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LEGAL ASPECTS OF MONEY LAUNDERING WITH SMURFING MODE

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ABSTRACT
The objective of this study is to explore the legal dimensions of the criminal offense of money laundering, specifically focusing on the smurfing technique. Additionally, it seeks to examine the evidentiary framework applicable to the crime of money laundering as defined by Act No. 8 of 2010 concerning the Penal Procedure for Money Laundering. The advancement technology has introduced various innovative methods in the prosecution of money laundering, one of which is the smurfing technique. This method involves the placement of illicitly obtained funds into the financial system by dividing the money into smaller sums and depositing them into bank accounts to evade detection. The concept of smurfing gained prominence following Judgment No. 62/Pid.Sus/2021/PN Jkt.Utr, which referenced "smurfing" as tactic employed by criminals to obscure the origins of their illicit gains, thus rendering it a significant subject of analysis under Act No. 8 of 2010. 1. This type of legal research is characterized by its normative approach, employing a methodology that focuses on the examination of library resources. It possesses a descriptive quality. The legal documents utilized are derived from primary, secondary, and tertiary sources. The study incorporates two data collection methods: secondary data analysis and qualitative data analysis. The findings indicate that while the smurfing technique is not explicitly defined in Act No. 8 of 2010, its operational phases ranging from initial funding to distribution and eventual withdrawal align with the stipulations outlined in Articles 3, Articles 4, and Articles 5 of the Penal Enforcement Act on Money Laundering.

Keywords: *Legal Aspects, Criminal Acts, Money Laundering, Mode, Smurfing*

1. INTRODUCTION

Scientific and technological advances have generated concrete benefits in the economic sector, especially in supporting business activities and expanding the scope of more diverse and attractive financial services. This includes the ability to facilitate cross-border financial transactions that are increasingly complex and important to the global economy. Nonetheless, the advancement of these two technologies has brought great benefits to the economy and businesses. However, the widespread use of technology also carries serious implications for its potential misuse for illicit purposes. This phenomenon occurs along with the development of businesses that increasingly rely on technology, which in turn attracts the attention of unscrupulous parties to use these tools as a means to launch criminal acts related to economic activities. Several economic crimes that utilize high technology include attacks on banking security infrastructure, credit card fraud, intrusion into accounts through ATM networks, forgery of investment documents such as bonds and mutual funds, and activities related to money laundering. [1]

Money laundering is understood as a common practice used by various parties in the vortex of criminal activity to obscure the origin of illegally obtained funds. The aim is to create the impression that the funds are sourced from a legally justified or legitimate activity. Criminals use various methods to hide traces of the money, including modifying its form or moving it to a location that is less suspicious to the authorities. By laundering money, criminals attempt to keep the proceeds of their crimes undetected and free to use without risk of legal action. The money laundering process is seen as a complex series of endeavors, within which there are two distinct stages, starting with the first stage which is the underlying crime known as the predicate offense or core crime. This initial stage involves the creation of illicit funds, which flow into the next stage of the laundering process.[2]

In cases where money laundering is considered a complex offense, by the provisions that can be found in Article 2, Paragraph 1 of Law No. 8/2010 on the Countermeasure and Eradication of Money Laundering, various criminal activities serve as sources of illicit funds that are often the object of laundering. These activities include corruption, bribery, drug and psychotropic trafficking, human trafficking, migrant smuggling, violations in the banking, capital market, and insurance business domains, customs and excise violations, illegal arms dealing, acts of terror, kidnapping, theft, misappropriation, fraud, currency counterfeiting, gambling, prostitution, as well as violations related to tax, forestry, environmental preservation, marine, fisheries, or other violations.

The process of money laundering has evolved through the application of increasingly complex methods of operation. Modus operandi, which refers to certain

[1]Kurniawan, Iwan. "Perkembangan Tindak Pidana Pencucian Uang (Money Laundering) Dan Dampaknya Terhadap Sektor Ekonomi dan Bisnis", *Journal of Legal Studies*, 3, No. 1 (2012): 1, DOI: http://dx.doi.org/10.30652/jih.v3 i1.1037.

