

## Legal Construction of Civil Servant Investigator (CSI) Coordination Obligations to the Police in Investigating Money Laundering

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### Abstract

Civil Servant Investigators (CSI) can investigate money laundering (ML) crimes. The process of investigating money laundering by CSI is contained in Law 8/2010 and in the Indonesian Constitutional Court No. 15/PUU-XIX/2021 Decision. Given that CSI is governed by and works in tandem with the Indonesian National Police, these laws still call for greater regulation for CSI to fulfill and apply the multidoor system concept and the rapid, simple, and low-cost principle as crime investigators for ML. This study aims to clarify why it is critical to implement legal construction in connection with the ML investigation by CSI under the relevant concepts and principles to maximize the handling of ML in the future. This paper used normative juridical, statutory, and conceptual approaches. The findings of this study are expected to serve as a guide for the CSI in investigating ML during transferring the findings of investigations to the Public Prosecutor, leveling perceptions among law enforcement officials, and providing support for investigators balanced with coordination and cooperation among officials so that effective and efficient law enforcement can be achieved.

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### Introduction

Money laundering involves altering and concealing assets acquired from illegal activities, aiming to give the impression that these assets are legitimate.<sup>1</sup> In money laundering, the underlying criminal offense is addressed in Article 2, Paragraph (1) of Law 8/2010. Money laundering is considered a dual offense, with the form of activity categorized as a "follow-up crime," while the initial criminal act is considered an "unlawful activity."<sup>2</sup> When it comes to

<sup>1</sup> Fransiska Novita Eleanora, "Tindak Pidana Pencucian Uang", *Jurnal Hukum XXVI*, no. 2 (2021): 640, <https://media.neliti.com/media/publications/12301-ID-tindak-pidana-pencucian-uang.pdf>

<sup>2</sup> Ali Geno Berutu, "Tindak Pidana Kejahatan Pencucian Uang (*Money Laundering*) dalam Pandangan KUHP dan Hukum Pidana Islam", *Tawazun: Journal of Sharia Economic Law* 2, no.1 (2019): 2, <http://dx.doi.org/10.21043/tawazun.v2i1.5223>

investigating money laundering, Article 74 of Law 8/2010 stipulates that, unless explicitly stated otherwise, such investigations should be carried out by investigators handling the predicate offenses, adhering to procedural laws and legislative provisions.<sup>3</sup>

As defined in the Indonesian Criminal Procedure Code, investigators hold special authority under the law to conduct investigations and are either Officers of the Indonesian National Police or specific Civil Servant officials.<sup>4</sup> These include Indonesian National Police investigators (INPI) and Civil Servant Investigators (CSI). As stated in Article 74 of Law 8/2010, there are six institutions authorized to carry out investigations, namely INPI, the Attorney General's Office, the Corruption Eradication Commission (KPK), the National Narcotics Agency (BNN), the Directorate General of Taxes, and the Directorate of Customs and Excise.<sup>5</sup> In response to limitations faced by CSI from predicate crimes during investigations, the CSI of the Ministry of Environment and Forestry and the CSI of the Ministry of Maritime Affairs and Fisheries filed a judicial review with the Constitutional Court against the clarification of Article 74 of Law 8/2010. The Constitutional Court Decision No. 15/PUU-XIX/2021 ruled that the phrase "predicate crime investigators are officials from agencies who by law are given the authority to conduct investigations" is not binding unless interpreted as predicate crime investigators being officials or agencies authorized to investigate based on regulations. This decision emphasizes a return to the provisions outlined in Article 74 and Article 2, Paragraph (1) of Law 8/2010, which state that investigations should be carried out by predicate crime investigators. As per Article 2, Paragraph (1) of Law 8/2010, the predicate crimes include corruption, bribery, narcotics, psychotropics, smuggling of migrant workers as defined in the law regarding the protection of Indonesian workers abroad, migrant smuggling as defined in the law on immigration, offenses related to capital markets, banking, customs, excise, insurance, human trafficking, illegal arms trade, and other predicate crimes, thus establishing the concept of double criminality.<sup>6</sup>

CSI is granted the authority to conduct investigations based on Article 74 in conjunction with Article 75 of Law 8/2010. These articles establish that money laundering (ML) investigations should adhere to procedural law and statutory provisions unless specified otherwise in Law 8/2010. In cases where the investigator possesses sufficient preliminary evidence related to ML with predicate crimes, they can merge their investigations and inform the Center for Financial Transaction Reports and Analysis (PPATK). It is important to note that the authority of CSI is governed by the provisions of the Criminal Procedure Code and the laws on ML investigations unless otherwise stated in Law 8/2010. Upon examining these regulations, it becomes evident that there exists a correlation between the Criminal Procedure Code and the laws about predicate crimes, which delineate the role of CSI in conducting ML investigations under the coordination and supervision of Indonesian National Police investigators, as specified in Article 6, Paragraph (1) of the Criminal Procedure Code.<sup>7</sup>

Article 64 of Law 8/2010 mandates that the Financial Transaction Reports and Analysis Center must promptly report any indications of money laundering (ML) to investigators. As per Article 74, in conjunction with Article 2, Paragraph (1) of the same law, the investigators

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<sup>3</sup> Nanci Mamarimbing, "Penegakan Hukum Tindak Pidana Pencucian Uang (*Money Laundering*).” *Lex Crimen* VI, No. 3 (April 21,2017): 147, <https://ejournal.unsrat.ac.id/v3/index.php/lexcrimen/article/view/15610/15146>

<sup>4</sup> Andriyanto, S. Kader, "Pemeriksaan Tersangka Oleh Penyidik Berdasarkan Kitab Undang-Undang Hukum Acara Pidana”, *Jurnal Ilmu Hukum Legal Opinion* 2, no.2 (2014): 2, doi: <https://ejournal.unsrat.ac.id/index.php/lexcrimen/article/view/15610>

