

The Position of Civil Servant Investigators in the Disclosure of Money Laundering Crimes after the Constitutional Court's Decision Number 15/PUU-XIX/2021

Jetter Wilson Salamony

Universitas Borobudur, Indonesia

E-mail: jetterws@gmail.com

ABSTRACT

The role of Civil Servant Investigators (PPNS) in Indonesia has evolved, particularly following the Constitutional Court Decision Number 15/PUU-XIX/2021, which expanded their authority in money laundering investigations. This study aims to analyze the impact of this decision on the position and authority of PPNS within the integrated criminal justice system. Using a normative legal approach, the research employs primary data from the Constitutional Court's ruling and secondary data from legal literature and relevant media sources. The findings indicate that the Constitutional Court's decision not only enhances the investigative powers of PPNS but also aligns them with other law enforcement agencies, such as the National Police and the Corruption Eradication Commission. Despite this expansion, the study highlights ongoing challenges, particularly the dependency of PPNS on police investigators during the prosecution process. The relationship between PPNS and other law enforcement officials is crucial for effective law enforcement and the prevention of money laundering crimes. The study concludes that the broadened authority of PPNS should be viewed as a collaborative effort rather than competition, emphasizing the importance of coordination among agencies to strengthen law enforcement efforts in Indonesia.

Keywords: civil servant investigator; integrated criminal justice system.

Introduction

Being in a government institution, the Position of Civil Servant Investigator (PPNS) is a functional position placed in the organizational structure of an institution at the level of Sub-Directorate (Subdit) which is headed by an esalon official (Salamony, 2023). The existence of Civil Servant Investigators has two functions at once, namely; First, the supervisory function under the authority of the Civil Servant Investigator to supervise the performance and report of the work results of all employees in his institution.

Second, the investigation function. Where the Civil Servant Investigator is authorized to investigate the performance of employees who are indicated to be a crime (Fitrah et al., 2021).

Functioning as the duty bearer of the Police based on the order of Law Number 2 of 2002, Civil Servant Investigators in each institution are given authority through the laws and regulations issued by each institution that feel it is necessary to have a Civil Servant Investigator (Onuigbo & Eme, 2015; Satoto et al., 2024). Similar to the Police, Civil Servant Investigators also carry out investigations and investigations based on the Criminal Procedure Code (KUHAP).

The investigation and investigation tasks that have been given make the Civil Servant Investigator a Sub-Directorate that is quite respected in addition to the Inspectorate. Civil Servant Investigators have the right to open all documents related to the investigation process for alleged crimes in their work environment. However, with the emergence of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, the authority of Civil Servant Investigators seems to be limited only to *predicate crimes*.

Thus, Civil Servant Investigators can only conduct investigations on twenty-six (26) types of original criminal acts regulated in Article 2 of Law Number 8 of 2010, namely; Corruption, bribery, narcotics, psychotropic, labour smuggling, immigrant smuggling, crimes in banking, crimes in the capital market, crimes in insurance, customs, excise, trafficking in persons, illicit arms trafficking, terrorism, kidnapping, theft, embezzlement, fraud, money counterfeiting, gambling, prostitution and other criminal acts that are threatened with imprisonment for 4 years or more (Di Amato & Fucito, 2020; Flora et al., 2024; Romaniuk et al., 2023). So that if in the investigation it turns out that there is an indication of a criminal act of money laundering (*money laundering*), the Civil Servant Investigator must submit the results of the investigation to the police for continuation.

This is certainly unacceptable to the Civil Servant Investigator who has been investigating since the beginning. Article 74 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, namely: "*The investigation of money laundering crimes shall be carried out by the investigators of the original crime in accordance with the provisions of procedural law*

and the provisions of laws and regulations, unless otherwise specified in accordance with this Law."

Article 74 should strengthen the authority of the Civil Servant Investigator who has carried out the initial investigation until its development if it turns out that the crime becomes a Money Laundering Crime as an "investigator of the original crime". But then what is contained in the explanation of Article 74 which reads: *"What is meant by "investigator of the original crime" is an official from an agency that is authorized by law to conduct an investigation, namely the National Police of the Republic of Indonesia, the Prosecutor'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 of the Ministry of Finance of the Republic of Indonesia. The original criminal investigator can conduct an investigation of the crime of Money Laundering if he finds sufficient preliminary evidence of the occurrence of the crime of Money Laundering when investigating the original crime according to his authority."* Be conducive to the sound of article 74 itself.