[2]Komisi Pemberantasan Korupsi (KPK), Australia Department of Home Affairs, Pusat Studi Hukum dan Kebijakan (PSHK) dan Australia Indonesia Partnership for Justice (AIPJ). *Pedoman Penanganan Tindak Pidana Pencucian Uang dan Pemulihan Aset di Pasar Modal*. (Perpustakaan Nasional RI, 2018), 59.

methods or techniques that characterize a criminal in carrying out his actions, stretches across the framework of crime.[3] Otoritas Jasa Keuangan has identified 10 modus operandi used in money laundering, including:

1. Smurfing, which is the practice of breaking small transactions into pieces to avoid reporting
2. Structuring, which is breaking transactions into small transactions same as smurfing
3. U-Turn, where the proceeds of crime are reversed through transactions and returned to the original account
4. Cuckoo Smurfing, where the proceeds of crime are sent through the accounts of third parties who are unaware of the origin of the funds
5. Purchasing assets or goods by concealing ownership status
6. Exchange of Goods or Barter to counter the use of cash or currency instruments
7. Underground Banking or Alternative Remittance Services through informal channels
8. Use of third parties to conduct transactions and avoid identity detection
9. Mingling, which is the process of combining legitimate funds with income from criminal acts to increase the amount of money
10. Using false identities to make tracking more difficult[4]

One of the cases where the smurfing method occurred and at the same time gave the name to the process was when the Sensi mask fraud case was decided in 2021 with Decision Number 62/Pid.Sus/2021/PN Jkt.Utr. This verdict provides a detailed description of how the crime of money laundering through the Smurfing Mode is committed. The perpetrator was proven to have committed money laundering with the original crime of fraud and reaped and controlled the proceeds of the fraud for IDR 1,882,000,000 and distributed it by breaking up the proceeds to someone and putting it in a bank account so that the traces of the crime could not be sniffed out and the perpetrator could utilize the funds.

The provisions criminalizing money laundering are contained in Article 3, Article 4, and Article 5 of Law Number 8 Of 2010, namely:

Article 3:
"Anyone, who places, transfers, forwards, spends, pays, grants, deposits, takes to the abroad, changes the form, changes to the currency or securities or other deeds towards the Assets of which are recognized or of which are reasonably alleged as the result of criminal action, as outlined in Article 2 section (1) with the purpose to hide or to disguise the origin of Assets, shall be subject to be sentenced due to the criminal action of Money Laundering with the imprisonment for no longer than 20 (twenty) years and fine for no more than Rp10.000.000.000, 00 (ten billion rupiah)."

[3] Dirjosisworo. *Ruang Lingkup Kriminologi*. (Rajawali, 1984), 26.

[4] Rika Anggraeni. "OJK Beberkan 10 Modus Money Laundering, Apa saja?", Finansial, 20 July 2022,https://finansial.bisnis.com/read/20220729/90/1560868/ojk-beberkan-10-modus-money-laundering apa-saja

Article 4:
"Anyone, who hides, or disguises the origin, source, location, purpose, transfer of right or the truly ownership of the Assets that are known by him or of which are reasonably alleged as the result of criminal action, as set forth in Article 2 section (1), shall be subject to be sentenced due to the criminal action of Money Laundering with the imprisonment for no longer than 20 (twenty) years and fine for no more than Rp500.000.000.000, 00 (five hundred billion rupiah)."

Article 5:
"(1) Anyone, who accepts or who takes the control of placement, transfer, payment, grant, deposit, exchange, or utilizes the Assets of which are known by him or of which are reasonably alleged as the result of the criminal action, as set forth in Article 2 section (1), shall be subject to be sentenced with imprisonment for no longer than 5 (five) years and a fine for no more than Rp1.000.000.000, 00 (one billion rupiah).
(2) Provision as set forth in section (1) above shall not be applicable for the Reporter Party who carries out the obligation of report as set forth herein."

