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The Effectiveness of Mutual Legal Assistance Cooperation at the Asean Level as an Effort to Overcome Terrorism Crime

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Abstract

Terrorism is included as one of the transnational crimes involving more than one country where there is a legal system and jurisdiction of its implementation, so that cooperation between countries is needed in overcoming this crime. At the ASEAN level, there has been a cooperation agreement, namely the ASEAN Mutual Legal Assistance Treaty. On the other hand, ASEAN member countries have also entered into bilateral agreements in the framework of cooperation in overcoming terrorism crimes.. The research method is normative research with a state approach and a case approach. This legal research aims to examine the extent of the urgency and effectiveness of cooperation in overcoming terrorism crimes at the ASEAN level. The results of this study indicate that although the ASEAN MLA has become an important legal framework in facilitating mutual legal assistance, challenges such as differences in legal systems, levels of trust between countries, and lack of regulatory harmonization are still major obstacles to its effective implementation. Therefore, it is necessary to strengthen the implementation mechanism, increase institutional capacity, and establish a permanent communication forum between law enforcement officers to maximize the role of the MLA in joint efforts to overcome terrorism crimes.

Abstrak

Terorisme termasuk sebagai salah satu kejahatan transnasional yang melibatkan lebih dari satu negara yang mana terdapat suatu sistem hukum dan yurisdiksi pelaksanaannya, sehingga diperlukan adanya kerja sama antar negara dalam menanggulangi kejahatan tersebut. Pada tingkat ASEAN, telah terdapat suatu perjanjian kerja sama yaitu ASEAN Mutual Legal Assistance Treaty. Di sisi lain, negara-negara anggota ASEAN juga telah mengadakan perjanjian bilateral dalam rangka kerja sama penanggulangan kejahatan terorisme. Metode penelitian merupakan penelitian normatif dengan pendekatan peraturan perundnag-undangan dan pendekatan kasus. Penelitian hukum ini bertujuan untuk mengkaji sejauh mana urgensi dan efektivitas kerja sama penanggulangan kejahatan terorisme pada tingkat ASEAN. Hasil penelitian ini menunjukkan bahwa meskipun MLA ASEAN telah menjadi kerangka hukum penting dalam fasilitasi bantuan hukum timbal balik, tantangan seperti perbedaan sistem hukum, tingkat kepercayaan antarnegara, serta kurangnya harmonisasi regulasi masih menjadi hambatan utama dalam implementasinya secara efektif. Oleh karena itu, diperlukan penguatan mekanisme implementasi, peningkatan kapasitas kelembagaan, dan pembentukan forum komunikasi tetap antar aparat penegak, hukum untuk memaksimalkan peran MLA dalam upaya bersama penanggulangan kejahatan terorisme.

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INTRODUCTION

The crime of terrorism is a crime that is feared in society, because in some cases terrorism is a deadly attack. Judging from the mode of activity, theoreticalism is planned attacks that have been structured with the aim of arousing people's feelings of fear and anxiety towards a group of people. Unlike war, terrorism is not subject to the ordinances of war. Acts of terrorism have no procedures but can be carried out suddenly targeting random people who are often civilians.[1]

Various acts of terror in the world show that no country is immune from terrorist attacks. Some of the world's acts of terrorism include the attacks by the Al-Qaeda group led by Osama Bin Laden on the twin towers, which are the business and political center of the United States, and the Pentagon in Washington, which became the center of the United States Military on September 11, 2001.[2] Also, Mumbai India bombings November 26, 2008, Bomb blast at Moscow Russia airport on January 24, 2011, Boston Bombing in the United States on April 15, 2013, Terrorist attack in Paris France November 13, 2015, Suicide bombing in Istanbul Turkey January 12, 2016 , Suicide Bombings in Afghanistan, March 27, 2016, and so on.

On a national scale, there have been several terrorist attacks recorded, namely, the first time Indonesia received a terrorist attack and caused a sense of fear and has not been forgotten by the public until now is what is known as the Bali Bombing Terror I which occurred on October 12, 2002 which resulted in 202 deaths. Then there was an explosion in front of the JW Marriot Hotel Jakarta on August 5, 2003 which killed 13 people and injured 74 people. The second Bali bombing terror act on 1 October 2005 which resulted in 22 deaths. The bombing in front of the Philippine Embassy, Jakarta on 1 August 2000 which resulted in two people being killed and 21 people injured. The bombing at the Santa Anna Church and the HKBP Church in East Jakarta on 22 July 2001 which resulted in 5 people being killed.

[1]Marcus Priyo Gunarto, 2012, *Terorisme Dalam Perspektif Hukum Pidana dan Kriminologi*, Genta Press, Yogyakarta, p. 14.

[2] Costantinus Fatlolon, 2016, *Masalah Terorisme Global*,, Kanisius, Yogyakarta, p. 11-12.

Starting from the several cases above, it can be said that acts of terrorism contain political and legal elements,[3] and humanity, so that some experts include acts of terrorism as a form of crime against humanity.[4] The ease of communication facilities available today makes it easy for the spread of radical ideas which are the forerunners of terrorism. Even though various eradication efforts have been made, the crime of terrorism throughout the world has not decreased until now. This is caused by several possibilities, such as having a political background or interest, having an extensive, organized network that crosses national boundaries, and strong financial support.

With regard to terrorism, the ASEAN region is considered to be one of the vital areas. Apart from being used as a domicile and place of learning for terrorists, including Jemaah Islamiyah (JI), the Southeast Asia region also functions as a target for threats and targets of terrorism which are dominated by radical attacks in the form of bomb explosions, both on a high and low scale, on foreign vital installations. Attacks were also carried out sporadically against other religious communities which were considered to have sentiments as well as indicating opposite patterns. The countries in Southeast Asia which have become targets for terrorism are Indonesia, the Philippines, Singapore and Thailand. Cases of terrorism that have occurred in the ASEAN region tend to worry about regional security stability.[5] The causes are various factors but the ones that dominate are the poverty factor, inequality factor, fanaticism factor and injustice factor.[6]

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[3]The decision to commit a terrorist crime, of course, is based on interests or considerations in accordance with the truth they believe in (political/policy and subjective aspects). Likewise, in many cases, decisions taken to commit terrorists do not heed the rules/laws in force

[4]As stated by Noam Chomsky, contained in Riza Budi, 2002, *Terorisme dan Konspirasi Anti Islam*, Al Kautsar Library, Jakarta, p.56

[5]With the Bali bombings I and II, Indonesia's security stability was disrupted, with the Abu Sayyaf group pirate case in the Philippines causing security stability in Philippine waters to be disrupted, while in Singapore several cases of terrorism also occurred, most recently in January 2021 where the Singapore Police managed to arrest a teenager who planned to carry out bomb attacks on 2 mosques on the anniversary of the shootings in New Zealand and disrupted security stability. https://dunia.tempo.co/read/1427194/remaja-singapura-ditangkap-karena-planning-terrorism-to-2-mosque/full&view=ok,accessed on 03 August 2021. Examples of terrorism cases in several countries show that cooperation is needed in serious handling to eradicate criminal acts of terrorism.

