

Law Enforcement of Law Number 8 of 2010 Against Perpetrators of Money Laundering Crimes

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Abstract:

In essence, money laundering is disguising a wealth's origin so that its use can occur without knowing its halal or haram source. This study aims to find out law enforcement and judges' considerations in imposing penalties and fines on the perpetrators of money laundering crimes as stipulated in Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (TPPU). This research uses normative legal research techniques, so the data obtained is sourced from literature materials. The results of the study show that Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crime provides a legal basis for the crime of Money Laundering. Law enforcement against perpetrators of fraud and money laundering has been realized in accordance with applicable regulations. One of the cases experienced by Indra Kenz who was sentenced to ten years in prison and a fine of five billion rupiah for having committed fraud and online gambling crimes involving the Binomo trading application. The verdict is not in accordance with the demands of the South Tangerang Public Prosecutor who demanded a prison sentence of twenty years and a fine of ten billion rupiah. However, the panel of judges considered various factors before deciding not to comply with the prosecutor's request and reduce Indra Kenz's sentence. It is recommended that to avoid scams, the public is urged to educate

themselves more about the correct investment techniques before engaging in any financial activities.

Pada hakikatnya pencucian uang adalah tindakan menyamarkan asal usul suatu harta kekayaan sehingga dapat terjadi pemanfaatannya tanpa diketahui sumbernya yang halal maupun haram. Dalam kajian ini bertujuan untuk mengetahui penegakan hukum dan pertimbangan hakim dalam menjatuhkan pidana serta denda kepada pelaku tindak pidana pencucian uang sebagaimana diatur dalam Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang (TPPU). Penelitian ini menggunakan teknik penelitian hukum normatif maka data yang diperoleh bersumber dari bahan kepustakaan. Hasil penelitian menunjukkan bahwa Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang memberikan dasar hukum atas tindak pidana Pencucian Uang. Penegakan hukum terhadap pelaku penipuan tindak pidana pencucian uang sudah terealisasi sesuai dengan peraturan yang berlaku. Salah satu kasus yang dialami Indra Kenz yang dijatuhi hukuman penjara selama sepuluh tahun dan denda sebesar lima miliar rupiah karena telah melakukan penipuan dan kejahatan judi online yang melibatkan aplikasi trading Binomo. Vonis tersebut tidak sesuai dari tuntutan Jaksa Penuntut Umum Tangerang Selatan yang menuntut dengan hukuman penjara dua puluh tahun dan denda sepuluh miliar rupiah. Namun, majelis hakim mempertimbangkan berbagai faktor sebelum memutuskan tidak memenuhi permintaan jaksa dan mengurangi hukuman Indra Kenz. Direkomendasikan bahwa untuk menghindari penipuan, masyarakat dihimbau untuk lebih mengedukasi diri mengenai teknik investasi yang benar sebelum melakukan aktivitas keuangan apapun

Key words: *Money Laundering; Law Enforcement; Judge's Considerations.*

Introduction

One type of deviant behavior that is persistent and deep-rooted in the daily life of every society is crime, or criminal acts (criminals).¹ In addition to being a humanitarian problem, criminal activities and crime are also social problems that affect the entire country and certain local groups.² Likewise with progress in the industrial sector, investment is one of the things that cannot be ignored and is the

¹ Jullianne Regalado, Anastasiia Timmer, and Ali Jawaid, "Crime and Deviance during the COVID-19 Pandemic," *Sociology Compass* 16, no. 4 (2022), <https://doi.org/10.1111/soc4.12974>.

² Jan van Dijk, Paul Nieuwbeerta, and Jacqueline Joudo Larsen, "Global Crime Patterns: An Analysis of Survey Data from 166 Countries Around the World, 2006-2019," *Journal of Quantitative Criminology* 38, no. 4 (2022): 1-36, <https://doi.org/10.1007/s10940-021-09501-0>.

concern of many parties, sometimes causing irregularities.³ One of the crucial issues related to investment is the case of money laundering.⁴ Currently, money laundering is the only method used in Indonesia to detect acts of corruption. As a result, forensic auditors and corruption investigators are unable to identify profits from corrupt activities that are transformed into other assets.⁵