The above article is the basis for the criminalization of all forms of practices and methods in money laundering these are contained in 3 elements, namely the elements of the subject, form of action, and purpose of action. However, in the Article, the phrase "smurfing" is explained in Decision Number 62/Pid.Sus/2021/PN Jkt.Utr and its meaning are not yet found, so it will be interesting if it is identified based on applicable legislation, in this case, Law Number 8 of 2010 and becomes an opportunity to further recognize the identity of the smurfing mode.

Previous research conducted by Syarwani with the title The Ability of the Anti-Money Laundering Regime in Responding to the Modus Operandi of Money Laundering Crimes Originating from Corruption Crimes. This research focuses on how the perpetrators carry out ways/modus operandi that are emphasized through smurfing and structuring. In his conclusion, Syarwani explained that the response of the anti-money laundering regime is always one step behind other major countries, it is seen by the occurrence of a legal vacuum and cannot recognize the developing modes. The difference with what the author examines is that Syarwani's research focuses on various modes of money laundering, while the author focuses on smurfing alone the next is the crime of origin of the money laundering, that Syarwani's research examines the criminal origin of corruption while the author's criminal origin is fraud.

2. RESEARCH METHODS

This research raises two main issues, namely the legal aspects related to the Crime of Money Laundering with smurfing mode by Law Number 8 Of 2010 and the evidentiary system associated with the Crime of Money Laundering with smurfing mode. The method used in this research is normative juridical research, which places the law as a system of norms and is based on secondary data which includes legal materials, views of scholars, and opinions of experts from various literature sources such as books, journals, dictionaries,

newspapers, documentation, and other sources relevant to the object of study. The approach applied in this research is a qualitative approach and legislation (statute approach). This research is descriptive and included in the category of prescriptive research which aims to describe the ongoing conditions or situations and provide information related to the research object. The sources of legal materials used consist of primary, secondary, and tertiary legal materials. The technique of collecting legal materials applied is library research which is then analyzed qualitatively to produce conclusions that can be well understood.

3. DISCUSSION

3.1. Legal Aspects Of Smurfing Mode

3.1.1. History Of Smurfing Mode

The origin of smurfing when the United States presented a new law issued in 1970, namely the Bank Secret Act of 1970 which mandates and requires the issuance of reporting every cash transaction above $10,000 to the authorities, initially the law was designed to prevent money laundering which in the 1930-1970 period was rampant especially in the United States. [5]

At that time money laundering was known as the crime of laundering money in large funds derived from Narcotics and other Drugs and Financing Terrorism so the Bank Secret Of Act 1970 was issued which only understood that money laundering was only carried out in large transactions funds, however in fact the criminal actors began to understand the weaknesses and the Act, so that the actors of money laundering crimes avoided by washing money by breaking the proceeds of money laundering from a relatively large amount to below $10,000. Many criminal actors also create accounts under other names so that the fractions of money laundering can be transacted to these new accounts. This is following Paul Allan Schott's opinion that smurfing steps are carried out using individual transactions that can involve accounts at a financial institution that occur just below the country's reporting threshold.[6]

3.1.2. Stages Of Money Laundering

Muchsin revealed that:

"Money laundering activities involve very complex activities. The activity consists of three steps, each of which stands alone but is often carried out together, namely placement, layering, and integration".[7]

1. Placement

[5] Sarah N. Welling "Smurfs, Money Laundering and the Federal Criminal Law: The Crime of Structuring Transactions", *University of Kentucky Law Faculty Articles*, Vol. 41 No. 3 (1989): 28, DOI: https://scholarship.law.ufl.Edu/flr/vol 41/iss2/3.

[6] Paul Allan Schott. *Reference Guide To Anti-Money Laundering And Combating The Financing Of Terrorism*. (The World Bank, 2006), 25.

[7] Muchsin, *Ikhtisar Hukum Indonesia* (Badan Penerbit Iblam. 2005), 201-202.