<sup>5</sup> Hendra, "Kewenangan Penyidik Pegawai Negeri Sipil Dalam Melakukan Penyidikan Terhadap Tindak Pidana Pencucian Uang Yang Bersumber Dari Tindak Pidana Asal”, *Solusi* 19, no.3 (September 1,2021): 393, doi: <https://doi.org/10.36546/solusi.v19i3.431>

<sup>6</sup> Tindak pidana asal yang dimaksud sebagaimana ketentuan Pasal 2 ayat (1) UU 8/2010 beserta Penjelasan Pasal 2 ayat (1)

<sup>7</sup> Firdaus, "Eksistensi Penyidik Pegawai Negeri Sipil (PPNS) Dalam Stuktur Pemerintahan Daerah”, *Jurnal Dinamika Hukum* 13, no. 1 (2013): 148, doi: <http://dx.doi.org/10.20884/1.jdh.2013.13.1.163>

responsible for such cases include Civil Servant Investigators (CSI). However, CSI still faces challenges as it operates under the supervision of Indonesian National Police investigators. Consequently, case files can be transferred back and forth between the Public Prosecutor and Indonesian National Police investigators, complicating the ML investigation process. The criminal procedure in ML cases adheres to speed, simplicity, and cost-effectiveness. The principle of speedy justice implies that the case-handling process should be expedited, while simplicity entails effective and efficient examination and resolution of cases. The principle of low cost signifies that the expenses involved should be reasonable and accessible to the community without compromising thoroughness and the pursuit of truth and justice.<sup>8</sup> These principles prioritize speed and affordability and aim to streamline procedural law, resulting in a comparatively shorter examination process. Recognizing that ML is a transnational crime requiring prompt case handling and comprehensive resources, the inclusion of predicate crime investigators, particularly CSI, is intended to ensure that the ML investigation process does not unduly prolong.

The investigation conducted by Civil Servant Investigators (CSI) in money laundering (ML) cases is carried out following the provisions of Article 74, Article 75, and Article 2, Paragraph (1) of Law 8/2010. Furthermore, CSI is also empowered to conduct investigations into criminal offenses related to forestry, fisheries, and other sectors per the respective regulations governing those sectors. The merging of investigations involving predicate crimes and ML is commonly referred to as Parallel Investigation, as defined in Article 75 of Law 8/2010. Notably, the parallel investigation involves the simultaneous examination of criminal acts, where the process begins with reporting to the Financial Transaction Reports and Analysis Center, which serves as a reporting mechanism.<sup>9</sup> It is worth noting that Article 75 of Law 8/2010, which combines the evaluation of predicate crimes and ML in cases where there are discrepancies or issues related to the investigation process, has raised questions and given rise to legal concerns.

Considering the details mentioned above, it becomes crucial to establish clear and definitive normative legal frameworks concerning the systematics and procedures of Civil Servant Investigators' (CSI) assessments during money laundering (ML) investigations. This is essential for ensuring an effective and efficient investigation process. Consequently, this research will focus on examining the issues associated with the legal construction of CSI's coordination obligations with the police in cases involving ML offenses.

## Methods

This study utilized statutory and conceptual approaches, employing the normative juridical technique. The legal materials were categorized into three main sources: primary, secondary, and tertiary. The primary sources consisted of Law 8/2010, the Criminal Procedure Code, and other legislation relevant to Law 8/2010. Secondary sources included books, journals, articles, legal dictionaries, and similar resources concerning investigations, Civil Servant Investigators (CSI), money laundering (ML), and criminal procedural law. Tertiary sources encompassed Indonesian and English dictionaries. Legal materials were collected through literature reviews and online searches, and they were analyzed using a qualitative descriptive method with deductive reasoning to conclude.

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<sup>8</sup> Maya Hildawati Ilham, "Kajian Atas Asas Peradilan Cepat, Sederhana, Dan Biaya Ringan Terhadap Pemenuhan Hak Pencari Keadilan (Studi Putusan MA RI Nomor 246K/Pid/2017)", *Jurnal Hukum Acara Verstek* 7, no. 3 (2019): 213, doi: <https://doi.org/10.20961/jv.v7i3.38286>

<sup>9</sup> Maizaroh, Muthi'ah, Muh. Fikran Sena, and Khulaifi Hamdani. "Model Ideal Pararel Investigation Penanganan Tindak Pidana Pencucian Uang Yang Berasal Dari Tindak Pidana Lingkungan Hidup Dan Kehutanan Pasca Putusan MK Nomor 15/PUU-XIX/2021". *AML/CFT Journal : The Journal Of Anti Money Laundering And Countering The Financing Of Terrorism* 1, no. 1 (December 1, 2022): 1–10. <https://journal.ppatk.go.id/index.php/jac/article/view/20>.

## Results and Discussion

### CSI Legal Problems in Conducting ML Investigation

Legislators strive to prevent crimes by enacting rules and regulations that enable entities beyond the Indonesian National Police to engage in the investigation process.<sup>10</sup> This highlights that conducting investigations is the initial phase in upholding the law when addressing criminal cases, aiming to gather evidence and identify suspects. This procedure is conducted not only by investigators from the Indonesian National Police but also by other authorized institutions, including Civil Servant Investigators (CSI).

