have originated from legitimate activities.¹

Parallel Investigationis based on Law Number 8 of 2010 Concerning the Prevention and Eradication of Money Laundering Crimes or hereinafter referred to as the TPPU Law where in Chapter VIII the Investigation Section Article 74 and Article 75 where in Article 74 stipulates that "Investigation of the crime of money laundering is conducted by investigators of predicate crimes in accordance with procedural law provisions and provisions of statutory regulations, unless otherwise stipulated under this Law" whereas Article 75 of the Money Laundering Law stipulates that "in the event that investigators find sufficient initial evidence of the occurrence of a criminal act of money laundering and an act of predicate crime, the investigator combines the predicate crime investigation with the money laundering crime investigation and notifies the PPATK". This is justified *through Interpretative Note to Recommendation 30 (responsibilities of Law Enforcement and Investigative Authorities) point 3 FTAF Recommendations* , which in point 3 states that parallel financial investigations refer to conducting joint financial investigations or in the context of criminal investigations into money laundering and/ or predicate crime.²

¹Yunus Husein, *Rezim Anti Pencucian Uang Berdasarkan Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Tindak pidana Pencucian Uang*, makalah dalam Kegiatan Training Pangarustamaan Pendekatan Hak Asasi Manusia dalam Pemberantasan Korupsi di Indonesia Bagi Hakim Seluruh Indonesia, Yogyakarta, 2013.

²Fithriadi Muslim, Direktur Umum PPATK, Rencana Aksi Optimalisasi Pennaganan TPPU Pasca Putusan MK Nomor 15/PUU/XIX/2021

Based on the description of the definition presented, it can be seen that the crime of money laundering is a type of crime that is present or arises as a result of a crime that occurred before or in other words, the crime of money laundering is a type of *follow-up crime* of a predicate crime. *Follow-up crime* is an understanding of the crime of money laundering which requires that the crime of money laundering can occur after a predicate crime or *predicate crime has been committed*.³

One type of predicate crime that has a high risk of money laundering is a forestry and environmental crime based on the forest area in Indonesia which has an area of approximately 108,340,000 hectares which is one of the largest forests in the world and has become the lung of world lung. This forest area consists of; a. conservation area 21,720,000 hectares, b. protected forest 29,100,000 hectares, c. permanent production forest 27,650,000 hectares, d. limited production forest of 16,000,000 hectares and e. conversion production forest of 13,675,000 hectares which are spread across various islands.⁴

The extent of forests owned by Indonesia, causes the government to be able to maintain and preserve and protect Indonesia's forests. The form of responsibility of the Indonesian government in preserving, protecting and safeguarding Indonesian forests is mandated in article 33 paragraph (3) of the 1945 Constitution of the Unitary State of Indonesia, hereinafter referred to as the 1945 Constitution, explaining that; "earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people"

Mastery of natural resources by the state does not imply that all these natural resources are owned, but rather that the state regulates and manages everything related to these natural resources, especially in the forestry and environmental sectors. In line with Jeremy Bentham's opinion regarding the purpose of law in *utilitarian theory* namely; "The purpose of the law is that the law can guarantee happiness to individuals then to the people. Bentham's *utility* principle reads; *the greatest happiness of the greatest number* , which means the greatest happiness for as many people as possible."⁵In addition to state responsibility in article 33 paragraph (3) of the Constitution of the Unitary State of the Republic of Indonesia, it is also contained in Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction. In the consideration section it stipulates that; "Utilization and use of forest areas must be carried out in an appropriate and sustainable manner by considering ecological, social and economic functions and to

³ Mahkamah Agung, *Naskah Akademis Money Laundering*, Jakarta: MA RI, 2006, hal. 58.