Placement here means various efforts to store the proceeds of crime. This means the physical movement of money, either through smuggling it to another country, mixing the proceeds of crime with money from legal activities, or placing it in financial institutions, either bank deposits or checks. Another way is to put it into property, shares, or convert it into another currency, in other words converting it into foreign exchange.

2. Layering

This is an action to distance the money generated from the crime from the source, which can be by moving it through several financial transactions. In this case, the funds are moving through several accounts or locations, to obscure or distance them from their source. This usually involves several complex transaction stages and is designed to make it difficult to trace. Taking advantage of bank secrecy rules can be done by creating as many accounts as possible in the name of the fictitious company being set up.

3. Integration

The main purpose of the integration effort is to provide a legal basis for the acquisition of criminal acts. In practice, the funds generated are then placed or layered, in other words, bleached. The method that can be done is to divert it to various legal activities so that it appears as if there is no correlation with the results of certain criminal acts. The funds will eventually be put into a financial system that is indeed legalized.

3.1.3. Identification of Smurfing Modes Through the Stages of Money Laundering

The following is a step-by-step explanation of how Smurfing is carried out by criminals in light of the general explanation of the stages in money laundering:

1. The Initial Funds Stage, the process begins with a person with a significant amount of assets such as narcotics who wants to be used and wants to be transferred to the banking system. So in this stage, it can be seen that the money laundering process is at the stage of the parent criminal offense (Predicate Crime) because this action is seen as a series of complex criminal acts that cause multiple crimes so money laundering is a continuing crime from the parent crime, as stated in Article 2 of Law Number 8 Of 2010.

2. Distribution Stage or Depositing into a Bank Account, namely the perpetrator of money laundering with the smurfing mode deposits money in the form of assets from the crime into the banking system. So in this stage is the placement stage, which is the activity of depositing the proceeds from a criminal offense into the financial system flow, by depositing cash into a bank account or conducting cash financial transactions.[8]

3. The Small Amount of Money Blurring Stage, where the smurfer or the perpetrator of the smurfing mode breaks up the proceeds of crime into small amounts, usually less than the maximum limit set by government regulations. These maximum limits vary depending on the country and jurisdiction. Regarding the maximum limit of cash transactions, the Government of Indonesia will also issue a Law on the Maximum Limitation of Cash Transactions, which according to the explanation of PPATK (Pusat Pelaporan dan Analisis

[8] Mohamad Mahsun. *Money Laundering*. (Deepublish, 2023), 71.

Transaksi Keuangan) will provide a limit on transactions using cash in amounts above Rp. 100,000,000.00 or its equivalent, either once or in several transactions made together. Every person means both individuals and corporations. Article 23 of Law Number 8 Of 2010 also explains the maximum transaction limit, which is at least Rp. 500,000,000.00 or its equivalent in foreign currency, which is carried out in a single transaction or stages. The obfuscation stage carried out by money laundering with the smurfing mode is to obscure the traces of the transaction. This stage of transaction obfuscation is divided into two techniques, namely:

a. Mixing Service, which is a technique of obscuring transactions by using several people as many accounts that will be included in previous transactions that have been broken down

b. Layered Transactions, which is a technique of obscuring transactions by making repeated transactions, this technique is usually run by one person who has more than one bank account.[9]

This stage is included in the layering stage, which is an activity in disguising and obscuring the proceeds of crime so that the source and current position of the funds become unclear where criminals use a variety of complicated and complex methods to obscure traces of illegal money, for example through complex and repeated transfers of funds between accounts. This stage aims to make it difficult to detect and trace the origins of the illegal money, hindering investigations and making it difficult for authorities to trace.