The focus on handling money laundering (ML) emerged with the enactment of Law 8/2010. The investigation provisions can be found in Article 74 and Article 75 of Law 8/2010, which specify that the authority to investigate is determined based on the predicate crimes outlined in Article 2, Paragraph (1) of the same law. An investigation is initiated when sufficient preliminary evidence is present, emphasizing the requirement set forth by Article 75 of Law 8/2010, which involves considering both the ML case and the predicate crime.<sup>11</sup> Article 74 of Law 8/2010 designates the entities authorized to investigate predicate crimes, including the Indonesian National Police, the Attorney General's Office, the Corruption Eradication Commission, the National Narcotics Agency, the Directorate General of Customs and Excise, and the Ministry of Finance. According to Article 2, Paragraph (1) of Law 8/2010 and Constitutional Court Decision No. 15/PUU-XIX/2021, predicate crimes encompass various offenses such as corruption, bribery, narcotics, labor smuggling, migrant smuggling, offenses within the capital market sector, forestry-related offenses, environmental offenses, maritime affairs and fisheries-related offenses, and other crimes punishable by a minimum imprisonment term of 4 years. These crimes can be committed within or outside of Indonesia and must be recognized as criminal acts under Indonesian law.

Article 74 of Law 8/2010 clarifies that investigations into money laundering (ML) are carried out by predicate crime investigators following procedural law and statutory provisions unless Law 8/2010 specifically states otherwise. This implies that, in the absence of specific regulations in Law 8/2010, the procedural law for ML investigations continues to adhere to the provisions outlined in the Criminal Procedure Code and other relevant statutes.<sup>12</sup> As a result, predicate crime investigators, including Civil Servant Investigators (CSI), are bound by and must adhere to the provisions of the Criminal Procedure Code, applicable laws, and regulations unless Law 8/2010 explicitly states otherwise.

Based on the explanation above, we can conclude that without specific regulations in Law 8/2010, the authority to investigate money laundering (ML) remains under the coordination and supervision of Indonesian National Police investigators. This arrangement is stipulated in Article 107, Paragraphs (1) to (3), and Article 109, Paragraph (3) of the Criminal Procedure Code. As M. Yahya Harahap pointed out, provisions related to investigations are scattered throughout Chapter IV, Part One, Chapter V, Chapter VI, and Chapter XIV of the Criminal Procedure Code, lacking a systematic arrangement.<sup>13</sup> This poses a limitation for Civil Servant Investigators (CSI) when conducting ML investigations, as they are still required to involve

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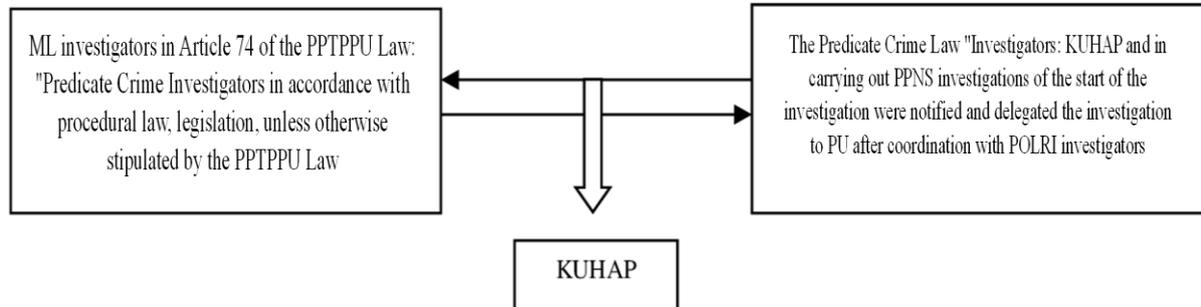
<sup>10</sup> Jeanne Dare Noviyanti Manik, Noviyanti Manik, Jeanne Dare. "Koordinasi Penyidik POLRI dengan Penyidik Pegawai Negeri Sipil Dalam Penyidikan Tindak Pidana di Bidang Pengelolaan Sumber Daya Alam", *Jurnal Hukum Prioris* 6, no. 3 (November 5, 2018): 289, <https://doi.org/10.25105/prio.v6i3.3181>

<sup>11</sup> I Putu Kardhinto, "Investigation In Money Laundry Criminal Act". *Jurnal IUS Kajian Hukum dan Keadilan* 3, no. 3 (December 20, 2015): 579. <https://jurnalius.ac.id/ojs/index.php/jurnalIUS/article/view/270>

<sup>12</sup> Supriyadi Widodo Eddyono, dkk. *Meluruskan Arah Pengujian Anti Pencucian Uang di MK*, (Jakarta: Institute of Criminal Justice Reform, 2014), 41

<sup>13</sup> Arianus Harefa, "Kewenangan Penyidik Dalam Penanganan Tindak Pidana Narkoba di Wilayah Hukum Kota Gunungsitoli", *Jurnal Education and Development* 4, No.1 (April 19, 2018): 44, doi: <https://doi.org/10.37081/ed.v4i1.256>

Indonesian National Police investigators before being authorized to delegate the case to the Public Prosecutor. The authority of CSI in investigating ML can be observed through the correlation between the predicate crime laws, which follow the mechanisms outlined in the Criminal Procedure Code and are not explicitly specified in Law 8/2010 (Figure 1).



**Figure 1. Investigative Correlation in Law 8/2010 and the Predicate Crime Law**

Article 75 of Law 8/2010 establishes that when investigators gather sufficient evidence pertaining to money laundering (ML) and predicate crimes, they must conduct a joint investigation and inform the Financial Transaction Reports and Analysis Centre. The parallel investigation allows for variations in the investigation outcomes among the participating agencies. Reporting to the Financial Transaction Reports and Analysis Centre is a legal foundation for conducting ML investigations by entities investigating predicate crimes, provided that adequate preliminary evidence has been found.<sup>14</sup> The Constitutional Court received a petition regarding Article 74 of the Law on the Prevention and Eradication of Money Laundering due to concerns about the extent of investigators' authority in carrying out investigations. Consequently, the Constitutional Court Decision No. 15/PUU-XIX/2021 was issued, clarifying that the provision is not legally binding unless interpreted to mean that investigators of predicate crimes refer to officials or agencies whose authority to investigate is granted by specific regulations.