The provisions in article 74 that have been implemented since it was promulgated are considered to have placed the Civil Servant Investigator in an improper position because it limits the authority of performance, where the Civil Servant Investigator is a party who knows in detail the beginning of the crime both through maladministration and in violation of work procedures. Therefore, it is very appropriate that Civil Servant Investigators are also part of the "original criminal investigators".

Based on the explanation above, then the author felt interested in raising this issue in a scientific research and writing with the title *The Position of Civil Servant Investigators in the Disclosure of Money Laundering Crimes after the Constitutional Court Decision Number 15/PUU-XIX/2021*.

Civil Servant Investigators (PPNS) hold a functional position within government institutions, tasked with both supervisory and investigative functions. Previous research has highlighted the limited authority of PPNS under Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, often placing them in a subordinate role to police investigators. This research aims to address the gap in understanding the evolving role of PPNS following the Constitutional Court Decision Number 15/PUU-XIX/2021, which expanded their investigative authority.

The novelty of this study lies in its examination of how this judicial decision has redefined the authority of PPNS, allowing them to act as original criminal investigators in money laundering cases. The primary objectives of this research are to analyze the impact of the Constitutional Court's ruling on the authority and position of PPNS, evaluate their role in the integrated criminal justice system, and provide recommendations for enhancing their contributions to law enforcement.

This research offers several benefits: it provides policy implications for lawmakers to strengthen the role of PPNS, economic insights for stakeholders to leverage the PPNS's authority effectively, and identifies opportunities for job creation in the field of public service. By clarifying the position of PPNS, this study aims to foster a more efficient and collaborative approach to combating money laundering crimes in Indonesia

Research Method

This research uses a normative approach that relies on two types of data: primary data and secondary data. Primary data consists of information obtained from Constitutional Court Decision No. 15/PUU-XIX/2021, which includes the content of the decision related to the authority of Civil Servant Investigators (PPNS) in the context of money laundering crimes. This data is important as it provides a clear legal basis and context regarding the changing role of PPNS following the decision. Meanwhile, secondary data includes legal literature, research articles and media sources related to the topic of money laundering and the role of the PPNS, including books, journals and official documents that discuss the legal framework and investigative practices in Indonesia. This secondary data helped to provide a broader perspective on the issues under study as well as compare findings with previous research.

Data analysis was conducted using a qualitative method, which involved several steps. First, data was collected through a literature study and analysis of relevant legal decisions. Next, the collected data was categorized based on emerging themes and issues, especially those related to the authority and position of PPNS. Researchers then interpreted the categorized data by linking it to existing legal theory and practice. Finally, the results of the analysis were discussed to draw conclusions regarding the position of PPNS in the Indonesian criminal justice system, as well as the implications of the Constitutional Court's decision. This method allows researchers to gain an in-depth understanding of the role of PPNS and the challenges faced in law enforcement in Indonesia.

Result and Discussion

The Position of Civil Servant Investigators before the Constitutional Court Decision Number 15/PUU-XIX/2021

In solving various legal problems to realize order and problems of many people, we will of course refer to the theory expressed by Gustav Radbruch where legal settlement must have the principle of legal certainty, the principle of legal justice, the principle of legal utility. To realize these principles, a settlement process is needed both through litigation and through non-litigation. The litigation process that begins with investigation and investigation requires qualified investigators appointed by the Law

The police who are authorized to carry out investigations and investigations are faced with various kinds of cases in various environments and work disciplines. The challenge of investigations, which are not only about crime in general, makes it difficult for National Police investigators, especially in areas that are not understood (Eck & Rossmo, 2019; Fahsing, 2016; Mulayim et al., 2014). This then encourages the existence of non-police investigators, namely Civil Servant Investigators who are investigators within government institutions formed to conduct investigations in the work environment in an effort to disclose alleged acts both administrative and technical that can be categorized as crimes.

The formation of Investigators outside the Police is carried out based on the provisions of Article 6 paragraph (1) letter b of Law Number 8 of 1981, which for the provisions of this Law is then formed a Civil Servant Investigator headed by an official. So that the mention of Civil Servant Investigators will refer to Civil Servants who are given the privilege of their duties and authorities specifically to conduct investigations in accordance with Law Number 8 of 1981 as the basis for the formation of Civil Servant Investigators in general and other laws and regulations issued by each institution. These rules will then become the legal basis in carrying out their duties.