4. The Withdrawal Stage or Making the Criminal Money Look Legitimate, is the last in the smurfing method that performs the reunification stage of previous transactions that have been broken down so that they appear to be legitimate and lawful money. Money launderers can use the money for investment, asset purchases, or other purposes to avoid reporting. This stage is the last in money laundering with smurfing mode. This stage is the Integration stage, which is the activity of reuniting the collected illegal proceeds of crime so that they can be re-entered into the legal financial system along with other assets. The perpetrator of money laundering can eventually spend the money without being suspected and as if it were legally obtained.[10]

3.1.4. Classification of Money Laundering Crime and its Elements

a. Active Actors, namely those who carry out actions to transfer the proceeds of a criminal offense, for example, people who transfer, make purchases, send, change the form, make exchanges, and other actions regarding the assets of the criminal offense, while they know or at least they should suspect that the assets are the proceeds of a criminal offense. This can be found in articles 3 and 4 of this Law. This active actor is then divided into two, namely:

1. Principle Violators, namely those who are the perpetrators of the original criminal act as well as moving the money, through various means, ranging from transferring it,

[9] *Ibid*

[10] Explanation Through The Website *Immunebytes*, 20 December 2023, *Use of Smufing in Crypto Laundering,* https://www.immunebytes.com/blog/use-of-smurfing-in-crypto-laundering/.

spending it, and other forms of action. It is this perpetrator who is said to have committed full money laundering. Perpetrators who fall into this category will be subject to two provisions at once, namely that they committed the original crime referred to in articles 3 and 4 of this law.

2. *Aider*, namely those who carry out transfers, purchases, exchanges, and other actions as mentioned in Articles 3 and 4 of this Law. However, perpetrators in this category are only subject to the criminal offense of money laundering. This is because they do not have involvement in the main criminal offense, but rather know or at least reasonably suspect that what they flow or spend is the result of a criminal offense.

b. Passive Actors or *Abettors*, namely those as recipients of transfers, payments, gifts, or other forms, where they know or at least reasonably suspect that what they receive is the proceeds of a criminal offense mentioned in Article 5 of this Law.

Normatively, the provisions relating to the practice of money laundering are regulated in the Law on the Prevention and Eradication of Money Laundering Crimes, which outlines the provisions that stipulate the various types of laundering crimes and will then be examined through the elements of Article 3, Article 4 and Article 5 therein.[11]

3.1.4.1. The Act Of Money Laundering Of Assets Resulting From Criminal Acts

The act of money laundering of assets resulting from criminal acts is a money laundering crime that falls into the active category. Looking at the criminalization of Article 3 of the Law, there is also the phrase "with the purpose" so that the norm reflects the *"mens rea"* of the perpetrator because the presence of the phrase "with the purpose" is another form of qualifying / formulating the element of deliberate offense so that it is required that there is an intention inherent in the heart of the perpetrator and he wants to realize it through various actions that are not justified according to the article.[12] The phrase "with the purpose" among some experts makes it a real form of determination of intent in the formulation of the offense so academics call it another form of formulation of intent. [13]The use of the term "with purpose" *(met het oogmerk)* has two dimensions, namely:

1) As a goal, which is classified as a gradation of intentionality, namely that an act and its consequences are the will and consciousness of the perpetrator

2) The formulation of articles of law that use the term "with the purpose/intent" other. In this case, "intentionally" which by definition is more limited, may be equivalent or broader than the definition of the term "intentionally".

According to Professor Mr. D. Simons, *motief, oogmerk* and *opzet* in a narrow translation are three stadia (levels) that pass through the so-called stage *(de will)* or human will which then transforms continuously into real actions. According to him, *opzet* is the

[11] Amin, Rahman. *Tindak Pidana Pencucian Uang*, (Deepublish. 2023), 118-119.

[12] Jan Remellink. *Hukum Pidana: Komentar Atas Pasal-Pasal Terpenting Dari Kitab Undang-Undang Hukum Pidana Belanda dan Padanannya dalam Kitab Undang-Undang Hukum Pidana Indonesia*. (Gramedia Pustaka Media, 2023), 116.