Despite the establishment of Constitutional Court Decision No. 15/PUU-XIX/2021, normative issues still persist. Specifically, the Civil Servant Investigator (CSI) position is regulated in the Criminal Procedure Code and the Republic of Indonesia National Police Regulation No. 6 and No. 20 of 2010, which stipulate that CSI must coordinate with and be subordinate to Indonesian National Police Investigators. Throughout the investigation process, witnesses, experts, and suspects are examined. This examination aims to clarify criminal cases based on the evidence collected regarding the occurrence of criminal acts. However, according to Basaria Panjaitan, CSI's coordination, duties, and authorities have not been carried out as mandated by the law. Indonesian National Police investigators still hesitate to transfer cases to CSI due to doubts about law enforcement in certain areas. This lack of optimal coordination can be attributed to overlapping rules, a standardized operating procedure, and a lack of shared understanding of the criminal justice system among the involved parties.<sup>15</sup>

Considering all the points mentioned above, Fitrihadi Muslim, the Legal Director of the Financial Transaction Reports and Analysis Center, acknowledges the need for further actions to optimize the handling of money laundering (ML) crimes following the Constitutional Court

<sup>14</sup> Yuharfiandri dan Nur Hikmah Damayanti Sunawir, "Analisis Penanganan Tindak Pidana Asal dalam Tindak Pidana Pencucian Uang terhadap Putusan MK RI No. 15/PUU-XIX/2021 Ditinjau dari Penjelasan Pasal 74 UU No. 8/2010 dengan *Parallel Investigation*", *Padjajaran Law Review* 10, No.2 (December 19, 2022): 6, <https://doi.org/10.56895/plr.v10i2.1051>

<sup>15</sup> Basaria Panjaitan, *Mengungkap Jaringan Kejahatan Transnasional* (Bandung, PT Refika Aditama, 2017)

Decision. These actions include enhancing the capacity and capabilities of predicate crime investigators, developing guidelines for handling ML crimes, promoting parallel investigation policies, establishing a specialized unit for addressing ML crimes, fostering domestic cooperation, participating in ML prevention committees, and strengthening international cooperation. It is crucial to establish comprehensive guidelines to ensure a better understanding and clear procedures for merging or separating investigations between predicate crimes and money laundering crimes. This will enable the identification of the modus operandi employed by the perpetrators of predicate crimes, who subsequently engage in money laundering. The plan to reinforce the implementation of Constitutional Court Decision No. 15/PUU-XIX/2021 is currently under consideration and should be executed promptly.

The challenges that should be considered regarding authority, as identified by Muladi in Barda Nawawai, encompass crimes that are not easily observable (low visibility), intricate crimes (complexity), the dispersal of responsibility, the broad distribution of victims (diffusion of victimization), obstacles to detection and prosecution, vague laws, and elusive offenders.<sup>16</sup>

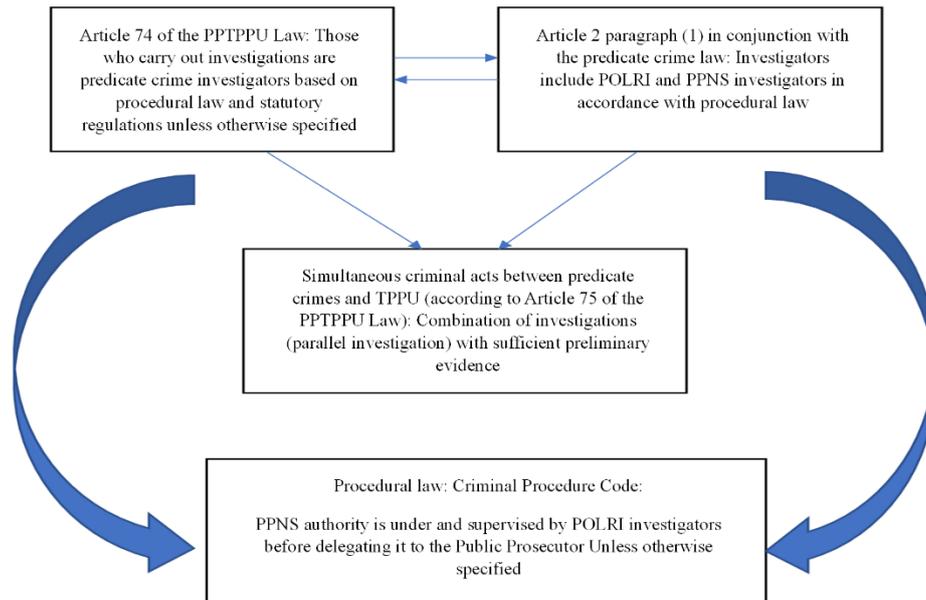
Based on the information presented earlier, it can be inferred that the challenges related to ML crimes stem from inadequate regulations governing the transfer of case files from CSI to Indonesian National Police investigators. This situation impacts the principles governing the case-handling process and communication among law enforcement agencies. It is crucial to establish clear and comprehensive regulations to ensure the effective and efficient handling of ML cases by CSI.