[6] P. Ansari, http://eprints.undip.ac.id/75584/3/BAB_II.pdf, accessed March 18, 2021.

The wide reach of terrorist networks has caused terrorism to cross national borders, both countries within certain areas and outside certain areas, involving countries, both the country of origin of the perpetrator and the country of the victim. Various regulations on international and national scale are still not able to deal with terrorism crimes as transnational crimes, therefore countries, even international organizations through legal instruments are trying to overcome and or handle terrorist crimes, both on a regional and international scale.

In relation to combating terrorism crimes, Indonesia has Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 No. 1 of 2002, which at that time came into effect on October 18, 2002, was made because of the Bali Bombing I. This was because in the Indonesian Territory at that time, crimes of terrorism were common, as exemplified above. Meanwhile, the Indonesian state at that time did not yet have specific laws or regulations in the context of eradicating terrorism crimes.

The Government Regulations in Lieu of Law, which in its development gave to Law no. 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism to Become Laws, this shows a strong commitment from Indonesia to try to carry out countermeasures and eradication terrorism crime, which is a form of cross-border crime. On the other hand, in relation to the handling of criminal cases that occurred in the territory of Indonesia, where the perpetrators fled or were in the territory of other countries, Indonesia has carried out various collaborations with other countries.[7] in the form of mutual assistance or what is often called Mutual Legal Assistance.[8] In fact, Indonesia itself already has Law Number 1 of 2006 concerning Mutual Assistance in Criminal Matters.[9] A regulation that relies on requests for assistance relating to

[7] Among others, with Switzerland, the Netherlands, Australia, PRC, and so on

[8] Reciprocal assistance agreements or Mutual Legal Assistance, of course, are different from extradition agreements. Extradition agreements are for the purpose of surrendering people (perpetrators of crimes), as stipulated in Law Number 1 of 1979 concerning Extradition, while MLA is for the purpose of assisting in the process of investigation, prosecution and examination at criminal justice hearings including investigation, confiscation and return of proceeds of crime, as regulated in Law No. 1 of 2006

[9] Law No. 1 of 2006 was adopted from the 2000 United Nations Convention Against Transnational Organized Crime which was ratified in Law Number 5 of 2009.

investigations, investigations, prosecutions, examinations before court hearings, etc., from the requested country to the requesting country.[10]

The law stipulates in detail regarding requests for mutual assistance in criminal matters from the Government of the Republic of Indonesia to the requested country, among others regarding submission of requests for assistance, requirements for requests, assistance to find or identify people, assistance to obtain evidence, from assistance to seek presence of people.[11] The principle of mutual assistance in criminal matters in this Law is based on the provisions of criminal procedure law, agreements made between countries, and conventions [12] and international customs.This law forms the basis for the Government of Indonesia in negotiating the formation of MLA agreements with other countries.[13] As a member of ASEAN, Indonesia has become a party to *ASEAN Mutual Legal Assistance* to handle criminal cases.

In relation to the effectiveness of MLA in combating terrorism crimes, there is previous research that has been written by several previous authors that has been published in various journals, including:

Article written by Muhammad Ikhya Apriansyah, Maria Maya Lestari, Evi Deliana, with the title Effectiveness of the ASEAN Treaty on Mutual Legal Assistance (Amlat) in Dealing with Transnational Crime in Indonesia, published in the Pro Justitia Journal, Vol.5, No.1, February 2024. This article discusses the existence of MLA as an alternative and complementary instrument to extradition which is increasingly relevant following the existence of the ASEAN Treaty on Mutual Legal Assistance in Criminal Matter 2004 (MLAT 2004) which has been signed by all ASEAN member countries. Previously, Indonesia itself had signed

[10] Siswanto Sunarso, 2009, *Ekstradisi Dan Bantuan Timbal Balik Dalam Masalah Pidana:Instrumen Penegakan Hukum Pidana Internasional*, Rineka Cipta, Jakarta, p. 133.

[11] https*://www.bphn.go.id/data/documents/bantuan_timbal_balik_dlm_hasil_pidana. pdf*, accessed on 15 October 2019

[12] The convention in question is the United Nation Convention Against Transnational Crime (UNTOC) and international agreements made between countries related to Mutual Legal Assistance (MLA).

[13] Firdaus, *Perjanjian Bantuan Timbal Balik Dalam Masalah Pidana Antara Republik Indonesia Dan Republik Islam Iran (Reciprocal Judiciary Assistance Agreement in The Criminal Matters Between The Republic of Indonesia and The Islamic Republic of Iran)*, De Jure Journal of Legal Research, Vol. 17, No. 4, December 2017, p. 352.

bilateral extradition agreements with Malaysia, the Philippines and Thailand, so that the existence of MLAT 2004 actually further strengthens legal cooperation with other ASEAN member countries.[14]

An article written by Itok Dwi Kurniawan and Vincentius Setyawan, entitled Opportunities to Implement Mutual Legal Assistance in Criminal Law Enforcement in Indonesia, published in the Fundamental Journal: Scientific Journal of Law, Vol. 11, No. 1, 2022. This article discusses the right of foreign citizens to refuse to give their statements before an Indonesian court, and there are no legal consequences whatsoever. This causes a lack of evidence that is very important in the examination of criminal cases, namely witness statements.[15]

Terrorism crimes that are cross-border (transnational) in practice cannot be eradicated and handled by the Indonesian state itself, even though there is already a terrorism law. Competence and capacity of officers who catch theorists is not sufficient. Besides that, forms of terrorism crimes that cross national borders, the scope includes the jurisdictions of several countries. Based on the description above, the focus of the study on the writing of this law is the extent of the urgency and effectiveness of cooperation in combating terrorism crimes at the ASEAN level.

RESEARCH METHODS

The type of research in this legal writing is normative research. The approach used is the state approach and the case approach, this legal research is carried out by analyzing laws and regulations or international conventions related to regional cooperation issues of ASEAN countries including Mutual Legal Assistance, or other forms of cooperation both in national legal instruments and international law, such as laws, conventions related to the problems in writing this law. The case

[14] Muhammad Ikhya Apriansyah, Maria Maya Lestari, Evi Deliana**,** *Efektivitas Asean Treaty On Mutual Legal Assistance (Amlat) Dalam Menghadapi Kejahatan Transnasional Di Negara Indonesia*, Jurnal Jurnal Pro Justitia, Vol.5, No.1, Februari 2024

[15] Itok Dwi Kurniawan dan Vincentius Setyawan, dengan judul *Opportunities to Implement Mutual Legal Assistance in Criminal Law Enforcement in Indonesia*, yang diterbitkan di Jurnal Fundamental : Jurnal Ilmiah Hukum, Vol. 11, No.1, 2022

approach by analyzing cases of terrorism crimes that occur in the world and in Indonesia, from examples of these cases are then applied in resolving their laws using primary legal materials consisting of laws and regulations or related international conventions, as well as secondary legal materials consisting of related reference books, and tertiary legal materials in the form of the internet.

