

## IMPLEMENTATION OF THE TERRORISM FINANCING LAW IN COURT DECISIONS

(Study of Decision No. 775/Pid.Sus/2015/PN. Jkt.Tim)

Gizandra Indah Gemic<sup>1</sup> Hendra Suherman<sup>2</sup>, Deaf Wahyuni Ramadhani<sup>3</sup>

<sup>1,2,3</sup> Master of Law Study Program, Faculty of Law, Hatta University, Jalan Sumatera Ulak Karang Padang, West Sumatra

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### ABSTRACT

The eradicating criminal acts of terrorism is certainly not enough to use repressive measures alone, but there are also preventive efforts in it. The study aims to determine criminal law policies towards funding theorists in Indonesia. This research uses descriptive qualitative methods with a normative legal approach. The results showed that criminal law policies against terrorism financing have been implemented in Law Number 9 of 2013. The implementation of the Terrorism Financing Law in Court Decision Number 775/Pid.Sus/2015/PN.Jkt. is in accordance with regulations.

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### Corresponding Author:

Email: gizandraindah@gmail.com

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## 1. INTRODUCTION

Terrorism is one form of heinous acts against humans and humanity, it can even have an impact on the stability of State sovereignty which must be eradicated. Terrorism will not succeed without the form of supporting facilities and instruments, including funding. Terrorism as one type of Activities of Transnational Criminal Organization is a very feared crime, considering the threats and consequences posed are quite wide, which include: threats to sovereignty; towards society; towards individuals; to national stability; against democratization values; and against development. (Adisaputra Asep 2008)

In Indonesia alone, there has been a bomb explosion in Bali on October 12, 2002 which killed 202 innocent people, 164 of them foreign nationals from 24 countries, while 38 others were Indonesian citizens, and 209 people were injured. Bali Bombing 2 in 2005 killed 22 people, JW Mariot and Ritz-Charlton Hotel Bombings in 2009 killed 9 people, Malporesta Cirebon Bomb in 2011 recorded 25 people injured, and finally the Sarinah Plaza Bomb that felt on Jalan Thamrin in 2016 killed 8 people, these are just some of the many acts of terrorism in Indonesia. Starting from the bombings of September 11, 2001 in the United States, the Financial Action Task Force on Money Laundering (FATF) issued 40 (forty) Special Recommendations then added 9 (Nine) Recommendations regulating and relating to terrorism financing, known as the Nine Special Recommendations. (FATF 2022).

Eradicating criminal acts of terrorism is certainly not enough to use repressive measures alone, but there are also preventive efforts in it. This will prevent or break terrorist networks. One of them is to cut off/stop the financing of criminal acts of terrorism. In an effort to prevent and eradicate criminal acts of terrorism financing is carried out by involving Financial Service Providers, law enforcement officials, and international cooperation to detect a flow of funds used or suspected to be used for financing terrorist activities. (Putra Jaya 2016).

So far, the approach used by our law enforcement officials is still limited to how to pursue the perpetrators (follow the suspect) so that they can be sentenced according to the law. Of course, the follow the suspect approach will not make this act or activity of terrorism stop, because considering terrorism has a very

wide and hidden network. Efforts to eradicate criminal acts of terrorism financing by conventional means, namely by punishing terror perpetrators, were not optimal enough to prevent and eradicate criminal acts of terrorism. Another effort that needs to be done to prevent and eradicate criminal acts of terrorism is to apply a follow the money approach involving PPATK (Financial Analysis Reporting Center), Financial Service Providers, and law enforcement officials to detect a flow of funds used or reasonably suspected to be used for financing terrorist activities, because a terrorist activity cannot be carried out without terror perpetrators who act as funders Activity vthe terrorism.( Putra Jaya 2016) In 2015, PPATK found data related to the flow of funds around. The next country that sent funds for terrorism to Indonesia was Malaysia 44 times with a fund flow of Rp 754.8 million, Singapore 7 times with a total of Rp 26.1 million, and the Philippines once worth Rp 25 million. PPATK also recorded the flow of terrorism funds flowing from Indonesia to abroad. The largest flow of funds flowed from Indonesia to Australia 6 times with funds amounting to Rp. 5.38 billion. Meanwhile, the flow of funds from Indonesia to the Philippines although carried out 43 times but only amounted to Rp 229 million. The flow of funds from Indonesia to Hong Kong was carried out twice with a total of Rp 31.1 billion. (PPATK 2022). The approach in the Terrorism Financing Law is to follow the money with the intention that this terrorist activity cannot carry out its plans to commit terror itself. In this study, it will be described the state of the object to be studied, namely the Court Decision related to Terrorism Financing, where later what will be analyzed are the elements of the article imposed on the perpetrator, the judge's considerations until the conviction of the defendant. The results of the analysis will be supported by other reference materials such as related laws, books, and other literature.