### **Legal Construction of the CSI Coordination Obligations to the Police in Investigating ML Crimes**

The authority of CSI to investigate ML in various sectors is governed by specific laws, such as Article 77 of Law No. 41 of 2009 on Forestry, Articles 29-30 and Article 32 of Law No. 18 of 2013 on Forest Prevention and Destruction, Article 94 of Law no. 32 of 2009 on Environmental Protection and Management, Article 73A and 73B of Law no. 31 of 2004 on Fisheries in conjunction with Law no. 45 of 2009 on Amendments to Law no. 31 of 2004 on Fisheries, Article 101 of Law no. 39 of 2004 on the Placement and Protection of Indonesian Migrant Workers Abroad, and Article 49 of Law no. 21 of 2011 on the Financial Services Authority. Generally, CSI and Indonesian National Police investigators should adhere to the provisions of the criminal procedural law unless the predicate crime law stipulates otherwise for ML investigations. The current legal framework requires CSI to follow Article 74 in conjunction with Article 2 paragraph (1) of Law 8/2010 and Constitutional Court Decision No. 15/PUU-XIX/2021, as illustrated in the schematic diagram below.

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<sup>16</sup> Rininta dan Hartanto, "Problematika Penegakan Hukum Tindak Pidana Pencucian Uang", *Journal Of Law* 4, No. 2, (Oktober, 2021):122, 10.31289/doktrina.v4i2.4953



**Figure 2. Correlation of the Authority of CSI as an Investigator of Predicate Crime Investigating ML**

Article 74 of Law 8/2010, which includes the phrase "stipulated otherwise," grants authority to investigators, public prosecutors, and judges to request the Reporting Party to freeze or block reasonably suspected accounts based on reports from the Financial Transaction Reports and Analysis Centre. This authority is applicable at every stage, from investigation to court proceedings, as outlined in Article 68 to Article 73 of Law 8/2010. The types of evidence permitted under Law 8/2010 align with Article 184 Paragraph (1) of the Criminal Procedure Code. Additionally, Article 73 letter b of Law 8/2010 expands the scope to include information conveyed orally, electronically, or stored through optical or similar devices and relevant documents.

ML investigations are initiated upon receiving the Financial Transaction Reports and Analysis Center analysis report or when investigators independently examine the report. The investigation process, guided by Law 8/2010, follows the steps outlined below:

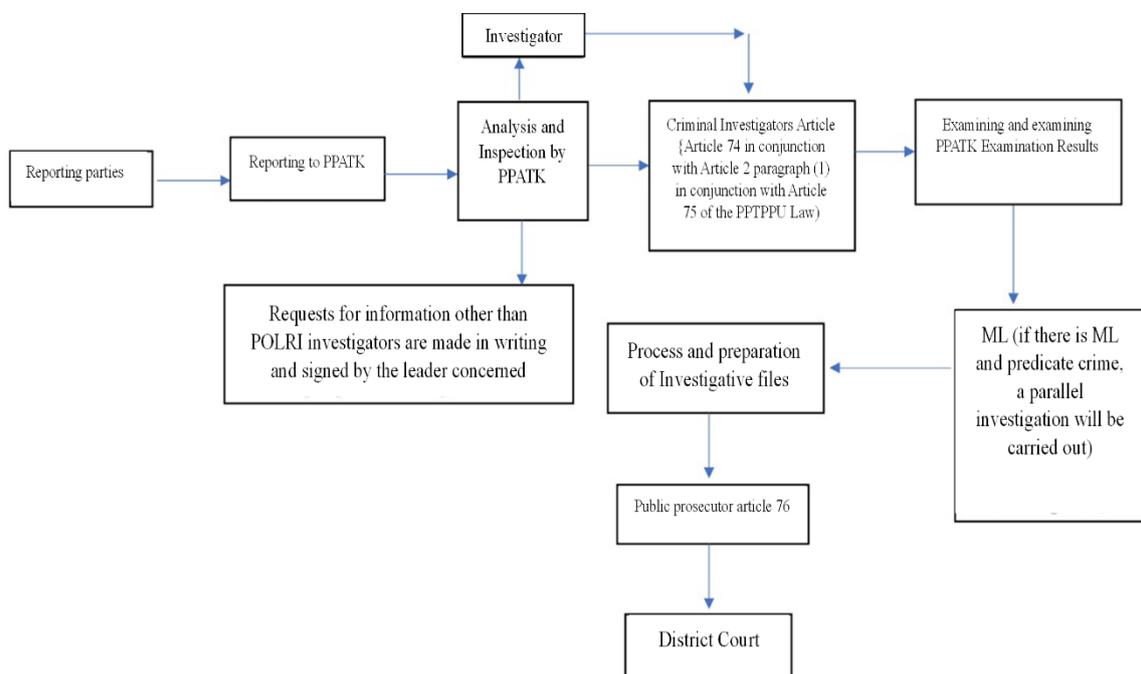
1. Reporting parties, as defined in Article 17 in conjunction with Article 23 and Article 25 of Law 8/2010, are divided into financial service providers and providers of other goods and services. Reporting parties are required to report suspicious transactions exceeding Rp. 500,000,000 or an equivalent amount in other currencies. The report should be submitted within 14 working days after the transactions, excluding transactions involving government and central bank financial services, salary or pension payments, or other transactions exempted by the Financial Transaction Reports and Analysis Center based on approved financial statements.
2. The Financial Transaction Reports and Analysis Center analyzes the received reports to assist law enforcement officers. The findings are then submitted to investigators as an initial step in processing ML cases.<sup>17</sup>
3. According to Article 64 of Law 8/2010, investigators receive the examination results from the Financial Transaction Reports and Analysis Center and engage in coordination. If the perpetrator is not apprehended within 30 days, the seized assets can be transferred to the district court, which has up to 7 days to decide on their return to the rightful owners. Non-

<sup>17</sup> Toetik Rahayuningsih, "Analisis Peran Ppatk Sebagai Salah Satu Lembaga Dalam Menanggulangi Money Laundering Di Indonesia". *Yuridika* 28, no. 3 (October 5, 2013): 321. <https://e-journal.unair.ac.id/YDK/article/view/349>.