RESULT AND DISCUSSION

A. Terrorism as a Transnational Crime

In Indonesia, terrorism is defined as an act that uses violence or threats of violence that creates an atmosphere of terror or widespread fear, which can cause mass casualties, and or cause damage or destruction to strategic vital objects, the environment, public facilities, or international facilities with ideological, political or security disturbance motives.[16] Terrorism internationally does not yet have a definite and universally accepted definition even since the founding of the League of Nations about 70 years ago.[17] Schmid recorded over 250[18] definitions of terrorism from experts so that there is no one definition that can be universally accepted.

Terrorism is said to be a transnational crime, which in transnational criminal law describes the category of domestic crime established through treaty obligations in multilateral conventions such as the 1988 Vienna Convention,[19] what is called

[16] Article 1 point 2 Law of the Republic of Indonesia number 5 of 2018 concerning amendments to Law number 15 of 2003 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism to become Law

[17] Schmid, Alex P., The Routledge Handbook of Terrorism Research, Routledge, London, New York, 2011, p. 39. Schmid further explained that the perpetrators of terrorism emphasize various attributes of terrorism such as its often symbolic nature, its nature which is often indiscriminate, its typical focus on targets of civilian and non-combatants violence, sometimes the aim is provocative and sometimes it is retributive, distraction public order and public safety hazard placement, creation of a climate of fear to influence a wider audience than the direct victim, its disregard for the rules of war and the rules of punishment, and its asymmetrical character (armed versus unarmed; weak versus strong).

[18] Ibid., p. 99-191.

[19] United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 20 December 1988, 1582 UNTS 95; in force 11 November 1990.

the agreement on crimes (treaty of crimes)[20] or crimes of international concern.[21] States enforce their own criminal laws, thereby demonstrating their sovereignty; however because of sovereignty, states must depend on the sovereignty of other states if they are to enforce their laws against transnational criminals operating extraterritorially. Countries can enforce their national law in the territory of other countries by becoming a state party to an international convention.

The term Transnational Crime was first used in the Fifth UN Congress on Crime Prevention and the Treatment of Offenders in 1975 by the UN Crime Prevention Criminal Justice Branch, to identify certain criminal phenomena that cross international boundaries, violate the laws of several countries or have an impact on other countries'. [22] The Fourth UN Survey of Crime Trends and Operations of Criminal Justice Systems formed in 1976 defines that Transnational Crime as 'offences whose inception, perpetration and/or direct or indirect effects involved more than one country.[23]

In 1995, the United Nations defined transnational crime as "offenses whose inception, proportion and/or direct or indirect effects involve more than one country".[24] It identifies a laundry list of 18 categories of transnational crimes whose origins, acts, and attempts directly or indirectly involve more than one country. This category includes money laundering, terrorist activity, theft of artistic and cultural objects, intellectual property theft, illicit arms trade, aircraft hijacking, maritime hijacking, insurance fraud, computer crime, environmental crime, human trafficking, trade in human body parts, illegal drug trade, bankruptcy fraud, legal business infiltration, and corruption and bribery of public officials or state apparatus.

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[20] N. Boister, 'Transnational Criminal Law?', European Journal of International Law, 2003, vol. 14, p. 953. See also: N. Boister, An Introduction to Transnational Criminal Law, Oxford: Oxford University Press, 2012, p. 13–23.

[21]The word is used by Cheriff Bassiouni, 1999, in: 'The Sources and Content of International Criminal Law: A Theoretical Framework', MC Bassiouni (ed.), 1 International Criminal Law: Crimes, Ardsley on Hudson: Transnational, 2nd edn, p. 13.

[22]GOW Mueller, 2001, 'Transnational Crime: Definitions and Concepts', in: P Williams and D Vlassis (eds), Combating Transnational Crime: Concepts, Activities, Responses, Frank Cass, Portland, USA, p. 13.

[23]United Nations, Fourth UN Survey of Crime Trends and Operations of Criminal Justice Systems UN Doc A/ CONF.169/15/Add.1 (1995).

[24](UN Office on Drugs and Crime [UNODC], 2002, p. 4).

Gerhard Mueller, a prominent criminologist and head of the United Nations Crime Prevention and Criminal Justice Branch from 1974-1982 suggests that:[25] It refers to criminological terms, without any claim to provide a juridical concept, and consists only of listing five activities :

1) crime as a business, organized crime, white-collar crime, and corruption;

2) criminal acts involving works of art and other cultural properties;

3) criminality related to alcoholism and drug abuse;

4) transnational violence and comparative international significance; And

5) criminality related to migration and flight from natural disasters and hostilities.

Philip Reichel and Jay Albanese define transnational crime as "those activities involving the crossing of national borders and violations of at least one country's criminal laws."[26] Furthermore, they suggest that most examples of this form of crime were "economically motivated and involved some form of smuggling".[27]

As the opinion of Neil Boister divides the character of transnational crimes into six, namely:[28]

a) *private crime*in the sense: crimes committed usually by groups or individuals who are not from the government,

b) *economiccrime*in the sense: Most transnational crime activities are driven by the desire for personal economic gain. Transnational criminals take advantage of cheap goods and services in one state and move them across the border to another where demand is strong and goods or services can be sold or rented at high profits. The main difference with legitimate economic activity is that goods or services are prohibited in one or the other or both countries,

[25]Reuter, P., & Petrie, C. (Eds.). Transnational organized crime: Summary of a workshop. Washington, DC: National Academies Press, National Research Council, 1999.

[26] Roth, Mitchel P., *Historical Overview of Transnational Crime, in: Handbook of Transnational Crime and Justic*e, Second Edition, Reichel, Philip and Albanese, Jay, edt, SAGE Publications, Inc., California, 2014, p.6.

[27] Andreas, P., & Nadelmann, E., *Policing the globe: Criminalization and Crime Control inIinternational Relations*, New York, NY: Oxford. University Press, 2006, p. 255.