Similar to other countries, Indonesia places transnational organized crime, including terrorism and money laundering as a high priority. History shows that in America, the phrase money laundering first appeared around 1920.⁶ The Mafia uses techniques that involve mixing money received through crime with money obtained legally to hide money obtained through illicit activities. Money laundering is one of these crime categories. If explored more deeply, money laundering can be interpreted as a criminal act whose pattern is committed by an individual or an organization.⁷ The trick is to deposit, transfer, change the form, deposit, exchange money, exchange assets for grants, securities, or other activities that try to eliminate evidence in the form of money that is suspected to be the result of a criminal act. To hide the source of funds, money laundering can also be interpreted as an act that seeks to create legitimate investment in all areas approved by law.⁸

This relates to a criminal act involving property and the source of the proceeds of the crime is concealed or disguised by means of concealment, transfer, or use in such a way that the proceeds of the crime can be used even though the source of the property cannot be determined, because the act is unlawful.⁹ Money

³ Gonaricha Amelia and Ade Mahmud, "Penegakan Hukum Terhadap Pelaku Tindak Pidana Penipuan Investasi Ilegal Uang Kripto Di Perusahaan E-Dinar Coin Cash (EDCCash) Ditinjau Dari Undang-Undang No.19 Tahun 2016 Perubahan Atas Undang-Undang No.11 Tahun 2008," *Jurnal Riset Ilmu Hukum* 1, no. 2 (2022): 117-23, <https://doi.org/10.29313/jrih.v1i2.529>.

⁴ Mike Levi and Melvin Soudijn, "Understanding the Laundering of Organized Crime Money," in *Crime and Justice*, vol. 49, 2020, 579-631, <https://doi.org/10.1086/708047>.

⁵ Tri Puji Raharjo, Syahril Djaddang, and Edy Supriyadi, "Peran Kode Etik Atas Pengaruh Akuntansi Forensik, Audit Investigatif Dan Data Mining Terhadap Pendeteksian Dugaan Tindak Pidana Pencucian Uang," *Jurnal Riset Akuntansi & Perpajakan (JRAP)* 7, no. 2 (2020): 219-34, <https://doi.org/10.35838/jrap.v7i02.1677>.

⁶ Theo Nyrreröd, Stelios Andreadakis, and Giancarlo Spagnolo, "Money Laundering and Sanctions Enforcement: Large Rewards, Leniency and Witness Protection for Whistleblowers," *Journal of Money Laundering Control*, 2023, <https://doi.org/10.1108/JMLC-05-2022-0068>.

⁷ Lucia Dalla Pellegrina et al., "Organized Crime, Suspicious Transaction Reporting and Anti-Money Laundering Regulation," *Regional Studies* 54, no. 12 (2020): 1761-75, <https://doi.org/10.1080/00343404.2020.1772963>.

⁸ Adalia Safira Rahma et al., "Penerapan Fungsi Hukum Pidana Dalam Kasus Investasi Bodong," *Jurnal Analisis Hukum* 5, no. 1 (2022): 56-65, <https://doi.org/10.38043/jah.v5i1.3483>.

⁹ Dadang Hartanto and Nasrullah Hidayat, "Application of Reverse Evidence for The Crime of Money Laundering Based on The Origin of Narcotics," *Croatian International Relations Review* 27, no. 88 (2021): 14-33, <https://doi.org/10.2478/CIRR-2021-0009>.

laundering is not an easy idea for law enforcement officials and on the contrary, it is quite complicated. This is due to the complexity of the problem and the difficulty of formulating effective and impartial policies against violations of the law (criminalization).¹⁰ The many limitations of its definition reflect this.

The criminal act of fraud committed by Indra Kesuma aka Indra Kenz in the form of fraudulent (illegal) investment is one of the criminal acts that has recently received a lot of attention in the mainstream media, both print and electronic. Because of its activities as an affiliate that offers trading benefits through the Binomo and Quotex programs. Money laundering of online gambling winnings using the Binomo application is a violation charged to Indra Kenz.¹¹ The concept of legality is the basis for the occurrence of criminal acts. Therefore, even if a person can be punished for his mistakes, he will still be held criminally liable if he violates the law. Criminal liability is basically a process designed to respond to deviations from certain activities that have been agreed upon.¹²