⁴Wademar Hasiholan dan suprayitno, *Modul Penegakan Hukum Bidang Kehutanan, Pusat Pendidikan dan pelatihan SDM Lingkungan Hidup dan Kehutanan*, Bogor, 2015, hal 1

⁵Muhamad Erwin, *Filsafat Hukum; Refleksi Kritis Terhadap Hukum*, Rajawali Press, Jakarta, 2011, hal 180

maintain sustainability for present life and the lives of future generations". Recently, money laundering in the forestry sector has been widely discussed, especially in the handling of the crime of money laundering itself. The emergence of the Constitutional Court decision Number 15/PUU-XIX/2021 is a serious discussion regarding the lawsuit against Article 74 of the Money Laundering Law, in that article it states that the crime of money laundering is carried out by investigators of predicate crimes in accordance with procedural law provisions and provisions of laws and regulations, unless otherwise stipulated under the TPPU Law. This is not in line with the elucidation of Article 74 of the Money Laundering Law whereby what is meant by predicate crime investigators are officials who are authorized by law to conduct investigations namely; The Indonesian National Police, the Attorney General's Office, the Corruption Eradication Commission, the National Narcotics Agency, as well as the Directorate General of Taxes and the Directorate General of Customs and Excise, the Ministry of Finance of the Republic of Indonesia, this creates problems in the law enforcement process for handling money laundering cases.

The existence of restrictions in the elucidation of Article 74 has prevented predicate crime investigators (PPNS) from carrying out investigations into findings of money laundering crimes, which can only be carried out by institutions contained in the elucidation of Article 74. Even though PPNS is given special authority as an investigator to investigate as referred to in the Criminal Procedure Code. PPNS in this case are certain Civil Servant Investigators in the field or scope of forestry and environmental agencies, both central and regional, who by law are given special authority in investigating forestry and environmental crimes. It was against these restrictions that various kinds of losses occurred by the state in the forestry sector, because they were only limited by six state institutions that had the authority to investigate ML. For example, data from the Ministry of Forestry for 2003,⁶ stated that the actual condition of state losses arising from illegal logging practices. Timber smuggling and distribution of illegal timber in several areas;

- a. Illegal logging and distribution of illegal timber reaches a magnitude of 50.7 million M³/year, with an estimated financial loss of Rp. 30.42 trillion/year. In addition, there are ecological losses, namely the loss of several types/species of biodiversity.
- b. Timber smuggling from Papua, East Kalimantan, West Kalimantan, Central Kalimantan, Central Sulawesi, Riau, Nangroe Aceh Darussalam, and Jambi to

⁶Human Right Watch, Indonesia: *"Wild Money", The Human Right Consequences of Illegal Logging and Corruption in indonesia's Forestry Sector*, New York:HRW, 2009 , hal 55

Malaysia, China, Vietnam and India reaches 10 million M³ / year. Especially from Papua it reaches 600,000 M³ / month with a loss of IDR 600,000 billion / month, or IDR 7.2 trillion / year.

- c. The circulation of illegal timber in the Pantura reaches 500.00 M³ / month, around 500-700 ships per month, with a financial loss of Rp. 450 billion/month, or Rp. 5.4 trillion/year.

Data for August 2011 by the Ministry stated that the potential loss to the state due to forest area release permits in 7 provinces in Indonesia was predicted to cost the state nearly IDR 273 trillion. This loss arose from the opening of 727 plantation units and 1722 mining units which were considered problematic. Based on the background explanation of the problem, we raised the title "**Parallel Investigation as an Effective Step in Handling Cases of Money Laundering Crimes Arising from Forestry and Environmental Crimes**"

2. Research methods

This study uses normative legal research methods. Peter Mahmud Marzuki, argues that normative legal research which is another name for doctrinal legal research is also known as library research or document study because this research is carried out or shown only on written regulations or other legal materials.⁷

3. Results and Discussion

A. *Parallel investigation as an effective step in handling money laundering crimes arising from environmental and forestry crimes.*

The crime of money laundering is a high-class crime that can result in large losses to the state, so the process must be minimized so that there are no obstacles that can slow down the trial process. The state suffers huge losses so that the perpetrators must be prosecuted under the Money Laundering Crime Act, so that it gives a deterrent effect to the perpetrators and can seize the wealth as a whole and return it to the state. However, injustice arises from the *limitations of* investigators who are not in accordance with Article 2 of the Money Laundering Law regarding predicate crimes and do not provide legal certainty by contradicting each other between Article 74 and Article 2 of the Law *a quo*, which in Article 74 only gives authority to six state institutions to dealing with

