
Criminal Liability of Passive Money Laundering Perpetrators: Analysis of Decision Number 626/PIDSUS/2020/PN JKT.SEL

Bayu Saeful Bahari¹, Dwidja Priyatno², Trini Handayani³, & Rusman⁴

^{1, 3, 4}*Pascasarjana Program Studi Magister Ilmu Hukum, Universitas Suryakencana*

²*Sekolah Tinggi Hukum Bandung*

*Email Corresponding: bayusaefulbahari@gmail.com

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Abstract

Criminal liability for perpetrators of passive money laundering, with a focus on the analysis of Decision Number 626/PIDSUS/2020/PN JKT.SEL. Passive money laundering refers to actions that are not directly related to the main crime but still play an important role in disguising the origin of the proceeds of crime. This study uses a normative legal method, with analysis of legislation, court decisions, and related legal literature. Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes is the main legal basis for regulating money laundering, both active and passive. Article 5 paragraph (1) of this law stipulates that perpetrators of passive money laundering can be subject to criminal sanctions if they are proven to have received, controlled, or used assets that are known or reasonably suspected to be derived from criminal acts. In addition, the system of evidence in money laundering cases applies the principle of reverse burden of proof, whereby the defendant must prove that their assets are not the proceeds of crime. In the case analysed, the Panel of Judges ruled that the defendant was legally and convincingly proven to have committed the passive money laundering crime by trading accounts and using those accounts for illegal transactions, including online gambling. This ruling emphasises the importance of strict law enforcement in dealing with passive money laundering crimes to support effective prevention and law enforcement efforts in Indonesia.

INTRODUCTION

Accountability for criminal acts against passive money launderers is a very important issue, as it involves law enforcement against individuals who may not be directly involved in the main crime, but still play a significant role in facilitating money laundering (Khilmatin Maulidah, Muhammad Rizqi Hengki, 2024). Passive money laundering refers to actions where a person, either intentionally or unintentionally, receives or utilises funds derived from crime without being directly involved in the criminal acts that generated those funds (Nabila Ayu Safitri, 2024).

Given the complexity of the law involved, it is important to analyse how the courts interpret and apply the law to perpetrators of passive money laundering (Rafel Maita, Vasco Javarison Zscharias, 2024). In Indonesia, the law governing money laundering offences is regulated in Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Offences. This law provides a legal basis for prosecuting various forms of involvement by money launderers themselves, including passive roles. Passive actions can

include opening bank accounts for unclear purposes, selling or lending accounts to other parties, and using accounts for illegal transactions (Siahaan, 2024).

The phenomenon of passive money laundering often occurs in various sectors, such as banking, property, and business, where perpetrators of crime exploit legal loopholes or the negligence of others to legalise illegally obtained assets (Sari, 2023). Understanding passive money laundering in the criminal justice system is important to ensure that not only the main perpetrators, but also parties indirectly involved in money laundering can be prosecuted and punished in accordance with Articles 3 and 4 of the Anti-Money Laundering Law. As in the research conducted by Edward Fernando Siregar, Helvis and Markoni in their article entitled "Legal Analysis of the Execution of Seizure of Collateral for Money Laundering Crimes First Travel," which highlights the case of money laundering committed by First Travel agents or fraud cases using the guise of umrah travel services. This case constitutes money laundering, where many people were easily tempted by attractive umrah cost promotions but ultimately received nothing. The perpetrators of these crimes are charged under the applicable Money Laundering Law, and the assets obtained from these crimes are confiscated. Therefore, it is important to enforce the law against every crime committed under the guise of fraud (Edward Fernando Siregar, Helvis, 2021).

In addition, research conducted by Gumilang Fuadi, Windy Virdinia Putri, and Trisno Raharjo in their article entitled 'Review of Asset Seizure in Money Laundering Crimes from a Justice Perspective', states that even though asset seizure in money laundering cases has been regulated in Indonesia, its implementation is still unfair to the state and the victims, as the losses caused by money laundering hinder national progress and reduce public welfare. Several problems in the regulation, such as perpetrators who flee, disappear, or suffer from mental disorders, as well as difficulties in finding heirs, cause significant financial losses to the state (Gumilang Fuadi, Windy Virdinia Putri, 2024).