Currently, influencer Indra Kesuma aka Indra Kenz is a suspect in an online gambling organizer so that it sticks out in a case of alleged money laundering crimes that are being handled by the National Police Criminal Investigation Agency (Bareskrim). A total of eight victims reported Indra Kenz for a fraud case through the Binomo application to the Directorate of Special Economic Crimes (Dittipideksus) of the National Police Criminal Investigation Branch on February 3, 2022. After examining Indra for seven hours on February 24, 2022, the Directorate of Special Economic Crimes of the Criminal Investigation Branch of the National Police designated Indra as a suspect in the Binomo fraud, online gambling, and money laundering case.¹³ Therefore, in this study, the case of Indra Kesuma aka Indra Kenz who committed the crime of money laundering through the internet will be discussed. Based on this background, this study aims to analyze law enforcement against the perpetrators of money laundering crimes and judges' considerations in deciding money laundering cases through analysis of the Indra Kenz case.

¹⁰ Suci Utami, "Tindak Pidana Pencucian Terhadap Uang Virtual Money Laundering on Virtual Money," *Al-Adl : Jurnal Hukum* 13, no. 1 (2021): 1-27.

¹¹ Francisca Romana Nanik Alfiani, "The Urgency of Comprehensive and Integrated Digital Asset Regulation," *Journal of Social Science* 5, no. 1 (2024): 90-102.

¹² Benjamin Levin, "Criminal Law Exceptionalism," *Virginia Law Review* 108, no. 6 (2022): 1381-1448, <https://doi.org/10.2139/ssrn.4098101>.

¹³ Ruth Gladys Sembiring et al., "Penegakan Hukum Cybercrime Di Wilayah Hukum Kepolisian Daerah Sumatera Utara," *Locus Journal of Academic Literature Review* 2, no. 3 (2023): 292-304.

So far, research related to money laundering has been carried out in general by several studies. As well as Valvi who discussed the role of legal professionals in the framework of European and international laws and regulations against money laundering.¹⁴ Likewise, Suhayatmi et al. discussed the role of international cooperation in the eradication of money laundering in Indonesia,¹⁵ and Riccardi and Reuter who examined the various types of money laundering and the determining factors for the choice of perpetrators.¹⁶ However, research related to law enforcement and judges' considerations in sentencing money laundering cases has not been done much. Therefore, this study tries to further examine the law enforcement in Law Number 8 of 2010 against the perpetrators of money laundering crimes and its implementation in a case.

Method

This study uses normative legal research techniques. Therefore, the source of information in this study is only in the form of a literature review with an emphasis on examining primary and secondary legal documents. Legal cases and related laws and regulations are the core source of law. Legal views contained in law books and magazines are secondary legal materials. Legal and economic encyclopedias, as well as other sources are also needed. According to Ediwarman, normative research uses qualitative analysis, which requires the use of statements or words, not statistics, to describe the available data.¹⁷ Penelitian yang bertujuan untuk mengetahui kebenaran koherensi, seperti apakah Laws are in accordance with norms, whether norms in the form of orders or prohibitions are in accordance with legal principles, and whether a person's actions are in accordance with legal norms or legal principles, is a type of normative juridical legal research.¹⁸

Data dalam penelitian ini diperoleh dari kasus-kasus pencucian uang yang diberitakan secara online. Selain itu terdapat data yang mendukung analisis seperti Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan

¹⁴ Elissavet Anna Valvi, "The Role of Legal Professionals in the European and International Legal and Regulatory Framework against Money Laundering," *Journal of Money Laundering Control* 26, no. 7 (2022): 28-52, <https://doi.org/10.1108/JMLC-12-2021-0139>.

¹⁵ Suhayatmi Suhayatmi et al., "The Role of International Cooperation in the Eradication of Money Laundering in Indonesia," *Journal of Social Political Sciences* 3, no. 4 (2022): 367-400.

¹⁶ Michele Riccardi and Peter Reuter, "The Varieties of Money Laundering and the Determinants of Offender Choices," *European Journal on Criminal Policy and Research* 30, no. 3 (2024): 333-58.

¹⁷ Ediwarman Ediwarman, *Monograf Metodologi Penelitian Hukum, Panduan Penulisan Skripsi, Tesis Dan Disertasi* (Medan: PT. Media Lembang, 2016).