[28] Neil Boister, *An Introduction to Transnational Criminal Law*, Oxford University Press, Oxford, USA, 2012, p. 4-7.

c) *Political crime*in a sense: Not all transnational criminals are after economic gain. Some transnational criminals seek political gain through violence or the threat of violence. Transnational terrorists, for example, can hatch a plot in one country and execute it in another. Surprising though it may be, violence is a feature of their activity, since the main goal is to influence public opinion or the public to achieve their own political goals,

d) *Organized crime*in a sense: Although organization is not a necessary condition for transnational crime smuggling across borders by one person is sufficient transnational crime is closely related to organized crime. The concept of organized crime however, is not settled. The difficulty is what is meant by 'organised': it may mean anything from a hierarchical organization to a wide network,

e) *Globalized crime*in a sense: The economic crime model suggests that it is rational for criminals to go where they can do business and spread into unregulated areas. In ancient times, when formal boundaries were weak, it was relatively easy for criminal activities to cross borders,

f) *Localized crime*in the sense that all processes of transnational activity have domestic roots. Transnational criminals are both global and local, capable of operating across borders but still on a local basis.

Emphasis on transnational crime is heavily based on activities related to transnational organized crime (transnational organized crime).[29] This became very clear in 2000 when the United Nations in its Convention Against Transnational Organized Crime 2000 defined: organized crime as a structured group consisting of three or more persons existing for a certain period of time and acting together with the aim of committing one or more more crimes or serious offenses under this Convention in order to obtain, directly or indirectly, a financial or material advantage.[30]

Organized crime is considered transnational when:

a) conducted in more than one country;

[29] Reichel, Philip and Albanese, Jay, 2014, *Handbook of Transnational Crime and Justice*, Second Edition, SAGE Publications, Inc., California, p.6.

[30] UNODC, 2000, Article 2a.

b) carried out in one country but part of the preparation, planning, directing or supervision is carried out in another country;
c) committed in one country but involving an organized crime group that is involved in criminal activity in more than one country; or
d) carried out in one country but have a substantial impact in another.[31]

FG Madsen argues that another way of looking at transnational crime is crime which in one of several ways involves the jurisdictions of two or more sovereign states.[32]It is quite simple for Madsen to see the types of national or transnational crimes or crimes.

In enforcing the law regarding transnational crime, Indonesia has ratified the United Nations Convention on Transnational Organized Crime (UNTOC) with Law Number 5 of 2009 concerning Ratification of the United Nations Convention Against Transnational Organized Crime. The convention mentions a number of crimes that fall under the category of organized transnational crime, namely money laundering, corruption, illicit trade in protected wild plants and animals, crimes against cultural property, human trafficking, migrant smuggling and the production and illicit trade of weapons. fire. The Convention also recognizes the close link between organized transnational crime and terrorism crimes, even though their characteristics are very different.[33]

Today many crimes involve cross-jurisdictional states. One reason is the easy means of transportation and communication. This the crimes committed in country A are capable of impacting country B, so that international cooperation is absolute necessary. One example of a crime that requires international cooperation is combating acts of terrorism.

Terrorism crimes that are cross-border (transnational) in practice cannot be eradicated and handled by the Indonesian state itself, even though there is already a terrorism law. The competence and capacity of officers who catch the theoretical perpetrators is not sufficient. Besides that, forms of terrorism crimes that cross

[31] UNODC, 2000, Article 3.2.
[32] Madsen, FG, 2009, *Transnational Organized Crime*, London, England: Routledge, p.8.
[33] Indonesia has bound itself to international conventions related to drug and drug trafficking, namely: a) United Nations Single Convention on Narcotic Drugs; b) United Nations Convention on Psychotropic Substances; and C) United Nations Convention Against Illicit Traffic on Narcotic Drugs and Psychotropic Substances.

national borders, the scope includes the jurisdictions of several countries. Based on the description above, a model or pattern of cooperation between countries is needed in eradicating terrorism crimes which are included in transnational crimes.

B. ASEAN Mutual Legal Assistance Treaty (AMLAT) as an Effort to Combat Terrorism Crimes

1. AMLAT Commitment to ASEAN Countries

ASEAN was formed based on the will and agreement of the countries in the Southeast Asian region tocooperate in each particular field in order to achieve common goals. The relationship that occurs between the sovereignty of ASEAN member countries and ASEAN is to convert the sovereignty of ASEAN member countries by forming and agreeing on an international agreement, in which the relevant parties regulate these ties as a conversion of their binding power into an organization which in this case binds itself in ASEAN Charter.[34]

The signing of the ASEAN Mutual Legal Assistance Agreement (AMLAT) in Kuala Lumpur, Malaysia in 2004 initiated the opening of cooperation between ASEAN countries in mutual legal assistance. The formation of AMLAT was also agreed upon at the 5th ASEAN Ministerial Meeting on Transnational Crime (AMMTC) in Hanoi, Vietnam. The importance of AMLAT is illustrated by the agreement signed on 19 January 2006 by ten ASEAN member countries (Indonesia, Malaysia, Singapore, Vietnam, the Philippines, Laos, Cambodia, Myanmar, Thailand and Brunei Darussalam). After the formation of AMLAT,*Senior Official Meeting on Mutual Legal Assistance Treaty* (SOMLAT) is formed and held every five years to discuss the implementation of AMLAT in ASEAN member countries. One of the topics discussed in this SOMLAT is the improvement of AMLAT as an ASEAN instrument. Even though AMLAT has been signed and ratified, it is actually not part of the ASEAN instruments. This provision is reflected in the difference in secretariat offices: the AMLAT secretariat office is in Kuala Lumpur,

[34] Indira Devitasari, 2015, *Kekuatan Mengikat ASEAN Mutual Legal Assistance Treaty (AMLAT) Bagi Negara Anggota ASEAN Dalam Rangka Penegakan Hukum Kejahatan Transnasional*, Belli Ac Pacis, Vol. 1, No. 1, June 2015, p.25

Malaysia, while the ASEAN secretariat office is in Jakarta, Indonesia.Mechanistically sothe AMLAT arrangement is separate from the ASEAN mechanism system (The 4th Meeting of Senior Official on the Treaty on Mutual Legal Assistance in Criminal Mattersn. Some ASEAN member countries assume that the nature of the ASEAN Mutual Legal Assistance Treaty will be closed for non-ASEAN member countries to accede to the provisions AMLAT if it has become part of the ASEAN Instrument.[35]

So far, AMLAT has been in practice in several participating countries, for example, Indonesia has Law No. 1 of 2006 concerning Mutual Assistance in Criminal Matters as a follow-up to its ratification of AMLAT. Likewise with the Philippines, although it does not yet have specific laws and regulations governing Mutual Legal Assistance (MLA), MLA cooperation is based on the existing mechanism in AMLAT.[36]

The basis for binding AMLAT for ASEAN member countries is based on the awareness of ASEAN member countries to comply with the provisions contained in AMLAT because of the needs of each participating country which considers AMLAT provisions to reflect justice and also have a good impact on ASEAN member countries. In this case, the provisions of AMLAT are considered to be an effective solution to overcome transnational crimes that occur in the Southeast Asian region. However, the meaning of "justice" can experience a shift along with the times and AMLAT may be considered as no longer providing good for the country. For example, the provisions in article 3 AMLAT regarding limitations in providing MLA assistance regarding the principle of double criminality, Singapore as one of the countries that adheres to this principle, so that in several cases requests for MLA assistance were often rejected. For Indonesia, the principle of double criminality tends to provide many disadvantages. Therefore, an awareness or desire to implement a legal provision is not sufficient but must be balanced with a form of concrete agreement.[37]

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[35] SOMLAT 4th, 2009, Results of the 4th Senior Official Meeting Mutual Legal Assistance Treaty, p.2.