## 2. RESULTS AND DISCUSSION

The scope of terrorism financing in this Law includes acts carried out directly or indirectly in order to provide, collect, give, or lend funds to other parties that are known to be used to commit criminal acts of terrorism. Thus, even if a terror crime has not been committed, because there is already an intention to finance terrorist activities, funders can be arrested by the police.

In addition, it also regulates terrorist organizations, namely groups of people who have a common goal who based on a court decision are declared to have committed a criminal act of terrorism or who based on a court determination are determined in the list of suspected terrorist organizations. A terrorist is a person or individual who, based on a court decision, is found guilty of committing a criminal act of terrorism or who based on a court determination is determined in the list of suspected terrorists. The financing of terrorism in this law is contained in articles 4 to 10.

Regarding Article 15 Jo Article 7 of Government Regulation in Lieu of Law Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism Jo Law Number 15 of 2003, although in the statement submitted by the defendant, that the defendant did not participate in planning amaliyah activities carried out against the Ambalawi Wera Police Chief, and there were no witnesses present at the trial who could prove that the accused committed the amaliyah act, However, a series of defendants' actions have shown attempts and assistance to terrorist activities.

Based on the facts of the trial, both witness statements and the defendant's own statement, the defendant confirmed that he had sent 11 brothers to Poso to conduct military training under Santoso. Where the defendant did this on his own consciousness and not under pressure or coercion from anyone, and the defendant also knew that Santoso's group was a group engaged in terrorist activities. The Indonesian National Police has also issued a List of Suspected Terrorists and Terrorist Organizations Number: DTTOT / P-2a / 931 / V / 2016 in which Santoso and his group Muhajidin Indonesia Timur are included, meaning that here there has been an intention from within the accused to carry out assistance or consensus to launch acts of terrorism.

Similarly, in relation to Article 5 Jo Article 4 of Law Number 9 of 2013 concerning the Prevention and Eradication of Terrorism Financing Crimes, the defendant had also collected funds knowingly and without coercion and pressure from anyone, and the defendant also knew that the funds he collected, then he sent to Santoso in Poso, were used to military training and other logistical needs, such as food, drink, and the needs of members of terrorist groups conducting military training in Poso.

As the author has said before, the defendant knew Santoso's group was a group engaged in acts of terrorism. In this case, there is an element of intentionality in doing the deed. Although the funds collected by the defendant and his associates are legitimate funds, namely from donations from Santoso's network from various regions as well as from infaq activities, the defendant's actions are classified as acts of terrorism financing, because terrorism financing does not see where the money comes from, even though it comes from legal activities, if the funds are suspected or known to be used to facilitate acts of terrorism, Then it can already be accounted for by the defendant.

The author tries to analyze based on the theories of intentionality presented by Sudarto. According to Sudarto, related to the inner state of people who act deliberately, which contains wanting and knowing it, then in the science of Criminal Law there can be called 2 (two) theories, as follows:

Deliberately means imagining the consequences of his actions, people cannot desire the consequences, but can only imagine them. This theory focuses on what the maker knows or imagines is what will happen when he acts. According to Sudarto, the two theories have no difference, both recognize that in intentionality there must be a will to act. The difference is intentionality with other elements, such as the effect and accompanying circumstances. In this case one theory refers to it as "willing", while the other theory refers to it as "knowing or imagining". But in essence in practice of its use, the results of both are the same. The difference is in terms of terminology, or in terms of terms only. (Sudarto 2009)