⁷Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana, 2016), <https://doi.org/340.072>, 35.

money laundering crimes. It should be noted that in Indonesia the Law on Money Laundering Crimes states that there are 26 types of predicate crimes that provide opportunities for money laundering to occur;

- a. Corruption;
- b. Bribery;
- c. Narcotics;
- d. Psychotropics;
- e. Labor Smuggling;
- f. Migrant Smuggling;
- g. In Banking Sector;
- h. In the field of Capital Markets;
- i. In the field of Insurance;
- j. customs clearance;
- k. Excise;
- l. Trafficking in Persons;
- m. Illegal Arms Trade;
- n. Terrorism;
- o. Kidnapping;
- p. Theft;
- q. darkening;
- r. Fraud;
- s. Counterfeiting Money;
- t. Gambling;
- u. prostitution;
- v. In the field of Taxation;
- w. In the forestry sector;
- x. In the Environmental Sector;
- y. In the field of Maritime Affairs and Fisheries; Or
- z. Other crimes punishable by imprisonment of four or more, which were committed in the territory of the unitary state of the Republic of Indonesia and these crimes are also crimes according to Indonesian law.

Of the 26 types of criminal acts mentioned in the TPPU Law there are Forestry and Environmental Crimes which must be investigated by forestry and environmental PPNS because PPNS has authority in this matter. The granting of authority to forestry and environmental PPNS to conduct investigations because they could find indications of money laundering crimes from perpetrators of forestry and environmental crimes however, in the existing status quo PPNS is limited by the existence of article 74 which clearly provides limits to investigators. So that it causes smuggling of norms and causes an explanation of articles that are contrary to the body of the article.

The restrictions given to PPNS make it so that when there are indications of money laundering PPNS forestry and the environment 9 must report suspected money laundering to the police to handle the report, this creates new reporting regulations that must be followed up by the police. The handling process like this causes it to be inconsistent with the principles of administering judicial power, namely trials that are simple, fast and low cost. This principle is expressly stated in Article 2 paragraph (4) of Law Number 48 of 2009 concerning Judicial Power.

Parallel investigation in handling money laundering crimes is an effective step to handle criminal cases, especially in the forestry and environmental sectors. *Parallel investigation* in Article 75 of the Money Laundering Law states that "in the event that investigators find sufficient preliminary evidence of money laundering and predicate crimes, investigators combine the predicate crime investigation with the money laundering investigation and notify PPATK. Then in the *Interpretative Note to Recommendation 30 (responsibilities of Law Enforcement and Investigative Authorities) point 3 FTAF Recommendations* states that "parallel financial investigations", referring to conducting joint financial investigations, or in the context of criminal investigations into money laundering and or predicate crimes.

Parallel investigation is an effective step, this is because when there is an indication of a criminal act of money laundering in the forestry and environmental sector, this can be immediately followed up by the PPNS for forestry and the environment without having to report to the police which causes new reports to occur. Even though there are several money laundering crimes where the authority lies not only with the police, such as the fields of environment and forestry as well as maritime affairs and fisheries. If the overall investigative authority is given to the police, the police will be overwhelmed in dealing with predicate crimes. In Indonesia, there are 26 types of predicate crimes that will be delegated to the police to conduct investigations. The data found that from the results of inspections and proactive information from PPATK to the competent authorities, only 32.6%. From these results 10% are still in the investigation stage, 8.9% are in the investigation stage, and only 4% have been decided and have permanent legal force. The low ratio of follow-up on the report can occur due to a long process, then no elements of a crime are found by the agency authorized to receive the report or a lack of investigative resources by the authorized agency. From the reporting results that have been responded to by agencies amounting to 32.6% of the total PPATK reports, while the remaining 67.4% have not been responded to. After the promulgation of Law

number 8 of 2010, 66.4% of PPATK reports are still the workload of the police and prosecutors, with the majority of reports being made to the police.⁸