¹⁸ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2017).

Tindak Pidana Pencucian Uang (TPPU). Adapun data pendukung merupakan informasi yang diperoleh dari hasil telaah pustaka dan dokumen. Data sekunder merupakan hasil kajian dan pengolahan sebelumnya dan sudah berbentuk buku atau makalah, yang biasanya tersimpan di rumah pribadi atau perpustakaan. Sedangkan data tersier atau dokumen hukum yang memperkuat atau menambah informasi yang telah termuat dalam bahan hukum primer dan sekunder. Penelitian ini menggunakan metodologi deskriptif analitis yang bertujuan untuk menyediakan data secara menyeluruh dengan cara menyajikan temuan-temuan data yang diperoleh dari berbagai sumber serta melakukan evaluasi terhadap instansi terkait guna memastikan semua fakta hukum yang relevan.

Discussion

Legal Review of the Crime of Money Laundering in Law Number 8 of 2010

If the wealth is used in an unlawful criminal act, then money laundering occurs when the source of the profit is concealed or disguised by concealment, transfer, or used in such a way that the proceeds of the crime can be used even though the source is wealth. The existence of these assets cannot be ascertained. Money laundering is not an easy idea and on the contrary, it is quite complicated. This is due to the complexity of the problem and the difficulty of formulating effective and impartial policies against violations of the law.¹⁹

The crime of money laundering is the process of disbursing funds from criminal acts legally by hiding the source. It should be mentioned that TPPU is essentially a follow-up to a violation that causes a new violation (unlawful act). Article 2 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (TPPU Law) states the occurrence of a criminal act. In the above case, the negotiation and settlement also carried out by IK and DS are contained in the a quo paragraph. Assuming that the proceeds of the sale of money from criminal acts come from halal goods, the proceeds of the sale of money from criminal acts as referred to in articles 3 and 4 or article 5 paragraph (1) of the Anti-Corruption Law are as follows:

1. Article 3

The crime of money laundering is threatened with imprisonment for a maximum of 20 (twenty) years and a maximum fine of Rp 5,000,000,000.00 (five

¹⁹ George Pavlidis, "Financial Information in the Context of Anti-Money Laundering: Broadening the Access of Law Enforcement and Facilitating Information Exchanges," *Journal of Money Laundering Control* 23, no. 2 (2020): 369-78, <https://doi.org/10.1108/JMLC-10-2019-0081>.

billion rupiah) for each person who places, exchanges, transfers, spends, pays, grants, waqfs, brings abroad, changes forms, trades money or securities, or carries out other activities on resources that he knows or should suspect is a continuation of the criminal act as intended in Article 2 paragraph (1).²⁰

2. Article 4

As referred to in article 2 paragraph (1), a criminal act can be imposed on any person who conceals or conceals the origin, source, territory, designation, transfer of rights, or actual ownership of a resource, which he knows or reasonably suspects is a continuation of the crime of money laundering with a maximum fine of Rp. 5,000,000,000.00 (five billion rupiah) and imprisonment for a maximum of 20 years.²¹

3. Article 5 paragraph (1).

If a person obtains or controls the conditions, exchanges, installments, gifts, custody, trade, or use of money that he knows or should suspect to be used to commit an unlawful act as intended in Article 2 paragraph (1), then he may be subject to sanctions. Both were threatened with imprisonment for a maximum of five months and a maximum fine of Rp 1,000,000,000.00 (one billion rupiah).²² The violator noticed that there was a variation between the three articles. Articles 3 and 4 regulate dynamic TPPU violators, while Article 5 paragraph (1) regulates non-binding TPPU violators.

Currently, the Crime of Money Laundering (TPPU) has developed very rapidly due to technological advances. We can see the Juridical Review of TPPU from its legal basis, namely, Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes. In this case, it can be known that TPPU is a criminal act committed by hiding the origin and identity of people or perpetrators of TPPU. Law No. 8 of 2010 has provided a comprehensive legal framework for handling TPPU, including the obligation to report suspicious transactions, the establishment of the Financial Transaction Reporting and Analysis Center (PPATK), and the application of strict criminal sanctions.²³

²⁰ Republik Indonesia, Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang.

²¹ Republik Indonesia, Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang.