PPNS is a certain civil servant official who is given special authority by law. What special authority means is the authority of investigation in accordance with the Law, which is the legal basis in carrying out its duties. It should be noted that the functions, duties, and authority of the investigation are actually attached to the officials of the National Police of the Republic of Indonesia. While

The existence of Civil Servant Investigators (PPNS) in assisting the police to conduct investigations that have been going on for a long time emphasizes that Civil Servant Investigators are subordinate to Police Investigators, especially in the quality of existence in the enforcement of the Administrative Penal Law. The investigation in the field of Administrative Penal Law that has been carried out by National Police investigators is not something easy, in the end the investigation seems to be running on the spot. This is not because the National Police investigators do not understand the investigation process and techniques, but this is influenced by the limited number of Police personnel and *the Administrative Penal Law*, which has its own difficulties. This then causes cases related to *the Administrative Penal Law* to be hampered because the investigation files submitted to the prosecutor must be returned to the investigator for improvement.

Following up on the investigation process, which is part of the Integrated Criminal Justice System, in this case the investigation stage in the *Administrative Penal Law* is the first step taken by the Civil Servant Investigator in disclosing a criminal act. The method of examination will be focused throughout the settlement of matters related to legal issues, while technical problems of examination are out of reach, so the Civil Servant Investigator will continue to coordinate with the Police because it is included in the scope of crime investigation science. The beginning of the investigation is to conduct an examination of the suspect to find information about the criminal incident that occurred, while still applying the principle of accusation to the suspect. This enforcement puts the suspect in a position as a human being who has dignity and dignity.

Civil Servant Investigating Officials in each state institution are appointed by the Minister of Law and Human Rights, in this case they are represented to the Director of Criminal Affairs of the Directorate General of General Legal Administration. Moreover, in carrying out their duties and responsibilities, Civil Servant Officials in the supervision and guidance of the State Police, in this case are represented by the Criminal Investigation Agency. Meanwhile, in the implementation of work based on the rules of its formation and appointment in each state institution, it shows that the Civil Servant Investigator is responsible to the Head of the Ministry/Institution/Region where the Civil Servant works and resides.

In various studies on Civil Servant Investigators (PPNS) in the conception of law, there is no equality between Civil Servant Investigators and police investigators or with other investigators. In fact, it is realized that at the level of reality, it is clearly seen that the legal conditions faced are getting more complicated, which can force all investigators to have the same legal protection (Sitompul et al., 2021).

The development of crimes that are present in new forms makes it very difficult for investigators such as the Police, the Prosecutor's Office, the Corruption Eradication Commission, the Directorate of Taxes and the Directorate of Customs to make disclosures. This is further complicated by crimes committed through maladministration that are only known to those who work for the institution/agency.

It should be understood that the authority of the Civil Servant Investigator then places itself as one of the subsystems of the criminal justice system has the following characteristics:

1. Goal-oriented (*purposive behavior*);
2. The whole system is seen as accumulation (wholism);
3. Systems interact with each other in the formation of a larger system (operation);
4. Operationalization forms a certain value (transformation);
5. Interrelatedness
6. There is an integrated mechanism (*control mechanism*).

This shows that the position of Civil Servant Investigators is not only as a complement or as partner of the Police in criminal matters.

The Position of PPNS after the Constitutional Court Decision Number 15/PUU-XIX/2021

The Civil Servant Investigators' Authority in its development has undergone a slight change after the issuance of the Constitutional Court Decision Number 15/PUU-XIX/2021, which was read on June 29, 2021 (Watch, 2024). The verdict was born on the examination of article 74 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes by Civil Servant Investigators at the Ministry of Maritime Affairs and the Ministry of Forestry.

The obvious change is in the investigative authority of the Civil Servant Investigator, especially in the investigation of Money Laundering Crimes. The change is only to expand the investigative authority where the Civil Servant Investigator who is in each institution is authorized as the original criminal investigator to conduct an investigation from the discovery of the criminal act until if the criminal act leads to the Crime of Money Laundering.

This expansion of authority makes the position of Civil Servant Investigators on par with other Money Laundering investigators, which have been held by only 6 institutions appointed in the explanation of article 74 of Law Number 8 of 2010, namely:

1. State Police
2. Prosecutors
3. Corruption Eradication Commission (KPK)
4. National Narcotics Agency (BNN)
5. Directorate General of Taxes
6. Directorate General of Customs and Excise

Even though they are in a position that is equal to other investigators, if referring to practice, the main duties of Civil Servant Investigators in various government agencies in conducting investigations and investigations into a criminal case are;

1. Collect evidence related to the criminal act being investigated;
2. Conduct examinations of persons categorized as witnesses;
3. Examining persons suspected of committing crimes;
4. Arrest and detention of suspects,
5. Confiscating evidence.