The tracing results from the above data can be seen in the ineffectiveness of handling money laundering crimes when given to institutions that have obtained legal legitimacy by law. Through this parallel investigation, it can provide a more optimal role in dealing with money laundering crimes originating from predicate crimes, because the investigator's resources will increase and will be carried out optimally so that the police are not overwhelmed in handling cases. The granting of authority to forestry and environmental civil servant investigators to investigate alleged money laundering crimes is also appropriate because they see that predicate crime investigators have a better understanding of the criminal acts that occurred. This is also in line with the theory of authority which states that attributive authority cannot be delegated except by law. This is in line with Law Number 30 of 2014 concerning Government Administration, in article 12 paragraph (3) which stipulates that attribution authority cannot be delegated unless it is regulated in the 1945 Constitution of the Unitary State of the Republic of Indonesia and or law. *Parallel investigation* is considered very effective because the problem of money laundering crimes arising from predicate crimes will be easily resolved so that the return on state losses will be even greater, because there will be cooperation between state institutions.

In Law No. 8 of 1981 the Criminal Procedure Code (KUHAP) regulates the authority of investigators originating from the National Police. This authority is very wide ranging from arrest, detention, search, confiscation, to summoning witnesses so that the process is not a simple process, therefore *parallel investigation* exists as a solution to dealing with this crime of money laundering, because on the other hand the police also need the role of PPNS. The role of PPNS is very important because considering that the police have limited resources including;

1. Human Resources

Until now police resources are still facing challenges in terms of quality and quantity, the ratio between the number of police officers and the community is not yet balanced. has an impact on the minimum number of National Police personnel who are qualified as investigators, while in quantity many members of the National Police do not understand the substance of certain criminal acts.

⁸Putusan MK Nomor 15/PUU/-XIX/2021, hal 11

Therefore PPNS in the investigation of a particular crime is an effort to overcome the constraints of the National Police's resources.⁹

2. Facilities and infrastructure

In certain criminal acts, the police institution does not yet have adequate investigative facilities and infrastructure compared to PPNS, including customs actions that require certain facilities and infrastructure (ships) with special qualifications, thus requiring Customs and Excise assistance. The same thing happened in the investigation of *illegal fishing*, until now the infrastructure owned is still inadequate so that PPNS is needed.¹⁰

The existence of *parallel investigations* will shorten the existence of investigations because it will minimize time and costs as well as effort. It should be noted that when the original investigators found an identification of a money laundering crime, the predicate crime investigator had no other choice but to report to the police because of the restrictions mentioned in Article 74 of the Law. -Money Laundering Crime Act. The transfer of alleged findings from the original investigators to the police has technical consequences in the form of starting a new investigation process on these allegations. Then it is clear that the police will need a large amount of money to carry out a series of investigations that have actually been carried out by the original investigators, coupled with the possibility of a *gap of knowledge* between predicate crime investigators and police investigators which can cause the investigation process to be protracted.

The merger between money laundering and predicate crimes will create *checks and balances* between the police and PPNS in dealing with predicate crimes where there are indications of money laundering. *Check and balance* is control and balance in which in principle the government branches of government are separated, to prevent overlapping of powers. According to Montesque in Jimly Asshaddiqie's book, a rule of law must have a division of powers so that each state institution carries out its respective duties and functions without having to interfere with each other.¹¹

Friedrich Julius Stahl said that separation of powers is one of the conditions or characteristics of a rule of law state. ¹²This system guarantees that each power does not exceed the limits of their powers between the police and PPNS because this system is a

⁹Elisatris Gultom, *The Existence of Civil Servants in the Law Enforcement Process in Indonesia*, 2021, <http://elisatris.wordpress.com/kedudukan-ppns-dalam-penegakan-Hukum/>, accessed on 26 June 2022, 20.00 WIT

¹⁰Elisatris Gultom, *Op.cit*, hal.3

¹¹Jimly Asshaddiqie, *Perkembangan dan Konsolidasi Lembaga Negara Pasca Reformasi*, Cet 2, Sinar Grafika, Jakarta, 216, hal 31

¹²Sunarto, *The Principles of Check And Balance in the Indonesian State Administration System*, Journal of Legal Issues, Volume 45 No. 2, 2016, p. 158

system of checks and balances, in this system it becomes a benchmark for the stability of the rule of law concept to realize justice.