²² Republik Indonesia, Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang.

²³ Sri Cici Nainggolan and Yudi Kornelis, "Tinjauan Yuridis Upaya Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang Berdasarkan Undang-Undang Nomor 8 Tahun 2010," *Judge: Jurnal Hukum* 5, no. 2 (2024): 172-81, <https://doi.org/10.54209/judge.v5i02.556>.

Law Enforcement of Law Number 8 of 2010 Against...

Yanun Hanun & Bambang Arwanto

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In the development of money laundering regulations in Indonesia, fundamental changes have been made with the promulgation of the PPTPPU Law. The change was made in the national interest by adjusting international standards to prevent and eradicate money laundering crimes. The common will to fight money laundering crimes by complying with the applicable legal provisions is the main capital for the complainants and everyone who will help our country to get out of the problem of corruption and crimes that generate assets.²⁴ Therefore, in enforcing the applicable law, it is necessary to have awareness and legal obedience from the public in order to avoid violations that can harm the state or other people.

Law Enforcement Against Perpetrators of Money Laundering Fraud

Law is a system of enforceable laws and regulations made by organizations that have the authority to make laws.²⁵ Thus, the law is basically intended to control behavior and/or prohibit the occurrence of behavior. Therefore, it is possible that an action carried out by a subject of law can result in an act that is against the law, meaning that law enforcement is very important in this situation to ensure that the purpose of the laws and regulations that have been made can be enforced in a country.²⁶

Furthermore, according to Soerjono Soekanto, law enforcement is an effort that essentially seeks to enforce, form, and maintain community harmony by balancing relationships with ideals that are in line with the right regulations and attitudes.²⁷ Satjipto Rahardjo gave another view on law enforcement. In his view, law enforcement is a series of procedures and/or values that aim to achieve legal goals, even though these goals and values are abstract.²⁸

Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (TPPU) has this provision. Article 378 of the Criminal Code concerning acts of fraud and Article 55 of the Criminal Code concerning involvement in unlawful criminal acts are other charges filed against Indra Kenz.

²⁴ Givari Muslim, Abdurahman Konoras, and Dientje Rumimpunu, "Pertanggungjawaban Pelaku Tindak Pencucian Uang Di Indonesia Undang-Undang Nomor 8 2010," *Lex Crimen* 11, no. 2 (2022).

²⁵ John Babikian, "Navigating Legal Frontiers: Exploring Emerging Issues in Cyber Law," *Revista Espanola de Documentacion Cientifica* 17, no. 2 (2023): 95-109.

²⁶ Faizin Sulistio and Aizahra Daffa Salsabilla, "Pertanggungjawaban Pada Tindak Pidana Yang Dilakukan Agen Otonom Artificial Intelligence," *Unes Law Review* 6, no. 2 (2023): 5479-90.

²⁷ Fitri Anita and Setya Haryati, "Asas Praduga Tak Bersalah Dalam Penyelenggaraan Peradilan Pidana," *Jurnal Jendela Hukum Dan Keadilan* 8, no. 1 (2021): 81-112.

²⁸ A Faisal, "Pemikiran Hukum Progresif Prof. Dr. Satjipto Rahardjo," *International Journal of Cross Knowledge* 1, no. 2 (2023): 314-28.

Law Enforcement of Law Number 8 of 2010 Against...

Yanun Hanun & Bambang Arwanto

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Indra Kenz is threatened with a sentence of up to 20 years in prison and a number of assets worth billions of rupiah were confiscated due to the news. This decision has an impact on all parties involved in the dispute, either directly or indirectly.²⁹

The case file on behalf of the suspect Indra Kenz has been completed materially and materially a few days after the examination, according to the statement of the law enforcement officer handling this case (P-21). The demand was submitted by the Jampidsus Team of the Attorney General's Office of the Republic of Indonesia (Kejagung). Indra Kenz was arrested and designated as a suspect by investigators after being questioned for more than seven hours. Indra Kenz's wealth and assets, which are suspected to be the proceeds of crime, were later found by Bareskrim investigators. At that time, investigators confiscated Indra Kenz's property worth 57.2 billion rupiah. Investigators seized various items, including bank accounts, mobile phones, YouTube accounts, correspondence from Google Mail, and YouTube videos.³⁰