[36] SOMLAT 4th, 2009, Results of the 4th Senior Official Meeting Mutual Legal Assistance Treaty, p. 4-5.

[37]Indira Devitasari, *op.cit*., p.25

AMLAT is an international agreement[38] in the Southeast Asian region formed by ASEAN countries. AMLAT has complied with the elements regulated in the 1969 Vienna Convention on International Treaty Law, as explained in the provisions of Article 6 of the 1969 Vienna Convention that "every country has the ability to enter into international agreements". The meaning of the state in this article is intended to mean the state as an individual or as a subject of international law[39]. In this case, ASEAN can be said to be a subject of international law so that all legal actions can be recognized as a provision of international law.

An important requirement of an international agreement is that the agreement is subject to the international legal regime. The parties in this case the AMLAT participants consisting of Indonesia, Singapore, Malaysia, Vietnam, Cambodia, Laos, the Philippines, Brunei Darussalam, Thailand and Myanmar who are members of ASEAN membership have agreed to sign and ratify the AMLAT agreement. The AMLAT provisions serve as guidelines for ASEAN member countries to practice them in the national laws of their respective countries.

The obligations of the parties to the AMLAT participating countries carry out international agreements in "good faith", in which the participating countries have several obligations that have been regulated in the AMLAT agreement, including:

1) The provisions in article 1 which require participating countries to adopt the provisions contained in the AMLAT agreement into national law in each participating country. Currently, several participating countries have adopted this agreement into the national law of their respective countries, including; Indonesia, Malaysia, Myanmar, Singapore, Vietnam, Laos, Brunei Darussalam, Cambodia and Thailand, while the Philippines still bases requests for MLA assistance on AMLAT.[40]

[38] International agreementis an agreement between two or more parties subject to international law regarding a certain object that is formulated in writing and is subject to or governed by international law. Several elements or qualifications that must be met in an international agreement, among others: agreement, legal subjects, written form, certain objects and subject to or regulated by international law.

[39]According to International Law, what is said to be a legal subject iscountry,holy throne, liberation groups, international organizations.

[40]Indira Devitasari, *op.cit.*, p. 25

2) Participating countries are required to be able to cooperate with other participating countries. Some of the limitations of assistance that can be provided are regulated in article 1:
    a) Taking evidence and statements voluntarily from someone,
    b) make provisions in terms of taking evidence from a person when providing assistance in matters of criminal matters,
    c) carry out a search in the event of the arrest of a person requested,
    d) examine several suspected items and assets,
    e) provide originals or copies of a document, or records of evidence,
    f) carry out investigations of assets originating from criminal acts,
    g) detain assets or freeze assets on assets suspected of originating from a criminal act,
    h) to confiscate property originating from a crime,
    i) conducting searches and identifying witnesses and suspects,
    j) provide other assistance that has been agreed upon with the requesting country beforehand and does not conflict with this agreement.
3) With regard to the investigation and identification process, the Requested Party in accordance with its national laws, makes every effort to ascertain the location or identity of a person mentioned in the request and who is reasonably certain within its territory as stipulated in article 20 AMLAT.
4) State parties are required to be under the provisions of article 22 AMLAT, in accordance with their national law, to try to find, track, detain, freeze, confiscate, or seize assets originating from criminal acts. Property confiscated or confiscated under this article may be handed over to the Requesting Party unless otherwise agreed in each particular case.

Obligation to dothe appointment of the central authority as stipulated in article 4 AMLAT is to apply for and receive MLA assistance as stipulated in this agreement. The appointment of the central authority for the 10 (ten) AMLAT participating countries includes; Indonesia in this case appoints the Directorate General of Public Law Administration, Ministry of Law and Human Rights as the Central Authority, Malaysia, Singapore and Brunei Darussalam through the

Attorney General's Chambers as the Central Authority, Laos appoints the Ministry of Justice as the Central Authority, Myanmar through the Attorney General's Office appointed as Central Authority, Philippines appointed the Office of the Chief State Counsel as the Central Authority of the country, Vietnam through the Ministry of Public Security as Central Authority, Cambodia documents, records or various matters related to criminal acts requested by the requesting state party, which must be carried out in the process of observation before proceeding to the custody process until the document is sent. The requested country party must as soon as possible report the results of the investigation, confiscation and also safeguarding these results afterward based on what is regulated in article 18 AMLAT.

In practice, the use of the jurisdiction of the requested country and the differences in the criminal law system applied between ASEAN countries are the inhibiting factors for the implementation of AMLAT. For example, there are those who adhere to a continental legal system, such as Indonesia, and there are also countries that apply the Anglo-Saxon system, such as Malaysia and Singapore. The main difference is that the justice system adheres to the due process model (DPM) which focuses more on protecting human rights for suspects. Likewise, there are those who apply the crime control model (CCM) system, which emphasizes the efficiency and effectiveness of criminal justice based on the principle of the presumption of innocence and focuses more on processes that are more practical.[41]

Often each country wants to use its own legal system absolutely in handling crime, the same thing happens in other countries, so that the handling of crime becomes slow and convoluted. For example, Singapore has its own guidelines for requirements for countries wishing to submit requests for assistance, so that many countries experience obstacles in submitting assistance to Singapore due to the technicalities of submitting assistance which are too complicated. In Singapore, implementing a checking system for requests for assistance from the requesting country is divided into two stages. The first stage is through the authorized prosecutor's office and the second stage is through the authorized minister.[42]Brunei

[41] National Legal Development Agency Ministry of Law and Human Rights of the Republic of Indonesia, 2012, Central Authority and Coordinating Mechanism in the Implementation of Mutual Assistance in Criminal Matters
p.38

[42] Indira Devitasari, *op.cit.*, p.26

Darussalam itself, within the national legal arrangements regarding MLA, has developed regulations regarding the use of electronic media such as television as a means of providing assistance regarding the notification of the requested evidence.