From the theories of intentionality above, it has been reflected in the actions committed by the accused. The existence of a willingness to perform acts that meet the elements of the article, which in this case was the will to experiment and consensus in sending brothers to Poso to be included in the military training of the Santoso group, the defendant also voluntarily collected funds to be sent to Santoso, which was known to be for the logistical purposes of the Santoso group's military training. Based on the series of actions of the defendant, the defendant is aware of the consequences, namely that acts of terrorism will be carried out that threaten public security and order. In this case, the defendant was charged with two articles derived from different laws, namely Article 15 jo Article 7 of PERPU Number 1 of 2002 jo Law Number 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism and Article 5 jo Article 4 of Law Number 9 of 2013 concerning the Prevention and Eradication of Criminal Acts of Terrorism Financing. This means that there is a *concursum* here. *Concursum* is regulated in articles 63 to 71 of the Criminal Code, in the combined Criminal Code committing a criminal offense is often termed *Samenloop van Strafbare Feiten* which is one person who commits several criminal events<sup>1</sup>. In this case, it can be classified under the Idealist *concursum*. *Concursum* Idealist is regulated in article 63 of the Criminal Code.

Here the judge used a special law, namely the terrorism financing law, and sentenced him to imprisonment for 5 years and 4 months in prison and a fine of Rp 50,000,000,-. So the judge's decision in the terrorism financing case with the defendant Deni Alias Ramadhan Ulhaq in terms of laws and regulations is as it should be. Because for the eradication of terrorism in Indonesia, strict action and law enforcement are needed.

### 3. CONCLUSION

Criminal law policy in terms of prevention and eradication of criminal acts of terrorism financing in Indonesia today, regulated in Law Number 9 of 2013 concerning the Prevention and Eradication of Criminal Acts of Terrorism Financing, Government Regulation in Lieu of Law Number 1 of 2002 concerning the Prevention and Eradication of Criminal Acts of Terrorism jo Law Number 15 of 2003 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning Prevention and Eradication of Criminal Acts of Terrorism into Law, and Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes. b. Implementation of Law Number 9 of 2013 concerning the Prevention and Eradication of Terrorism Financing Criminal Acts in Decision Number 775 / Pid.Sus / 2015 / PN Jkt Tim Based on terrorism financing laws and regulations, judges have sentenced them accordingly. The articles imposed against the accused are Article 15 jo 7 Government Regulation in Lieu of Law Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism as stipulated into Law Number 15 of 2003 and Article 5 jo Article 4 of Law Number 9 of 2013 concerning the Prevention and Eradication of Criminal Acts of Terrorism Financing, with a penalty of imprisonment of 5 (five) years 4 (four) months, and a fine of IDR 50,000,000 (fifty million rupiah) subsidize confinement for 2 (two) months.

### REFERENCES

- Adisaputra Asep. 2008. "Victims of Terrorism Crimes; When the state plays less of a role."  
 FATF. 2022. "The FATF Recommendations: International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation." Fatf, no. March: 1–142. [www.fatf-gafi.org/recommendations.html](http://www.fatf-gafi.org/recommendations.html).  
 PPATK. 2022. "Financial Transaction Reporting and Analysis Center Annual Report 2022."  
 Putra Jaya, Nyoman United. 2016. Special Criminal Law. Semarang: Diponegoro University Publishing Board.  
 Seokanto, Seorjono. 1986. Introduction to Legal Research. Jakarta: University of Indonesia.  
 Sudarto. 2009. Criminal Law I. Revision. Semarang: Sudarto Foundation, Faculty of Law, Diponegoro University.  
 Criminal Code;  
 Law Number 9 of 2013 concerning the Prevention and Eradication of Criminal Acts of Terrorism Financing;  
 Law Number 15 of 2003 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism;

Law Number 6 of 2006 concerning the Ratification of the International Convention for the Suppression of the Financing of Terrorism, 1999;  
Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering; 40 & 9 Special Recommendations of the Financial Action Task Force on Money Laundering of Money Laundering.