[13] E.Y. Kanter dan S.R Sianturi. *Asas-Asas Hukum Pidana di Indonesia dan Penerapannya*. (Storia Grafika, 2002), 161-162.

final stage of a series of actualization of the individual will, to make it a real action. Human actions that always occur originate from a specific *motief* which in the end grows into an *oogmerk* and continues to motivate humans to have *opzet*. [14]

Article 6 paragraph (2) point f of UNTOC states "Knowledge, intent or purpose required as an element of an offense outlined in paragraph 1 of this article may be inferred from objective factual circumstances". This shows that the intent or purpose stated in the offense of money laundering must be based on objective factual circumstances so that it does not require a "Strict" attachment to one of the dimensions of the "with purpose" element. However, the logic used in understanding it is to reverse the way of thinking to be that all things as long as it is still a dimension of "with the intention", must be placed in factual circumstances to state the desire or will of the perpetrator to make hidden or disguised the origin of the proceeds of crime obtained.

3.1.4.2. The Act of Hiding or Disguising the Proceeds of Crime Property

Still referring to the same law, precisely in article 4, it makes it an actual act *(actus reus)* only carried out by the perpetrator towards the origin of the acquisition, source, location, use, transfer of various rights, or actual ownership of proceeds of crime, so there are two different variants of functions to qualify the perpetrator's actions between the two articles. [15]

Therefore, it can be understood that Article 4 is an *actus reus* which is an actual act rather than a belief that something will be made, and it can be explained that smurfing is a mode or typology of the many modes of crime in money laundering carried out by these criminal actors in carrying out their crimes in hiding assets rather than the proceeds of their crimes because typology or mode of crime is a legal event that proves that the will of the crime has been completed. After all, the activity of "Hiding and Disguising" has been carried out but the perpetrator does not have *mens rea*, namely, the initial intention to disguise the proceeds of money laundering.

3.1.4.3. The Act of Receiving Property Proceeds of Crime

Article 6 paragraph (1) point a and point b (i) in the criminalization model of Money Laundering according to the United Nations Convention Against Organized Crimes (UNTOC), the element of "knowing" must be fulfilled, but these efforts must be held a more comprehensive interpretation because this Article explains what is meant by passive actors and what is meant by "knowing" by passive actors in money laundering cases due to the smurfing method must be equipped with passive actors so that the assets that have been washed, broken up and distributed to passive actors.

It needs to be recognized that in the criminalization of Article 5 of the Anti-Money Laundering Law if the knowledge must be considered absolute or perfect as in Article 6 Paragraph (1) point b, (1), it will be difficult to ensnare the perpetrators of Article 5 of the

[14] Sovia Hasanah. "Arti Oogmerk Dalam Tindak Pidana", Hukum Online, 4 June 2018, https://www.hukumonline.com/klinik/a/arti-ioogmerk-i-dalam-tindak-pidanalt5 afb96cb1 5384/.

[15] Yanuar, Muh, Afdal. *Tindak Pidana Pencucian Uang dan Perampasan Aset.* (Setara Press, 2021), 155-156.

Anti-Money Laundering Law, because knowledge of the proceeds of criminal acts is considered perfect at least in terms of:

1) The perpetrator recognizes that the assets that are or have been owned or controlled are the proceeds of a criminal offense;
2) The perpetrator is the *intellectual dader* or *materiele dader* of the original criminal offense and/or Money Laundering;
3) The perpetrator is part of a syndicate in committing the crime of origin.[16]

The perpetrator of Article 5 is passive or as a medium for money laundering who is not directly involved in the original criminal act, and is unlikely to be involved in these three circumstances. Thus, it will be difficult or even impossible to charge the perpetrators who are the media of money laundering with these arguments, so the phrase "presumably" must be added. The element of "reasonable suspicion" is also part of the class of knowledge (knowledge) whose gradation is below the element of "reasonable suspicion".

Next, related to the element of "known or reasonably suspected" in the Money Laundering offense, it is not attached to the knowledge of the act but to the knowledge of the assets/proceeds of the crime. The perpetrator who receives it does not have to know also that the proceeds of the crime are from what crime, it is enough that there is a momentum where the perpetrator can be suspected even though at the level of imperfect knowledge that the assets he has obtained are improper or derived from crime.[17]

3.2. Proof System for Smurfing Mode

3.2.1. Evidence in Law Number 8 of 2010

In general, evidence in criminal cases refers to Article 184 of Law Number 8 of 1981 concerning the Criminal Procedure Code, which includes statements from the defendant statement, witness statement, expert statement, letter, and indication.