However, at the level of making the Examination Report and handing over the examination file to the prosecutor's office for prosecution, the Civil Servant Investigator must cooperate with the Police investigator. This is because the Examination Report (BAP) is a crucial element in the criminal law system in Indonesia, where the process of making the Examination Report has a special level of difficulty and accuracy. Which due to its difficulty not even all Police personnel can do it.

In some cases, even the Examination Report (BAP) that has been made by the Police Investigator who is considered professional is even returned by the Prosecutor's Office because it is considered unqualified or incomplete. Based on this fact, it can be understood that it is natural that even though the authority has been expanded in the investigation and investigation process, the position of the Civil Servant Investigator is still in practice still brought by the Police Investigator.

In addition, the expansion of the authority of the Civil Servant Investigator as an investigator of the original crime, based on Article 46 paragraph (3) of the Police Chief Regulation Number 6 of 2010 explains that the authority of the Civil Servant Investigator is also limited when the criminal event handled is a combination of certain criminal acts and general criminal acts, except for criminal acts that are not the authority of the National Police Investigator, then the delegation must be carried out to the Police Investigator.

Relationship between Civil Servant Investigators and Other Law Enforcement Officials

Referring to the main points of the criminal justice system, this will theoretically be supported and implemented by four main functions, namely:

1. Functions of law-making
2. Law enforcement functions
3. Functions of trial examination
4. Function of correcting convicts

What puts Civil Servant Investigators existentially in the investigation process is at two levels, namely assisting the Police as well as at the level as part of the criminal justice system in Indonesia.

The definition of a system must be seen in the context, both as the network of courts and tribunals which deal with criminal law and its enforcement, which by Ludwig Von Bertalanfy, the system is also interpreted as Complexes of elements standing interaction; a system is a set of elements standing interaction among themselves and with the environment (Astrada, 2018; Langford, 2024). So that in assessing the position of Civil Servant Investigators, it can be concluded that the interaction of their duties and authorities has shown the relationship between Civil Servant Investigators and other Law Enforcement Officers (APH).

Restrictions on the authority of Civil Servant Investigators do not reduce relationships with other investigators or other Law Enforcement Officials. Interconnection in the investigation process does not only make Civil Servant Investigators have a relationship with the police. The implementation of Article 9 paragraph (2) of Government Regulation Number 43 of 2012 concerning Procedures for the Implementation of Coordination, Supervision and Technical Guidance for the Special Police, Civil Servant Investigators and Forms of Swakarsa Security that regulates coordination activities in the field of investigation operations shows that Civil Servant Investigators from the beginning of the investigation already have relationships with other Law Enforcement Officials.

Since receiving the notification letter of the commencement of an investigation, the Civil Servant Investigator has coordinated with the Prosecutor's Office and the Police, while in the interest of exchanging information, the Civil Servant Investigator can coordinate with and even with other institutions such as the Financial Transaction Reporting and Analysis Center (PPATK), the Financial Audit Agency (BPK), the Corruption Eradication Commission (KPK) and other institutions if necessary.

Coordination related to the scope of their field of duties requires Civil Servant Investigators (PPNS) to carry out the function of cooperation and interaction with law enforcement subsystems in the integrated criminal justice system, although under the coordination of National Police investigators, Civil Servant Investigators (PPNS) have their own duties and authorities based on the scope of their areas of duties and specialties (Dawali et al., 2022; Sjfaii & Pratiwi, 2019; Suhana et al., 2023). Thus, the Civil Servant Investigator (PPNS) is emphasized as a subsystem that does not stand and it can be said that PPNS is part of the police subsystem as one of the criminal justice subsystems.

Conclusion

Before the Constitutional Court Decision Number 15/PUU-XIX/2021, Civil Servant Investigators (PPNS) primarily operated under Administrative Penal Law, collaborating with state police to investigate crimes within their institutions. Following the decision, their authority has expanded to include Original Criminal Investigators, allowing them to investigate Money Laundering Crimes. However, they still function as subordinates within the integrated criminal justice system, supporting the role of the state police. The relationship between Civil Servant Investigators and other law enforcement

officials is crucial for a cohesive criminal justice system, fostering collaboration in data and evidence collection.

The expanded authority of Civil Servant Investigators should be viewed not as competition but as a shared responsibility among institutions in combating state-harming crimes, emphasizing the need for effective cooperation with the police. Establishing communication forums among Civil Servant Investigators and involving other investigative bodies will enhance information sharing and improve investigative techniques. This collaboration will ultimately strengthen law enforcement efforts in Indonesia, ensuring a more unified approach to crime prevention and resolution.

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