Parallel investigation is very beneficial when applied in the system of investigating money laundering crimes due to,¹³:

1. Technically, investigations into money laundering by predicate crime investigators will speed up the handling of cases suspected of money laundering as well as predicate offences;
2. Investigators can take advantage of the advantages listed in laws and government regulations on money laundering crimes such as breaching the principle of secrecy of financial transactions, reverse evidentiary systems and protection of witnesses and reporting parties;
3. Granting authority to investigate money laundering crimes to predicate crime investigators will create a *multi-investigator system* that is expected to foster a positive spirit of competition among investigative institutions that will be beneficial for law enforcement.

B. Application of Parallel Investigation in cases of money laundering crimes arising from forestry and environmental crimes

Investigation is an important part of the handling of criminal cases as stipulated in Article 1 number 2 of the Criminal Procedure Code that: "An investigation is a series of investigative actions in matters and according to the manner stipulated in this law to seek and collect evidence which with that evidence makes it clear about a criminal act that occurred and to find the suspect.¹⁴In this case, it is clear how important it is for an investigator to handle a criminal case where Article 6 paragraph (1) of the Criminal Procedure Code stipulates that investigators are:¹⁵

- a. Republic of Indonesia state police officers;
- b. Certain civil servant officials who are given special authority by law;

When viewed from the two articles *a quo* then, in general in the formal criminal law, namely the Criminal Procedure Code as the *lex generalis* of criminal procedural law, has provided broadness regarding the authority to carry out investigations to the police and civil investigators who are authorized by law. When exploring further related to forestry and environmental crimes, especially investigations into criminal acts as the essence of the discussion that will be linked to *parallel investigations*, it is important for us to know in advance the arrangements regarding investigators and their authority in forestry and environmental crimes as criminal acts. which origin,

¹³Muhammad Yusuf, *Kapita Selekta TPPU*, Pusat Pelaporan dan Analisa Transaksi Keuangan(PPATK), Jakarta, 2016, hal 163

¹⁴TIM Redaksi BIP, *KUHP dan KUHP*, Bhuana Ilmu populer, Jakarta, 2009, hal. 229.

¹⁵*Ibid.* hal. 234

when we talk about forestry and environmental crimes, we will be in two different legal arrangements both materially and formally, namely;

1. If it is related to forestry crimes, it will refer to Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction. In this law, arrangements regarding investigators are regulated in Article 29 which stipulates that: "In addition to investigators from the Indonesian National Police, PPNS are given special authority as investigators as referred to in the Criminal Procedure Code.

PPNS in question is PPNS at the Ministry of Environment and Forestry or hereinafter abbreviated as KLHK, which later in Article 30 states that PPNS has the authority to:

- a. Examine the correctness of reports or information regarding criminal acts of forest destruction;
 - b. Conduct investigations of individuals or legal entities suspected of committing criminal acts of forest destruction;
 - c. Requesting information and evidence from individuals or legal entities in connection with forest destruction;
 - d. Examine books, records and other documents relating to criminal acts of forest destruction;
 - e. Examine certain places where evidence, books, records and other documents are suspected and confiscate materials and goods resulting from crimes that can be used as evidence in cases of criminal acts of forest destruction;
 - f. Carry out arrests, detentions, searches and confiscations;
 - g. Ask for expert assistance in carrying out the duties of investigating criminal acts of forest destruction;
 - h. Stop the investigation if there is no evidence of acts of forest destruction;
 - i. Call people to be heard and examined as suspects or witnesses;
 - j. Making and signing minutes and other documents relating to the investigation of cases of forest destruction; And
 - k. Taking pictures and/or recording with a photographic device and/or a tape recorder of people, goods, means of transportation, or anything that can be used as evidence of criminal acts involving forests, forest areas and forest products."
2. If it is related to environmental crimes, it will refer to Law No. 32 of 2009 concerning the Protection and Management of the Environment (PPLH). Arrangements regarding Investigators in this law are regulated in Article 94 paragraph (1) which stipulates that: "In addition to investigators from the

Indonesian National Police, certain civil servant officials within government agencies whose scope of duties and responsibilities are in the field of environmental protection and management given the authority as an investigator as referred to in the Criminal Procedure Code to carry out investigations of environmental crimes.”