In addition, investigators also confiscated a number of land, houses, luxury watches branded Audemars Piguet and Rolex, as well as Tesla and Ferrari production vehicles. Indra Kenz is the owner of two houses in the Cemara Asri Complex, Sampali Village, Percut Sei Tuan District, Deli Serdang Regency, North Sumatra, which is worth 30 billion rupiah (North Sumatra). Because they suspected that the accounts of Indra and her boyfriend, Vanessa Khong, contained money from criminal acts, investigators closed their access. Investigators also examined the recipients of donations from Indra and asked them to return the money. Indra Kenz's closest people were also named as suspects, namely Vanessa Khong, Indra Kenz's girlfriend; Rudyanto Pei, Vanessa's father; and Indra Kenz's sister, Nathania Kesuma.³¹

Furthermore, in the trial, Indra Kesuma alias Indra Kenz was sentenced to 10 years in prison and a fine of 5 billion rupiah. Indra was determined to have violated Article 3 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes and Article 45A paragraph (1) of Law

²⁹ E. A. Retaduari, "Pasal-Pasal yang Menjerat Indra Kenz Terkait Binomo, dari Soal Judi Online sampai Pencucian Uang." Retrieved from Kompas: <https://nasional.kompas.com/read/2022/03/07/20330641/pasal-pasal-yang-menjerat-indra-kenz-terkait-binomo-dari-soal-judi-online> (2022).

³⁰ Ade Leasfita and Muhammad Budi Santoso, "Analisis Framing Pada Pemberitaan Kasus Penipuan Trading Online Indra Kenz Di Kompas. Com Dan Detik. Com.," *MUKASI: Jurnal Ilmu Komunikasi* 2, no. 4 (2023): 245-54, <https://doi.org/10.54259/mukasi.v2i4.2063>.

³¹ Dryan Nugroho and Hery Firmansyah, "Penegakan Hukum Terhadap Tindak Pidana Pencucian Uang Dalam Kasus Investasi Binomo Demi Keadilan Bagi Korban," *Unes Law Review* 6, no. 4 (2024): 10497-507, <https://doi.org/10.31933/unesrev.v6i4.1979>.

Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions.³²

Tangerang District Court On November 14, 2022, the Tangerang District Court handed down a verdict Number 1240/Pid.Sus/2022/PN Tng. Indra Kenz with a prison sentence of 10 years and a fine of 5 billion rupiah. This shows that in the context of Indra Kenz, the funds that were previously given to the state have now been returned to the victims with serial numbers 220 to 258. The High Court Panel of Judges held that the evidence was sufficient to cover most of the losses suffered by the victims in this alleged fraud case. "If the victims receive back the evidence and use it to disseminate it widely through the affiliated leaders, as mandated by the Panel of Judges, then it is true, reasonable, and appropriate," he wrote in his letter of choice to the judge of the Banten High Court. Convincing legal evidence shows that the defendant Indra Kesuma Als Indra Kenz has committed unlawful acts in the form of spreading false and misleading information that resulted in consumer losses in electronic transactions and money laundering crimes.³³

The judge's verdict regarding the verdict of Indara Kesuma/Indra Kenz money laundering in the Binomo Binary Option application investment fraud case has now entered the final stage, which has been going on for almost nine months. In addition, the verdict was taken after listening to the testimony of experts, witnesses, and related parties, as well as the reasons, evidence, and criminal charges against the perpetrator. Based on the results of the trial, Indra Kenz was found guilty of spreading false information and misleading others other than the crime of money laundering (TPPU). Article 45A paragraph (1), Article 28 paragraph (1) of the Information and Electronic Transactions Law, and Article 3 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, were determined as violations committed by Indra Kenz.³⁴

On Monday, November 14, 2022, in the reading of the verdict on the main page of the Tangerang District Court, Judge Rahman Rajgukk explained the main

³² Matthew Jeremiah and Rasji Rasji, "Perlindungan Hukum Terhadap Korban Penipuan Melalui Gugatan Ganti Rugi Secara Class Action (Dalam Kasus Aplikasi Trading Binomo Yang Dilakukan Indra Kenz)," *Ranah Research: Journal of Multidisciplinary Research and Development* 6, no. 4 (2024): 1051-64, <https://doi.org/10.38035/rrj.v6i4.963>.