Indonesian National Police investigators seeking information from the Financial Transaction Reports and Analysis Center must submit a written request signed by the head of their respective agency or institution, as specified in Article 90 paragraph (3) letter d of Law 8/2010.

4. Investigators can initiate a parallel, combined investigation and inform the Financial Transaction Reports and Analysis Center whenever they possess sufficient preliminary evidence of predicate crimes and ML activities.

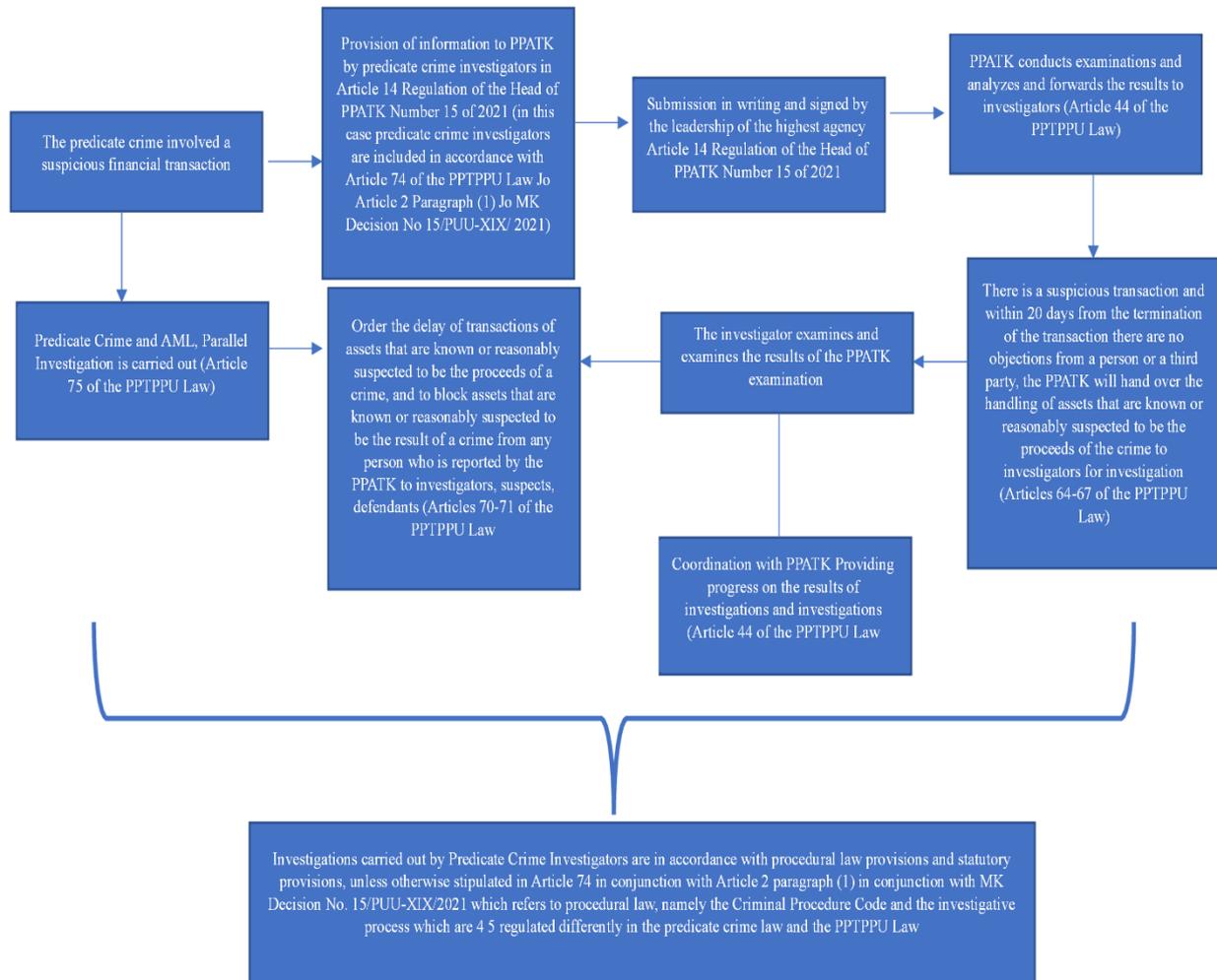
The different regulations governing the procedural legal process in ML investigations become evident based on the descriptions provided. The investigation process commences after the examination conducted by the Financial Transaction Reports and Analysis Center, which reinforces the presence of ML through a thorough examination. Additionally, the investigations merge when the predicate crime and ML co-occur. Figure 3 illustrates the flow of the ML investigation process, highlighting these aspects.



**Figure 3. ML Investigation Process based on Law No. 8/2010**

As an investigator of predicate crimes in ML cases, CSI adheres to the provisions outlined in Law 8/2010 during the investigation process. Moreover, CSI possesses the authority to coordinate information requests from the Financial Transaction Reports and Analysis Center, as specified in Article 14 of Regulation of the Head of the Financial Transaction Reports and Analysis Center Number 15 of 2021. According to this regulation, information requests should be made in writing and signed by the agency's highest-ranking official. These requests are submitted to the Financial Transaction Reports and Analysis Center to aid in the handling of ML cases and other criminal activities associated with ML.

This indicates that CSI can coordinate and request information from the Financial Transaction Reports and Analysis Center regarding criminal acts linked to ML. The legal framework (Figure 4) concerning the authority to conduct ML investigations can be understood by examining the relationship between Law 8/2010 and the Financial Transaction Reports and Analysis Center Head Regulation Number 15 of 2021, which outlines the procedures for requesting information.