The PPNS in question are PPNS at the Ministry of Environment and Forestry or hereinafter abbreviated as KLHK as in forestry crimes and related to the authority of PPNS as regulated in this law in Article 94 paragraph (2) stipulates that "Civil servant investigators authorized:

- a. Examine the correctness of reports or information regarding criminal acts in the field of environmental protection and management;
- b. Examine everyone who is suspected of having committed a crime in the field of environmental protection and management;
- c. Requesting information and evidence from everyone regarding criminal acts in the field of environmental protection and management;
- d. Examine books, records and other documents relating to criminal acts in the field of environmental protection and management;
- e. Examine certain places where evidence, books, records and other documents are suspected;
- f. Conduct confiscation of materials and goods resulting from violations that can be used as evidence in criminal cases in the field of environmental protection and management;
- g. Requesting expert assistance in carrying out the duties of investigating criminal acts in the field of environmental protection and management;
- h. Stop the investigation;
- i. Entering certain places, taking pictures, and/or making audio-visual recordings;
- j. Conduct a search of the body, clothes, room and/or other places that are suspected of being the place where the crime was committed; and/or
- k. Arrest and detain perpetrators of criminal acts.

If one looks at the authority given to investigators, especially PPNS within the scope of forestry and environmental crimes at the Ministry of Environment and Forestry, it is clear that PPNS has a legal standing or legality in conducting investigations into forestry and environmental crimes as mandated in the two *a quo laws*. described earlier, but the next question is whether PPNS also has the authority to handle money laundering resulting from money laundering?, or what is referred to as a

parallel investigation where there are at least 3 modes of money laundering resulting from forestry and environmental crimes commonly used, namely:

- a. Purchasing assets and luxury goods. The non-criminal proceeds used to purchase luxury goods are meant to be used as an effort to obscure the origin of the proceeds of the crime. In general, luxury goods obtained from the proceeds of crime are transferred to third parties in order to hide the true *beneficial owner*.
- b. Use of account names of other people (*nominee*), trustees, family members, or third parties who come from the scope of the perpetrators of crimes. This is usually done with the aim of obscuring the identities of those who control the proceeds of crime. Purchasing luxury goods and property using the ownership name of an intermediary or other person and family.
- c. Use of cash. This method is used so that the transfer of funds is not known or avoids reporting cash transactions.

The occurrence of money laundering resulting from forestry and environmental crimes is a crime that is very detrimental and carries risks in the form of significant losses to the state, this is due to the vastness and abundance of natural resources owned by Indonesia. Article 74 of the Money Laundering Law stipulates that "Investigations of criminal acts of money laundering are carried out by investigators of predicate crimes in accordance with procedural law provisions and statutory provisions, unless otherwise stipulated by this law." However, later in the elucidation of the article it states; What is meant by "predicate crime investigators" are officials from agencies that are authorized by law to carry out investigations, namely the Indonesian National Police, the Attorney General's Office, the Corruption Eradication Commission (KPK), the National Narcotics Agency (BNN), as well as the Directorate General of Taxes and the Directorate of General of Customs and Excise, Ministry of Finance of the Republic of Indonesia.