³³ Patricia Jeanne Hans and Moody Rizqy Syailendra, "Penegakan Hukum Terhadap Pelaku Penipuan Investasi Melalui Platform Aplikasi Illegal," *Jurnal Inovasi Global* 1, no. 2 (2023): 38-43, <https://doi.org/10.58344/jig.v1i2.7>.

³⁴ Ahmad Hanif, Suzanalisa Suzanalisa, and Nuraini Zachman, "Pertanggung Jawaban Pidana Terhadap Affiliator Aplikasi Platform Binary Option Dalam Prespektif Hukum Indonesia," *Legalitas: Jurnal Hukum* 15, no. 1 (2023): 47-60, <https://doi.org/10.33087/legalitas.v15i1.434>.

points of the decision. The Tangerang District Court Decision Number 1240/Pid.Sus/2022/PN Tng dated November 14, 2022 as stated in the Amar Memorandum has ruled that the defendant Indra Kesuma Als Indra Kenz has been legally and convincingly proven guilty of committing the crime of spreading false and misleading news that results in consumer losses in electronic transactions and money laundering. Therefore, the defendant was sentenced to 10 (ten) years in prison and a fine of Rp.5,000,000,000,- (five billion rupiah), with the provision that if the fine is not paid, the defendant is replaced with an additional penalty for 10 (ten) months in prison.³⁵

Article 3 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, hereinafter referred to as the "TPPU Law" relates to law enforcement against money laundering crimes. If the perpetrator's actions are in accordance with the intent of the article, namely if the perpetrator has placed investment money to the victim which is suspected to be the result of a criminal act of fraud aimed at money laundering, then it is threatened with imprisonment for a maximum of twenty (twenty) years and a maximum fine of Rp. 10,000,000,000.00 (ten billion rupiah).³⁶ The violator in this case can be punished under this article because the component of the act committed by the fraudulent investment perpetrator is eligible.

Judge's Considerations in Imposing Penalties and Fines on Perpetrators of Money Laundering Crimes

The Tangerang District Court handed down a decision Number 1240/Pid.Sus/2022/PN Tng. stating that the defendant Indra Kenz was sentenced to 10 years in prison and a fine of 5 billion rupiah. However, the judge's decision on Indra Kenz's case is considered to deviate from the demands of the South Tangerang Public Prosecutor (JPU) who charged Indra Kenz with a prison sentence of 20 years and a fine of 10 billion rupiah. However, the Panel of Judges considered various factors before deciding not to comply with the prosecutor's request and commute Indra Kenz's sentence. The fact that Indra had an obligation to his family and was impoverished by the state due to the confiscation of all his property became a consideration for the judge in making a decision. In addition, the absence

³⁵ Shafira Nur Annisa et al., "Analisis Kasus Pencucian Uang Yang Dilakukan Oleh Indra Kenz Di Tinjau Dari Undang-Undang Nomor 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang," *Jurnal Hukum Dan HAM Wara Sains* 2, no. 12 (2023): 1149-58, <https://doi.org/10.58812/jhhws.v2i12.869>.

³⁶ Republik Indonesia, Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang.

of punishment from Indra Kenz, sadness for his actions, and apologies to loss-making traders are mitigating factors. This criminal act occurred due to the defendant's mistake and also because of the involvement of traders who tried to get rich quickly without working.³⁷

As stated in Article 5 paragraph (1) of Law Number 48 of 2009 concerning the Principles of the Implementation of Judicial Power, it is explained that Judges and Constitutional Judges are obliged to explore, follow, and understand the legal values and sense of justice that apply in society.³⁸ The role of the judge as a person who carries out a crime does not ignore social and legal norms. The independence of judges is very important to ensure their impartiality when making decisions. The judge is responsible for the decision he takes and the way it is implemented in analyzing and deciding the case, in accordance with Article 53 paragraphs (1) and (2) of Law Number 48 of 2009 which regulates judicial power.