2. The Effectiveness of Mutual Legal Assistance Cooperation in Combating Terrorism Crime

The terrorist network in Southeast Asia is a terrorist network that developed from radical Islamic groups. This can be seen from the development of radical Islamic groups in the Southeast Asian region which have developed into terrorist networks that cross national boundaries, namely international scale terrorist networks. The development of this radical Islamic group into a terrorist network that crosses national boundaries cannot be separated from the events of September 11, 2001. The US is searching for Osama bin Laden, the leader of the Al-Qaeda Network who is responsible for the tragedy of the collapse of the WTC building, in the process of searching and hunting. Osama bin Laden said the US realized that radical Islamic groups in Southeast Asia had connections and were partners in the Al-Qaeda Network.

MLA is basically a form of mutual agreement in criminal matters.[43] Initially, MLA originated from cooperation between countries in a process of mutual assistance in investigating criminal matters that began with cooperation between the police and "letters rogatory".[44], which is a system of requesting assistance based on mutual respect in order to obtain evidence, which then develops into a form of agreement and various other forms of assistance. Reciprocal criminal legal assistance MLA is a form of legal cooperation in the context of enforcing criminal law, especially for crimes that have a transnational element.

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[43] Basically, MLA, like extradition, can be carried out both formally through agreements and informally based on the principle of reciprocity.

[44] *Letters rogatory* is a letter issued by the court of a country to obtain assistance from the court of another country. The existence of Letters rogatory is because based on the principle of sovereignty, the courts of a country are prohibited from exercising power outside their jurisdiction, including also to obtain evidence available abroad for the benefit of the trial, so that a country must submit a request in advance to the requested country if it wants to obtain evidence. the. Cyrer, Robert, Friman, Hakan, et all, 2010, *An Introduction to International Criminal Law and Procedure*, Cambridge University Press, page 102

Article 18 UNTOC expressly states to encourage forms of mutual assistance cooperation in overcoming criminal acts which are the scope of the TOC. In fact, Article 18 paragraph 3 UNTOC emphasizes that MLA includes obtaining evidence and statements, providing assistance with legal documents, carrying out searches and seizures, carrying out inspections of objects and locations. , providing information, evidence, expert judgment, documents and archives, identifying or tracing criminal processes, property, or equipment used for evidentiary purposes and confiscation for confiscation purposes, facilitating the presence of witnesses and various other forms of assistance that not prohibited by national law.[45]Even so, the assistance provided by a country does not have to be limited to those mentioned above, other assistance can also be provided as long as it does not conflict with the national law of a country.

In relation to transnational crimes, especially terrorism crimes, since 2002 ASEAN has concentrated on establishing a regional legal framework to align national anti-terrorism laws as a basis for cooperation between countries. For example, in May 2002, the governments of Indonesia, the Philippines and Malaysia signed the Agreement on Exchange and Establishment of Communication Procedures. The agreement contains a commitment to share flight passenger lists, blacklists, computerized fingerprint databases, followed by joint exercises between countries and strengthening border control by designing a standardized entry and exit point system. In 2003, Thailand, Cambodia and Brunei joined the mechanism. The leaders of ASEAN countries also support holding Ad Hoc Experts Group Meetings and special sessions from SOMTC and AMMTC which focus on discussing terrorism and calling for the initial signing or ratification or accession to anti-terrorism conventions, strengthening and exchanging information and intelligence and improving coordination and cooperation between AMMTC and other ASEAN entities in fighting terrorism both at regional and global levels. The threat of regional terrorism is considered a threat that requires a collective response from ASEAN to overcome it together. Malaysia hosted the ASEAN Ministrial Meeting on Terrorism in May 2002. The joint communique that was produced at

[45] Article 18 (3)*United Nations Convention Against Transnational Organized Crimes*or UNTOC 2000

that time emphasized cohesive unity among ASEAN member countries so that they can effectively fight terrorism in the Southeast Asian region. ARF[46]held an annual meeting of the Intersessional Meeting on Counter Terrorism and Transnational Crime (ISM CT-TC) in Malaysia. The discussion was about specific methods to improve border control and standardization of travel documents and the use of biometric passports. Countries such as the European Union, the US, Japan, China, Australia and Russia are ASEAN dialogue partner countries in the context of overcoming transnational crimes, especially terrorism crimes.

In relation to the implementation of MLA, it does not have to be based entirely on a special MLA agreement that is carried out bilaterally, regionally or subregionally, Article 18 paragraphs 9-29 UNTOC provides an opportunity that when a country does not have an MLA agreement, MLA can still be carried out if the country is countries are parties to UNTOC, so that the existence of Article 18 Paragraphs 9-29 UNTOC can be interpreted as an MLA agreement on a small scale.[47]

Likewise, the implication is that law enforcement cooperation through MLA cannot always run well, this request for assistance is likely to be rejected by the requested country. This refusal is based on several things, including:

(i) if the requested country is deemed that the request for assistance is directed against a crime that is considered a political crime according to the requested country.

(ii) The requesting country applies the death penalty.

(iii) The case used as the basis for requesting MLA was deemed insufficient.

Regional mutual legal assistance cooperation among ASEAN countries is also articulated in the ASEAN Mutual Legal Assistance Treaty (AMLAT).[48], which

[46] ARF as a forum established by ASEAN as a vehicle for dialogue and consultation on matters related to regional politics and security as well as to discuss and equalize views between ARF participating countries to minimize threats to regional stability and security

[47] See further Article 18 paragraph 9-29 UNTOC

[48]This agreement, first enacted in 2004, was signed by all ASEAN member countries in 2006. Indonesia ratified (ratified) AMLAT with Law Number 15 of 2008 concerning Ratification of Agreements Concerning Mutual Legal Assistance in Criminal Matters (Treaty on Mutual Legal Assistance In Criminal Matters).

seeks to strengthen cooperation in preventing and prosecuting transnational crimes among its member countries.[49]

As with other conventions referring to MLA, AMLAT requires the Parties to designate a central authority (CA) to follow up on all MLA requests. AMLAT also provides special exceptions so that emergency requests can be made verbally through INTERPOL or ASEANAPOL. AMLAT does not mention a specific crime that must be regulated in cooperation, but explains the limitations of MLA, namely excluding cooperation for crimes that a political, constitutes a military crime under the laws of the country of the requesting MLA, may cause prejudice/prejudice to someone because of race, religion, gender, ethnic origin, or nationality or political opinion, has been sentenced, acquitted or pardoned by a competent court or other authority, not prohibited by the laws of the requesting MLA's country.

Some of the agreements made by ASEAN member countries are included in the category of international agreements. Agreements, including international agreements, contain the main principles, namely the principle of pacta sunt servanda and the principle of good faith. This means that with the birth of several agreements as mentioned above, it imposes obligations on ASEAN member countries as subjects of international law which are also subjects of agreements, to carry out the contents of the agreement as agreed between them in good faith. Several obligations that must be carried out by the parties related to AMLAT, as stated in several articles, including Articles 1, 4, 9-11, 13, 14. 16-18, 20, 22.