The elucidation of Article 74 of the UU *a quo* is of course very much contradictory to that article. The conflict that occurred then led to several consequences, namely:

- a. **First**, the difference in treatment to the party authorized to investigate money laundering crimes arising from the conflict between Article 74 and its explanation. Where, this is contrary to Article 27 paragraph (1) of the 1945 Constitution which states "all citizens have the same position before law and government and are obliged to uphold that law and government without exception." The constitution clearly mandates that everyone has an equal position before the law. However, the elucidation of Article 74 of the Money Laundering Law resulted in the inability to carry out the authority to investigate money laundering by civil servant investigators whereas, if we use the method of grammatical interpretation of Article 74, predicate crime

investigators, in this case including investigators of civil servants, should have the authority to carry out investigations into money laundering crimes while at the same time creating legal uncertainty which is essentially contrary to Article 28D paragraph (1) of the 1945 Constitution which states: "everyone has the right to recognition, guarantees, protection and fair legal certainty and equal treatment before the law."

b. **Second**, it relates to the procedure for formulating an explanation in a law by referring to the attachment to Law Number 12 of 2011 concerning the formation of laws and regulations that have been amended by Law Number 15 of 2019 concerning amendments to Law Number 12 of 2019. 2011 concerning the formation of legislation part E on:

1. **Point 176**: "Explanations function as official interpretations forming statutory regulations on certain norms in the body. Therefore, explanations only contain descriptions of words, phrases, sentences or foreign equivalents of words/terms in norms which can be accompanied by examples. Explanation as a means to clarify norms in the body should not result in ambiguity from the norm in question.
2. **Point 177**: "Explanations cannot be used as a legal basis to make further regulations. Therefore, avoid formulating norms in the explanation section.
3. **Point 178**: "In the explanation avoid formulas whose contents contain hidden changes to the provisions of the Laws and Regulations"

Based on the points above as guidelines for making laws, it can be understood that; 1) explanations must not result in ambiguity of the norm in question. 2) should avoid formulating norms in the explanatory section. 3) It is necessary to avoid making formulations that contain covert changes to statutory provisions. Whereas in the elucidation of Article 74 of the TPPU Law throughout the sentence "What is meant by "predicate crime investigators" are officials from agencies that are authorized by law to carry out investigations, namely the Indonesian National Police, the Attorney General's Office, the Corruption Eradication Commission (KPK), the National Narcotics Agency (BNN), as well as the Directorate General of Taxes and the Directorate General of Customs and Excise, Ministry of Finance of the Republic of Indonesia." has created ambiguity, loaded new norms and changed the norms of Article 74 covertly at the same time.

c. **Third**, the following consequence that arises from the obscurity of Article 74 of the TPPU Law is that it allows for *overlapping* or overlapping of authority or accumulation of authority in the Police, most of whom have the authority to conduct investigations into all criminal cases. carry out the investigation process even though if the investigation of money laundering crimes is given

authority to predicate crime investigators it will facilitate the work of the police and will maximize the handling of cases of laundering from predicate crimes, so that the police are more maximal in handling money laundering crimes where the predicate crime is only become the authority of the police such as criminal acts of terrorism/terrorism financing and criminal acts of fraud.

- d. **Fourth** , the unclear explanation of Article 74 of the TPPU Law contradicts the objective of the judicial power to uphold law and justice through the administration of justice. Where, in article 24 paragraph (1) of the 1945 Constitution stipulates "judicial power is an independent power to administer justice in order to uphold law and justice." Which relates to the administration of justice in accordance with the principles of justice for the purpose of upholding law and justice, explicitly explained by the Constitutional Court in decision Number 130/PUU-XIII/2015, regarding the review of articles in the Criminal Procedure Code regarding pre-prosecution, in the decision , The Constitutional Court explained that the principles contained in the Criminal Procedure Code, including the principles of quick, simple and low-cost trials, aim to uphold the law, justice and protection which is the protection of the nobility of human dignity, order and legal certainty and, if we refer to on the scope of the function of administering justice by the judicial power in Article 38 of the Law on Judicial Power states that the administration of justice also includes the function of investigation and investigation in this case, if we look at the elucidation of Article 74 of the TPPU law which limits the authority of PPNS for forestry crimes and an affluent environment As a result, if there are findings of a crime of laundering by PPNS forestry and environmental crimes as a predicate crime, PPNS only has the option of delegating these findings to the police which will result in a new investigation process which will be carried out separately by the police, of course this. very contrary to the principles of quick, simple and low-cost justice as the aim of the judicial power to uphold law and justice through the administration of justice, besides the applicable judicial principles, it is also necessary to pay attention to FATF recommendation Number 30 regarding *Responsibilities of Law Enforcement and Investigate authorities* which contains recommendations regarding "Countries should ensure that competent authorities have responsibility for expeditiously identifying, tracing and initiating actions to freeze and seize property that is, or may become, subject to confiscation, or is suspected of being g proceeds of crime." Which in a loose translation means "countries should ensure that competent authorities have the responsibility to quickly identify, track and initiate action to freeze and seize assets that are, possibly, the subject of confiscation or as the proceeds of crime." which in a further explanation provides information that it is the state's