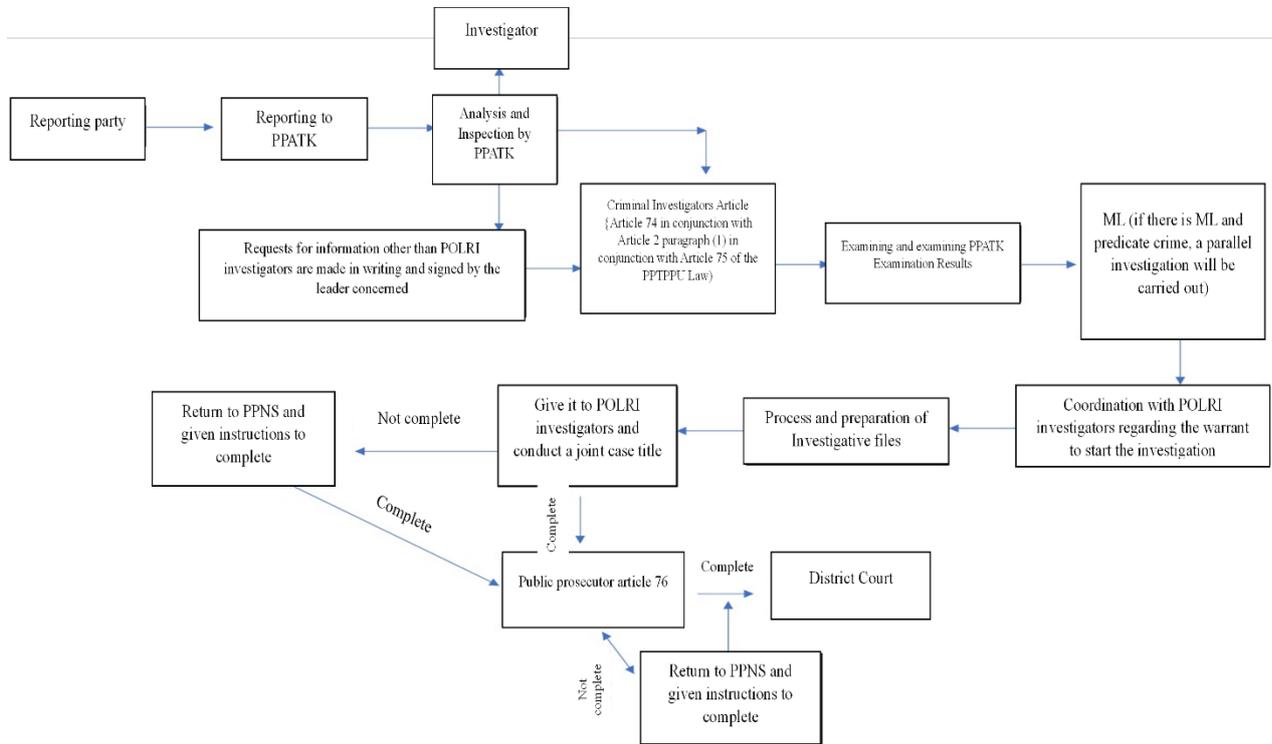
**Figure 4. Legal Construction of Predicate Crime Investigators for ML: Correlation of Law 8/2010 and Regulation of the Head of Financial Transactions Reports and Analysis Centre Number 15 of 2021**

As a predicate crime investigator, CSI faces limitations due to being under the supervision of Indonesian National Police investigators and the need to coordinate with the District Court, resulting in a complex process. The current approach to ML investigations is based on a multidoor investigation model. However, this approach is hindered by limited information availability, lack of cooperation, and a shortage of investigators with expertise in ML laws. This situation is far from ideal. The cornerstone of effective ML investigations lies in robust law enforcement and adequate investigative resources.<sup>18</sup> Therefore, it is crucial to establish clear regulations and ensure that investigators possess the necessary skills and knowledge to maximize the implementation of Law No. 8/2010.

It is essential to establish precise and clear legal provisions governing the authority of CSI in investigating ML offenses and promptly transfer the investigation findings to the prosecutor's office to ensure a fast, accessible, and cost-effective legal process. Arief Sulistiyanto highlights the necessity for comprehensive improvements in CSI regulations, duties, authorities, and functions, particularly by revising regulations regarding the authority to investigate predicate crimes in ML cases. CSI's current challenges during ML investigations are deemed ineffective and inefficient, deviating from the stipulations laid out in Law No. 8/2010 and the Criminal

<sup>18</sup> Yuharfiandri dan Nur Hikmah Damayanti Sunawir, ..... , *Loc.Cit*, hlm. 7

Procedure Code (Figure 5).