As a realization of the existence of a Plan of Action to Combat Transnational Crime in preventing and fighting transnational crime, member countries in ASEAN have formed a framework, namely a highest decision-making body in tackling transnational crime. This body is called the Asean Ministerial Meeting on Transnational Crime or AMMTC. The ASEAN Ministerial Meeting on

[49] As is known, the Southeast Asian region is a region that has the potential to receive a greater threat of terrorism, namely the existence of various radical Islamic groups that are moving towards terrorism. These radical Islamic groups such as Jemaah Islamiyah (JI) in Indonesia,*Moro Islamic Liberation Front*(MILF), Abu Sayyaf Group (ASG), and the Bangsamoro Islamic Freedoms Fighter (BIFF) in the Philippines, the Bali Bombing Case, October 2002 and the JW Marriot Hotel Jakarta August 2003. The Abu Sayyaf and JI groups are considered the most dangerous terrorist organizations in the world

Transnational Crime is a ministerial-level forum and below, specifically discussing non-traditional issues in Southeast Asia.[50]

As a follow-up to some of these agreements, several ASEAN member countries individually followed up, such as: (1). Making a Memorandum of Understanding between the Indonesian National Police (POLRI) and the Philippine National Police (PNP) on Cooperation in the Prevention and Management of Transnational Crime, 2005. (2). Memorandum of Understanding between the National Police of the Republic of Indonesia and the Brunei Police on Cooperation in Eradicating Transnational Crime and Capacity Building, 2016. (3). Memorandum of Understanding between the Government of the Republic of Indonesia and the Government of the Socialist Republic of Vietnam, 2010. (4). Agreement on Cooperation Between the Government of the Republic of the Philippines and The Government of the Kingdom of Thailand on The Prevention and Fight Against Criminal Activities, 1998. (5). Defense cooperation between Indonesia and Cambodia, 1993. (6). Coordinated Patrols between Indonesia-Malaysia-Singapore, 2004. (7). Coordinated Patrols between Indonesia and Singapore, 1992. (8). Indonesian – Singapore Military Cooperation, 1995. (9). Joint Border Monitoring Cooperation between Indonesia and Malaysia. (10). Trilateral Coordinated Maritime Patrol or Trilateral Maritime Patrol Indomalphi, between Indonesia-Malaysia-Philippines.[51]

In its relations with countries outside ASEAN countries, Indonesia also has a number of bilateral MLA agreements with other countries. These agreements provide a direct channel for legal assistance with countries outside of AMLAT, and potentially provide a stronger basis for collaboration and cover a wider scope of crimes than global conventions such as UNCAC and UNTOC. Indonesia has bilateral MLA agreements with several countries, such as Australia, China, Hong Kong, India, South Korea, Saudi Arabia (UAE), and Vietnam. This was done by Indonesia as a realization of Indonesia's commitment in the framework of its involvement in tackling and handling transnational crimes.

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[50] Jeanita Eka Aryanti, Handojo Leksono, 2017, *Penerapan Prinsip Shared Responsibility Sebagai Upaya Dalam Penanggulangan Kejahatan Transnasional Di Kawasan Asia Tenggara*, Belli ac Pacis. Vol. 3. No. 2 December 2017, p.32.

[51] Irdayanti. 2013. *Penguatan Hubungan Kerjasama Indonesia-Malaysia dalam Menangani Kejahatan Transnasional*. Transnational Journal. Vol. 5, No. 1, July 2013, p. 1-16.

In Indonesian perspective, Mutual Assistance agreements have an important meaning which is one of the solutions to jurisdictional problems in law enforcement. This is because Indonesian law enforcement officers find it easier to access information about flight proceeds of crime or evidence of crimes in other countries. Therefore, MLA can be used for the legal process of investigation, prosecution, until the execution of decisions that have permanent legal force. Investigations can obtain witness statements, look for a person's whereabouts, find out if there are assets in the form of movable assets, houses, land and others that can use the MLA.

Mutual assistance in criminal matters is a form of cooperation recommended in the United Nations Convention Against Corruption (UNCAC) which is then manifested at the national level in the form of Law Number 1 of 2006 concerning Mutual Legal Assistance in Criminal Matters (Mutual Legal Assistance). The law includes, among other things, taking and giving evidence, including documents, identifying a person's location, carrying out requests to search for evidence, confiscating, freezing assets, confiscating assets resulting from crime, blocking, taking information, assisting in investigations, and making approvals. with witnesses. The entire coverage is subject to the principles of international agreements and international law, especially the principle of reciprocity (reciprocity).[52] and the principle of sovereignty.[53]

The implementation of Mutual Legal Assistance (MLA) is an important part of international cooperation to combat transnational crime, although Indonesia has regulations and a strong commitment to implementing MLA, there are a number of obstacles that hinder the effectiveness of its implementation, the obstacles faced include:

[52] That is, each country provides cooperation assistance in surrendering transnational crime perpetrators on the basis of requests.

[53] Based on the concept of international law, there are three aspects related to sovereignty: (i) The external aspect of sovereignty, namely that every country has the right to enter into relations with various countries and other groups without pressure or influence from other countries. (ii) The internal aspect of sovereignty, namely that there is an exclusive right of the state to determine how domestic institutional arrangements are made, including mechanisms for making legislation and arrangements regardingits enforcement. (iii) The territorial aspect of sovereignty, namely that each country has full and exclusive power over individuals and objects in the country's territory. Boer Mauna, 2005, *Hukum Internasional, Pengertian Peranan dan fungsi Dalam Era Dinamika Global*, Alumni, Bandung, p.24

1. Differences in Legal Systems

Indonesia adopts a civil law system, while several MLA partner countries adopt a common law system or a mixed legal system. These differences often lead to inconsistencies in legal procedures, for example in terms of evidence, standards for requests for assistance, or the form of documents that must be included.

2. Lack of Bilateral Agreements

Although Indonesia has ratified the UN Convention on Transnational Crime and Corruption which is the basis for multilateral cooperation, bilateral MLA agreements with partner countries are still limited. This slows down the cooperation process because not all countries are willing to provide assistance without a formal agreement.

3. Limited Resources

The limited personnel with technical expertise and a deep understanding of international law is an obstacle to following up on MLA requests quickly and effectively. In addition, the lack of budget and supporting infrastructure also slows down coordination between institutions.

4. Slow Bureaucratic Process

Coordination between domestic institutions, such as between the Ministry of Law and Human Rights, the Attorney General's Office, the Police, and the Ministry of Foreign Affairs, is often hampered by a long bureaucratic process. This can slow down the delivery of requests or responses to requests from other countries.

5. Lack of Regulatory Harmonization

The inconsistency between national laws and international legal provisions makes it difficult to fully implement MLA. Some countries require certain types of violations or certain forms of requests that are not explicitly regulated in Indonesian national law.