obligation to ensure that investigations are not criminally involved in money laundering can be investigated properly and by applying *financial investigation* techniques, namely techniques for identifying and tracing the results of criminal acts, terrorist financing or other assets that could be assets. subject of forfeiture.

The four consequences above are clearly visible with the elucidation of Article 74 of the Money Laundering Law which greatly limits and hinders the optimization of the handling of money laundering crimes originating from predicate crimes, namely forestry and environmental crimes. Then talking about *Parallel Investigation* in essence in article 74 of the TPPU Law has agreed to the existence of *Parallel Investigation* which provides an expansion of authority to predicate crime investigators to also investigate money laundering crimes if they find findings (which, if interpreted grammatically). Furthermore, Article 75 of the Money Laundering Law reaffirms *Parallel Investigation* by stating: "In the event that investigators find sufficient initial evidence of the occurrence of the crime of Money Laundering and predicate crime, the investigator combines the investigation of the predicate crime with the investigation of the crime of Money Laundering and informs PPATK. "

It is understood that predicate crime investigators can combine predicate crimes with money laundering crimes based on sufficient preliminary evidence, this is in line with the *Interpretative Note to Recommendation 30 (responsibilities of Law Enforcement and Investigative Authorities) point 3 FTAF Recommendations* , that financial investigations are parallel refers to joint finance or in context, criminal investigations into money laundering and/or predicate offences. Of course, the implementation of *Parallel Investigation* will optimize the handling of money laundering crimes more effectively, namely:

1. existence of *parallel investigations* will guarantee equality before the law as stated in Article 27 paragraph (1) of the 1945 Constitution, where PPNS will have legal standing or legality to carry out investigations on ML as a *follow up crime* ;
2. With *parallel investigations* , it will strengthen the position and authority of PPNS to investigate ML. ML that arises due to predicate crimes or *follow-up crimes* will make it easier for investigators to carry out investigations because the resulting ML has a close relationship with predicate crimes so that it should not require a new investigation by the police, this will also be in line with the guarantee of the principle of speedy, simple and low-cost justice, upholding the law, justice and protection which is the protection of the nobility of human dignity, order

and legal certainty guaranteed by the constitution, namely article 24 paragraph (1) of the 1945 Constitution, and

3. *Parallel Investigation* is used or applied by combining investigations into money laundering crimes and predicate crimes, namely forestry and environmental crimes, at least, will reduce the *overlapping* authority of the police, which mostly has the authority to conduct investigations into all criminal acts..

4. Conclusion

1. *Parallel Investigation* is an effective step in dealing with money laundering crimes arising from forestry and environmental crimes due to the concept of *Parallel investigation*, which is a concept where predicate crime investigators, in this case, PPNS, can handle TPPU investigations if there are findings in the predicate crime investigation, which will reduce the amount of costs and will not take a long time because there is no longer a need for new investigations, and the investigation process will be simpler, because there will only be 1 investigation for these two types of crimes, which actually have a close relationship where ML is an asset. assets or proceeds from predicate crimes, namely forestry and environmental crimes.
2. The application of *parallel investigations* in money laundering cases arising from forestry and environmental crimes is a way of combining investigations into money laundering and forestry and environmental crimes into one investigative process by authorized investigators, in this case PPNS of the ministry of environment and forestry.

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