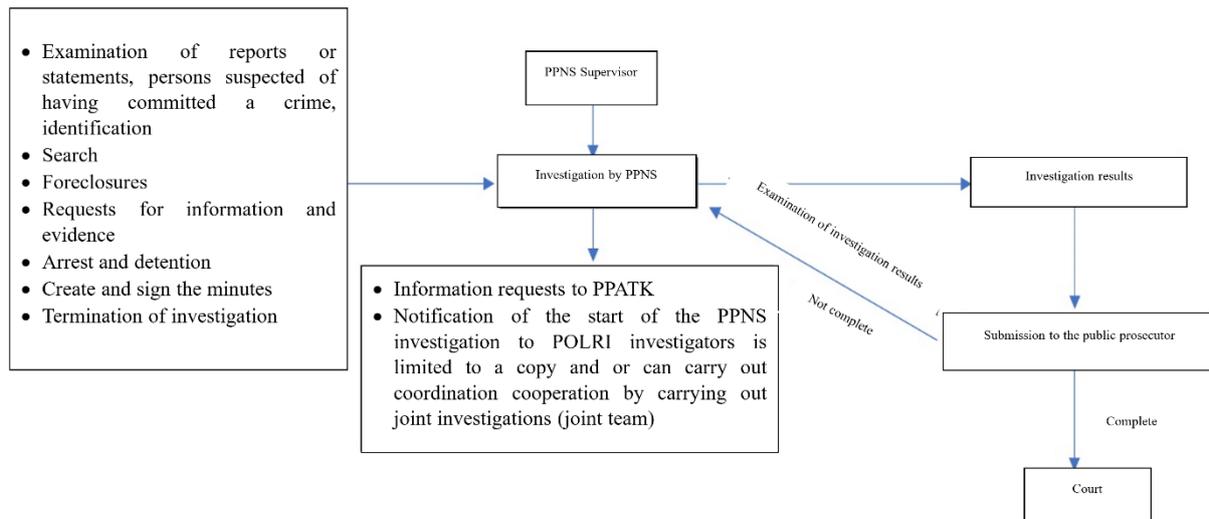
**Figure 5. The Investigation Process by CSI in Investigating ML Based on the Law No. 8/2010, the Predicate Crime Law, Financial Transaction Reports and Analysis Centre Regulations, and the Criminal Procedure Code**

Figure 5 illustrates the complex and time-consuming process that CSI must navigate in handling ML cases, following the requirements outlined in Article 74, Article 2 paragraph (1), Article 75 of Law 8/2010, and Article 6 paragraph (1) of the Criminal Procedure Code. Satjipto Raharjo emphasizes that the values, ideas, conceptions, and objectives embedded within the law significantly impact law enforcement. Mardjono further states that effective law enforcement necessitates the collaboration of various components within the criminal justice system to establish an integrated framework.<sup>19</sup> Soerjono Soekanto adds that factors contributing to law enforcement include enacted laws, law enforcement agents, supporting infrastructure, society, and culture.<sup>20</sup> Joseph Goldstein's theory differentiates law enforcement into total, full, and actual enforcement.<sup>21</sup> Given the current convoluted legal framework, it is imperative to update the system to enable CSI to directly transmit investigation findings to the Public Prosecutor, taking into account Article 74, Article 2 paragraph (1), Article 75 of Law 8/2010, Financial Transaction Reports and Analysis Center regulations, the concept of a multidoor system, parallel investigation, and the principles of swiftness, simplicity, and cost-effectiveness. The suggested flow is as follows.

<sup>19</sup> Sri Mulyani, "Penyelesaian Perkara Tindak Pidana Ringan Menurut Undang-Undang Dalam Perspektif Restoratif Justice", *Jurnal Penelitian Hukum De Jure* 16, no. 3 (September 2016): 341, DOI: <http://dx.doi.org/10.30641/dejure.2016.V16.337-351>

<sup>20</sup> Ishaq, *Dasar-Dasar Ilmu Hukum*, (Jakarta: Sinar Grafika, 2008), 245

<sup>21</sup> Sri Mulyani,.....*Op.Cit*, hlm. 341



**Figure 6. Legal Reconstruction of Case Delegation for CSI investigating ML to the Public Prosecutor**

According to the proposed flow, CSI can directly transfer cases to the Public Prosecutor's office while collaborating closely with other agencies and law enforcement entities in ML investigations. This streamlined process helps prevent duplication of efforts and ensures proper documentation and administration. Given that ML poses a significant threat to economic stability and the integrity of the state's financial system, it is imperative to eliminate ML to ensure legal certainty and enhance the effectiveness of law enforcement. This serves as the foundation for reevaluating the laws about CSI's authority, aiming to address existing challenges and provide legal certainty in future ML investigations.

The ongoing process of legal reconstruction is vital in further enhancing the effectiveness of ML investigations following Constitutional Court Decision No.15/PUU-XIX/2021. It is essential to supplement this legal reconstruction by strengthening the capacity and skills of predicate crime investigators. In addition to the reconstruction of Law No. 8/2010, Fitrahadi Muslim, the Director of the Legal Financial Transaction Reports and Analysis Center, emphasized the importance of developing comprehensive guidelines and establishing a dedicated unit focused on ML investigations. These measures are crucial for maximizing efforts to eradicate ML and improve the overall handling of this crime.

## Conclusion

The decision of the Constitutional Court of the Republic of Indonesia No.15/PUU-XIX/2021, along with the existing regulations of the Indonesian National Police, Criminal Procedure Code, and predicate crime regulations, still poses limitations on CSI's ability to investigate ML offenses due to the complex and ineffective coordination process of case files. CSI has certain opportunities under Article 74, Article 2 Paragraph (1), and Article 75 of Law 8/2010, as well as the Constitutional Court Decision No.15/PUU-XIX/2021, to coordinate and request information from the Financial Transaction Reports and Analysis Centre as outlined in Article 14 of the Regulation No. 15 of 2021 concerning Procedures for Requesting Information from the Financial Transaction Reports and Analysis Centre. However, further adjustments are necessary in this legal framework to ensure alignment with procedural law and legislation.

Following the Criminal Procedure Code, CSI investigations fall under the coordination of Indonesian National Police investigators. Furthermore, CSI requires approval from Indonesian

National Police investigators to transfer investigations to the Public Prosecutor. A legal reconstruction of Law No. 8/2010 is essential to address these limitations, considering the concept of a multidoor system and the principles of criminal procedural law. This reconstruction would grant CSI the authority to transfer ML cases to the Public Prosecutor directly. Additionally, developing specific guidelines and dedicated units and establishing a common understanding among law enforcement entities are necessary to optimize the handling of ML cases.

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