6. Sovereignty and Political Issues

Some countries are reluctant to provide legal assistance due to political reasons or sovereign sensitivity. Indonesia must also consider this aspect when making requests, especially in cases involving high-ranking officials or big businessmen.

Indonesia has actually attempted to resolve various obstacles faced in the implementation of MLA by issuing a legal umbrella for its implementation, namely Law Number 1 of 2006 concerning Mutual Assistance in Criminal Matters, which took effect on March 3, 2006. In the Mutual Assistance Law, assistance that can be requested or given includes matters such as: matters as specified in Article 3 paragraph (2) of Law no. 1 of 2006.[54]Law No. 1 of 2006 includes several principles that serve as guidelines for the Government of Indonesia in the implementation of mutual assistance, namely: (a). Principle of Specificity, Articles 3 and 4.; (b). Principle of reciprocity Article 5 paragraph (2).; (c). Principle of Ne Bis In Idem Article 6 letter b.; (d). The principle of double criminality or double crimes Article 6 letter c.; (e). Principle of Non-racism Article 6 letter c.; (f). Principle of sovereignty Article 6 letter e.; (g). The principle is not related to the death penalty.; (h). Principles of Diplomatic relations, Article 17.; (i). Not related to political crimes, except murder or attempted murder of heads of state/heads of government, terrorism; or a criminal offense under military law, Article 6.

In the Law on Mutual Assistance, it is stated that the party responsible for receiving and sending requests for mutual assistance is the ministry responsible for law, or in this case the Ministry of Law and Human Rights,[55] as the Central Authority.[56]This is in line with what was requested by UNTOC and UNCAC.[57] The task of the Central Authority is to obtain evidence from foreign countries,[58]

[54] The assistance referred to in Article 3 paragraph (1) includes assistance to identify and search for people; obtain a statement or other form; show documents or other forms; seek the presence of people to provide information or assist in investigations; delivering letters; carrying out search and seizure requests; confiscation of proceeds of crime; recover fines in the form of money in connection with criminal acts; prohibit property transactions, freeze assets that can be released or confiscated, or which may be required to fulfill the fines imposed, in connection with criminal acts; looking for assets that can be released, or that may be needed to fulfill the fine imposed, in connection with a criminal act.

[55] Article 1 point 10 of Law no. 1 of 2006 concerning Mutual Criminal Assistance

[56] General Explanation of Law Number 1 of 2006 concerning Mutual Assistance in Criminal Matters

[57] Based on Article 18 paragraph (13) UNTOC jo. Article 43 paragraph (13) of the UNCAC, whereby states parties are required to appoint an authorized body that has the responsibility and power to receive requests for mutual legal assistance and also to carry out or send them to the competent body to be implemented, this body is referred to as the central authority . Indonesia has become a party to both of these international rules. Indonesia's attachment to UNTOC is carried out by Law Number 5 of 2009, and to UNCAC by Law Number 7 of 2006.

[58] As has been done by*Central Authority*Indonesia (in this case the Directorate of International Law, Directorate General of Legal Administration) submitted a request to the US Government through the Indonesian Consulate General in Los Angeles, regarding the BNI case on behalf of Adrian H. Woworuntu, which was a case of requesting confiscation and confiscation of

therefore domestic cooperation is needed with related institutions, such as the Ministry of Foreign Affairs (Diplomatic Channel), the National Police, the Attorney General's Office, the KPK, PPATK, to find out or obtain assets that can be confiscated, searched, blocked by agencies -authorized agency in a foreign country. The existence of these institutions is essentially part of the Central authority, and is an authorized institution and its existence is recognized by UNCAC.[59]

According to Marfuatul Latifah, the appointment of the Ministry of Law and Human Rights as the central authority has its advantages and disadvantages. The advantages can be seen from the position of the Ministry of Law and Human Rights as an institution responsible for formulating, determining and implementing policies in the field of law in Indonesia, due to this function the Ministry of Law and Human Rights has extensive relations in the field of law in Indonesia. The central authority is an entity that functions administratively in the implementation of mutual assistance, and has a strategic position. Meanwhile, the weaknesses referred to include the reluctance of law enforcement institutions to provide mutual criminal assistance through the Ministry of Law and Human Rights, because it requires another bureaucratic process, namely by submitting an application file to the Ministry of Law and Human Rights.[60]

For optimal implementation of MLA, Indonesia needs to increase the number of bilateral agreements, strengthen human resources and institutional capacity, simplify bureaucracy between agencies, and adjust national regulations to

assets through mutual assistance in a criminal matter based on the principle of reciprocity (reciprocity).

The Government of Indonesia has also done the same thing to the Government of Australia, in relation to the Hendra Raharja case. The Government of Indonesia to the Government of Australia to seize Hendra Rahardja's assets in Australia which are suspected of originating from criminal acts committed in Indonesia. Through Interpol cooperation, it is known that Hendra Rahardja's assets in Australia are quite a lot and the data has been provided by the Australian Police (AFP) to the National Police. In order to take legal action on Hendra Rahardja's assets, a team called the "Indonesian Australia Task Force" was formed with the aim of collecting information, data, documents and evidence in legal proceedings in Australia.

[59] Article 46 paragraph (13) of the UNCAC states that a request for mutual criminal assistance can be made directly by the central authority, or it can also be forwarded to the competent authority (in this paper it is referred to as the competent authority).

[60] Marfuatul Latifah, *Penunjukan Otoritas Pusat Dalam Bantuan Timbal Balik Pidana di Indonesia*, Negara Hukum: Vol. 7, No. 1, Juni 2016, hlm.65.

international standards. This is important to build a transparent justice system that is able to effectively respond to the challenges of transnational crime.

CONCLUSION

MLA cooperation at the ASEAN level is one of the important instruments in combating transnational crimes, including terrorism. In general, the effectiveness of MLA in the ASEAN context shows significant progress, especially in strengthening coordination between member countries in terms of information exchange, extradition, asset confiscation, and the implementation of cross-jurisdictional investigations. Through legal instruments such as the Treaty on Mutual Legal Assistance in Criminal Matters, ASEAN countries have demonstrated their commitment to assist each other in the process of enforcing the law on terrorism cases. However, the effectiveness of this cooperation still faces various challenges, such as differences in legal systems between countries, slow bureaucratic processes, lack of trust between law enforcement officers, and limited resources and technology. In addition, not all member countries have the same capacity and mechanisms in following up on MLA requests. To increase the effectiveness of MLA as an effort to combat terrorism, it is necessary to strengthen regulatory harmonization, increase the capabilities of law enforcement agencies, and have a strong political commitment from all ASEAN member countries. Closer collaboration, transparency, and the establishment of a regional coordination center are also important factors in supporting the success of this cooperation in the future.

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