Based on the above description, the author is interested in raising this research by analysing Decision Number 626/PIDSUS/2020/PN JKT.SEL. This decision explains that Defendant I, Fuja Widarsih, and Defendant II, Irma Yunita, were proven legally and convincingly guilty of criminal acts related to the Prevention and Eradication of Money Laundering (TPPU). Both were sentenced to seven months' imprisonment and a fine of IDR 100,000,000.00, with the provision that if the fine was not paid, it would be replaced with one month's imprisonment. The period of detention already served was counted as part of the sentence, and both remained in custody.

This ruling is one of the important cases that highlights the issue of the application of criminal liability in passive money laundering offences in Indonesia. This case provides a concrete example of how the judicial system views the role of passive perpetrators in the money laundering process and how the law operates in determining the form of sanctions and the application of criminal law principles. This case also raises fundamental questions about the extent to which substantive justice is achieved and how the legal system should respond to the phenomenon of passive involvement in money laundering crimes.

The purpose of this study is to analyse criminal liability for perpetrators of passive money laundering through an examination of Decision Number 626/PIDSUS/2020/PN JKT.SEL, assesses the conformity of the decision with the principles of criminal law applicable in

Indonesia, and understands its implications for the effectiveness of law enforcement and the prevention of money laundering offences as a whole. With a comprehensive understanding of the characteristics and impacts of this crime, it is hoped that the results of this study can contribute to strengthening the application of laws that are more fair, consistent, and oriented towards substantive justice.

METHODOLOGY

This study uses a normative legal approach, which focuses on the study of positive legal norms, legal principles, and doctrines applicable in the Indonesian legal system (Rizkia & Fardiansyah, 2023). This approach is considered relevant for use in analysing Decision Number 626/PIDSUS/2020/PN JKT.SEL, because the focus of this study is to examine how judges interpret and apply legal provisions relating to passive money laundering offences, as well as to assess the extent to which the criminal liability imposed is in accordance with the principles of national criminal law. Through this approach, the study not only outlines the applicable laws and regulations but also assesses the consistency of law enforcement in court decisions, thereby providing clarity on norms and a deeper understanding of law enforcement practices in the context of passive money laundering offences.

The specifications of this research are descriptive-analytical in nature, aiming to systematically describe the legal facts and provisions of laws and regulations relating to passive money laundering offences, then analyse them based on relevant legal theories and principles. This specification was chosen so that the research could provide a clear picture of the legal basis, the judges' reasoning in handing down verdicts, and the conformity of these verdicts with the principles of justice, legal certainty, and utility as the main objectives of criminal law.

The types of legal materials used in this study consist of three categories, namely primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations directly related to money laundering crimes, including Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, the Criminal Code - Undang Hukum Pidana (KUHP) (Criminal Code), and Decision Number 626/PIDSUS/2020/PN JKT.SEL, which is the main object of analysis. Secondary legal materials include research results, legal literature, scientific journals, opinions of legal experts, and other scientific works relevant to the concept of criminal responsibility and the application of law to perpetrators of passive money laundering. Meanwhile, tertiary legal materials include legal dictionaries, legal encyclopaedias, and other supporting sources that help clarify and strengthen the understanding of primary and secondary legal materials.

The technique of collecting legal materials was carried out through library research, namely by searching various written legal sources, such as legislation, court decisions, legal literature, scientific journals, and relevant academic articles. The search also included the official document of Decision Number 626/PIDSUS/2020/PN JKT.SEL, which was obtained through the official website of the Supreme Court of the Republic of Indonesia or other legitimate legal sources. Through this method, the author obtained valid and credible legal materials as the basis for legal analysis of the application of criminal liability in the case.

Furthermore, the technique of analysing legal materials was carried out qualitatively, by interpreting the applicable legal norms and relating them to the legal facts contained in the

decision under review. The author used the methods of legal interpretation, legal argumentation, and deductive reasoning to draw conclusions based on legal logic grounded in the principles and theories of criminal law. Using this method, the study aims to assess whether the legal considerations and verdict of Decision Number

RESULTS AND DISCUSSION

A. Analysis of Court Decision

South Jakarta District Court Decision Number 626/PIDSUS/2020/PN JKT.SEL is an important case study in the legal discourse on money laundering offences in Indonesia, particularly in relation to the concept of passive involvement. This case involved Defendant I Fuja Widarsih and Defendant II Irma Yunita, who were charged with receiving and helping to conceal or disguise the proceeds of predicate offences committed by other parties. The core of the legal issue lies in whether criminal liability can be imposed on parties who were not directly involved in the predicate offence (Khoeroni et al., 2024), but only played a passive role in receiving or facilitating the concealment of the proceeds of crime.