Particularly in cases of money laundering, the evidence considered valid is not different from what is stipulated in criminal procedural law, and as it develops, it can take the form of oral information or be stored in electronic form, optical devices, or similar technologies.

A description of various pieces of evidence for money laundering offenses is outlined below:

1. Witnesses Statement

The statement of witnesses is one of the pieces of evidence used in the trial of money laundering cases, as stated in Article 184 paragraph (1) letter a of Law Number 1 in the Of 1946, which indicates that witness testimony is included as evidence in criminal cases. More specifically, it refers to the testimony of a witness regarding the events they have seen, heard, and personally experienced, along with the reasoning based on their knowledge. The definition of a witness itself refers to Article 1 number 26 of Law Number 8 in the Of 1981, which states that a witness is a person who can provide their testimony in the context of

[16] *Ibid,* 121-122.
[17] *Ibid,* 125-126.

investigation, prosecution, and trial, concerning a criminal event that they have heard, witnessed, or felt themselves.

2. Expert Statement

An expert statement is one of the additional admissible forms of evidence in a money laundering case, as specified in Article 184 paragraph (1) letter b of Law Number 8 in the Of 1981. Additionally, expert testimony is defined by Article 1 number 28 of Law Number 8 in the Of 1981 as information given by a person with specialized knowledge of the explanations required to shed light on a criminal incident for the examination process. Moreover, this testimony is what an expert testifies to the court by Article 186 of the Criminal Procedure Code.

Karim A. Nasution provided the following viewpoint, arguing that the term "expert" does not always apply to people with advanced degrees or particular educational backgrounds. Rather, Anyone can be considered an expert according to criminal procedure law as long as their knowledge and specific experience related to a particular matter are deemed sufficient.[18]

3. Letter

Sudikno Mertokusumo states that a letter is anything that contains punctuation marks and is created to convey someone's feelings or thoughts, or that is used as a means of proof in a legal matter. [19]

This letter can be categorized into two groups. The first is *Acte Ambtelijk*, which refers to an authentic deed created by a public official. The creation of this type of deed is entirely based on what the public official sees and does. The second is *Acte Partiji*, which is an authentic deed whose content is based on the wishes of the parties involved, with the assistance of a public official, and the substance within it consists of various statements that the parties desire. [20]

4. Indication

Indication is one of the pieces of evidence in proving cases of money laundering. This can also be found in the provisions of Article 184 paragraph (1) letter d of Law Number 8 of 1981 concerning the Criminal Procedure Code. In general, a clue is a signal that can indicate an action, event, or situation, and it is also found in the correspondence between existing signals and the occurrence of a criminal act. Furthermore, the discovery of this correspondence between signals can create or give rise to a clue that ultimately establishes the reality of the occurrence of a criminal act with the defendant as the perpetrator. [21]

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[18] Tholib Efendi. 2014, *Dasar-Dasar Hukum Acara Pidana; Perkembangan dan Pembaharuannya di Indonesia*. (Setara Press, 2014), 176.

[19] Hendar Soetarno. *Hukum Pembuktian Dalam Acara Pidana*. (Alumni, 2011), 73.

[20] Alfitra. *Hukum Pembuktian Dalam Beracara Pidana, Perdata dan Korupsi di Indonesia*. (Raih Asa Sukses. 2011), 90.

[21] M. Yahya Harahap. *Pembahasan Permasalahan dan Penerapan KUHAP: Pemeriksaan Sidang Pengadilan, Banding, Kasasi dan Peninjauan Kembali.* (Sinar Grafika, 2006), 313.