The judge's thinking based on legal grounds and good and valid reasons must be outlined in the verdict and conclusion. With the enactment of Law Number 48 of 2009, the discretion of judges is increasing. In other words, the judge can now find the law and decide a case other than imposing a criminal sentence.³⁹ This rule limits the ability of courts to find and defend the truth by requiring judges to base their decisions solely on evidence. Judges, public prosecutors, defendants, and legal counsel are all subject to the rules governing the process and assessment of admissible evidence. When assessing evidence, no one can act freely and independently. The defendant's actions can be proven by several systems of proof theory, according to which the theory is based. This was conveyed by the judge when reading the verdict of the Binomo case with the defendant Indra Kesuma or Indra Kenz. The judge also decided that the evidence from the criminal act in the Indra Kenz case was confiscated for the state.⁴⁰

³⁷ Aditya Bifa Firmansyah, "Kepastian Hukum Kepemilikan Aset Korban Investasi Illegal Binomo (Studi Kasus Pengembalian Hak Aset Kepada Korban Putusan Pn Tangerang Nomor 1240/Pd Sus/2022/Pn Tangerang Tanggal 14 Nopember 2022)," *Causa: Jurnal Hukum Dan Kewarganegaraan* 5, no. 12 (2024): 71–80, <https://doi.org/10.3783/causa.v5i12.5468>.

³⁸ Republik Indonesia, Undang-Undang Nomor 48 Tahun 2009 tentang Pokok-Pokok Penyelenggaraan Kekuasaan Kehakiman

³⁹ Hasanul Mulkan, "Peranan Hakim Dalam Persidangan Perkara Pidana Sebagai Upaya Penegakan Hukum Pidana," *Jurnal Hukum Samudra Keadilan* 16, no. 2 (2021): 305–19, <https://doi.org/10.33059/jhsk.v16i2.4118>.

⁴⁰ Jeremiah and Rasji, "Perlindungan Hukum Terhadap Korban Penipuan Melalui Gugatan Ganti Rugi Secara Class Action (Dalam Kasus Aplikasi Trading Binomo Yang Dilakukan Indra Kenz)."

Law enforcers are certainly authorized to prosecute money laundering crimes. So to overcome this law enforcement problem, there needs to be legal considerations based on the money laundering crime law.⁴¹ By punishing violators of the law, the function of the law in such situations is to protect legitimate rights and eradicate criminality. When a person violates the law, he will be subject to a criminal punishment that has a double impact, namely making the perpetrator suffer and increasing awareness of his own behavior. Sanctions must be applied in a manner that is consistent with the illegal behavior that has been committed and with acceptable ethics and morals, even if they are coercive. Sanctions are also sought to create a safe environment and reduce crime rates, especially fraud, by preventing the recurrence of similar crimes and victims.

Conclusion

Law Number 15 of 2002 which was later amended to Law Number 25 of 2003 and until now Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crime provides a legal basis for the crime of Money Laundering. The main perpetrator of online gambling fraud and crime involving the Binomo trading application is Indra Kesuma who was sentenced to 10 years in prison and a fine of five billion rupiah. Understanding the impact of missing components in the entire process is crucial in the judge's assessment of mitigating or aggravating factors. The verdict deviated from the demands of the South Tangerang Public Prosecutor (JPU) who charged Indra Kenz with a prison sentence of 20 years and a fine of 10 billion rupiah. However, the panel of judges considered various factors before deciding not to comply with the prosecutor's request and reduce Indra Kenz's sentence.

Based on the description of the problem, it is recommended that to avoid fraud like what happened to Indra Kenz, the public is urged to educate themselves more about the correct investment techniques before carrying out any financial activities. Law enforcement officials should more intensively monitor and pay attention to applications that offer online investments, because these applications may be fraudulent programs that can endanger the public. However, this research is still limited to one of the many cases of money laundering crimes, so the analysis built only uses one perspective. For this reason, research on more cases is needed as

⁴¹ Japriyanto Japriyanto, Desia Rakhma Banjarani, and Risa Mahdewi, "Money Laundering As A Transnational Crime Problems And The Ideas Of Legal Policy Reformation In Indonesia," *Corruptio* 3, no. 1 (2022): 21–32, <https://doi.org/10.25041/corruptio.v3i1.2604>.

a comparative study that can strengthen this study. This is because each case studied can produce different analyses and different conclusions.

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Yanun Hanun & Bambang Arwanto

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Yanun Hanun & Bambang Arwanto

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