5. Defendant Statement

Further provisions regarding the defendant's testimony as evidence are contained in Article 189 of Law Number 8 of 1981 concerning the Criminal Procedure Code, which states that:

1) The defendant's testimony is what the defendant himself states in court, concerning what he has done, what he knows, or what he has experienced.
2) Testimony given by a defendant outside of court can be used to support the findings of evidence in court, as long as what is conveyed is also corroborated by other valid evidence and relates to the charges.
3) Such testimony can only be used for the defendant's defense.
4)The defendant's testimony cannot stand alone as evidence; therefore, it must be accompanied by other evidence.[22]

6. Electronic Evidence

The definition of electronic evidence refers to Article 73 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes. Law Number 8 Of 1981 itself has not yet included clear regulations regarding what constitutes valid electronic evidence. However, regarding this electronic evidence in court, it cannot be separated from the principle of legality which states that in Law Number 11 of 2008 concerning Information and Electronic Transactions, Article 54 paragraph (1). Thus, it becomes the legitimate basis for electronic data as a means of proof. This can also be found in the Supreme Court letter to the Minister of Justice Number 39/TU/88/102/Pid dated January 14, 1988, which states that "microfilm or microfiche can be used as valid evidence in criminal cases in court, replacing written evidence, provided that the authenticity of the microfilm is guaranteed and can be traced back from the registration or minutes."

Several legislations state the validity of electronic evidence as admissible in court, one of which is the Anti-Money Laundering Law, which mentions that the evidence in money laundering cases includes:

1) Evidence as stipulated by the Criminal Procedure Law
2) Other forms of evidence in the form of statements that are spoken, accepted, or can be stored electronically using optical devices or similar technologies.
3) The document referred to in Article 1 number 7.[23]

Furthermore, regarding electronic evidence, an important issue that deserves attention is the authenticity of electronic evidence, which still requires further processing by experts in the field of technology before such evidence can be used as proof in court. The authenticity of electronic evidence is crucial because, in its implementation, it is an intangible object that is very susceptible to content manipulation, which can render the electronic evidence no longer original.

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[22] Amin, Rahman. *Tindak Pidana Pencucian Uang*, *Op Cit* 190.

[23] Pribadi, Insan. "Legalitas Alat Bukti Elektronik Dalam Sistem Peradilan Pidana*", Jurnal Lex Rennaisance*, No. 1 (2018), 118. DOI: https://doi.org/10.20885 /jlr.vol3.iss 1.art4.

In addition, the process of collecting electronic evidence must be based on applicable legal provisions to avoid obtaining evidence that is contrary to the law (unlawful evidence), which ultimately results in the electronic evidence having no value in court. [24]

4. CONCLUSION

The Smurfing Mode is not explicitly mentioned in Law Number 8 of 2010, but based on the steps of the smurfing modus, it begins with the initial funding stage, which involves the control of money obtained from criminal activities, specifically money laundering. This is followed by the distribution stage, where the controlled money is placed into the financial system. Next is the obfuscation stage, which is carried out by breaking down transactions into smaller amounts; this stage is the actual money laundering process to avoid reporting. Finally, there is the withdrawal stage, which is the reintegration of the laundered money. The Smurfing Mode aligns with the mandates outlined in Articles 3 and 4 of Law Number 8 of 2010. The difference between these two articles can be seen in the phrase "with the Purpose" which reflects the awareness of the perpetrator. Both articles must be proven to have involved a series of crimes (methods) aimed at laundering money, thus qualifying as money laundering. The Criminal Proof System for money laundering in the Smurfing Mode should ideally be normatively the same as in Article 184 of the Law Number 8 Of 1981 and Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes. This law also explains the types of evidence, which include witness statements, expert testimony, documents, indications, and the statements of the accused. However, Law Number 8 of 2010, in Article 73, adds electronic evidence as another type of evidence, which can be in the form of information that is spoken, transferred, received, or stored electronically using optical technology.

5. AUTHOR CONTRIBUTIONS

As a writer, Agil Faiz is involved in concept definition, data collection, analysis, and interpretation. Yusrizal and Hadi Iskandar as author as well as the mentor in drafting the manuscript, imparting knowledge, providing constructive criticism, and given final approval to be published.

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