The legal basis used in this case is Article 3 in conjunction with Article 10 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (TPPU Law). Article 3 regulates the acts of placing, transferring, paying, granting, donating, depositing, taking abroad, changing the form, exchanging for currency or other securities, or other acts on assets that are known or reasonably suspected to be the proceeds of crime. Article 10 specifically prohibits any person from receiving or controlling the placement, transfer, payment, grant, donation, deposit, exchange, or use of Assets that they know or should reasonably suspect to be the proceeds of crime. The focus of this ruling is on the phrase 'receiving and helping to conceal,' which explicitly fulfils the elements in these articles, especially Article 10, which targets perpetrators who obtain benefits from or control the proceeds of crime (Rachman et al., 2023).

A crucial aspect in the judge's consideration (*ratio decidendi*) is the fulfilment of the subjective element or intent (*dolus*). Although the defendants were not involved in the planning or execution of the original crime, the Panel of Judges assessed that they had knowledge (*weten*) or awareness that the funds they received and stored were the proceeds of crime. This knowledge became the logical bridge connecting passive acts (*receiving and storing*) with criminal liability for TPPU. The concept of 'known or reasonably suspected' in the TPPU Law opens up opportunities for public prosecutors to prove that passive perpetrators, by consciously allowing or facilitating the concealment of the origin of assets, have fulfilled the mens rea required by law (Khoeroni et al., 2024).

This ruling affirms the principle that passive involvement in TPPU—such as storing or concealing the proceeds of crime—remains a serious criminal offence, regardless of the absence of an active role in the original crime. The role of the defendants, although passive in complex money laundering activities, de facto breaks the chain of asset tracking and facilitates the perpetrators of the original crime to enjoy the proceeds of their crime (Anugerah et al., 2024). Thus, their actions are categorised as acts of concealing or disguising the origin of the proceeds of crime. The TPPU Law was deliberately designed to cover every chain of actions

aimed at concealing the origin of wealth, including those who only act as “receptacles” for assets.

The verdict reflects the success of the Public Prosecutor in proving legally and convincingly that Defendant I and Defendant II were guilty of money laundering. The sentence imposed was seven months' imprisonment and a fine of Rp100,000,000.00 (one hundred million rupiah), with a subsidiary provision of one month's imprisonment if the fine was not paid. This relatively light prison sentence can be analysed as the judge's consideration of the level of (passive) involvement and the role of the Defendants, who were not the main perpetrators of the original crime. However, the imposition of a significant fine shows an emphasis on the aspect of financial loss and asset recovery efforts, which are the fundamental objectives of the Anti-Money Laundering Law.

Judgment No. 626/PIDSUS/2020/PN JKT.SEL sets an important precedent in the practice of enforcing the TPPU law in Indonesia. Scientifically, this decision reinforces the extensive interpretation of Articles 3 and 10 of the TPPU Law, confirming that TPPU offences are formal offences that do not require explicit state losses, but rather the fulfilment of the elements of action (e.g. concealment) and intent (knowledge that the assets originate from crime). The implication is that this ruling serves as a warning to any party who deliberately accepts or manages funds suspected of being the proceeds of crime, confirming that they can be held criminally liable as perpetrators of TPPU even if their role is only passive or secondary in a larger crime scheme.

B. Criminal Liability Analysis

Criminal liability against Defendant I Fuja Widarsih and Defendant II Irma Yunita in Decision Number 626/PIDSUS/2020/PN JKT.SEL is based on the fundamental principles of criminal law, namely the existence of guilt (*schuld*) and a causal relationship between the defendant's actions and the legal consequences thereof. In the context of criminal law, a person can only be punished if two main elements are present: the fulfillment of the elements of a criminal offence (*strafbaar feit*) as stipulated in the law, and the existence of criminal liability on the part of the perpetrator. This case shows how these classical principles are applied to modern criminal offences such as money laundering, particularly when involving a passive role (Joshua, 2021).

The element of fault (*schuld*) on the part of both defendants was proven through the approach of the theory of intent (*dolus*) (Henok, 2023). In the context of ML, intent requires not only the will to commit the act (to receive or conceal), but also the knowledge that the property received is derived from a criminal act (*mens rea*). The Panel of Judges scientifically adhered to the fact that the defendants had knowledge and conscious intent in their actions to help conceal the proceeds of crime. By knowing the origin of the illicit funds and still deciding to keep or use them, the defendants clearly fulfilled the element of intent in the form of *dolus eventualis* (conditional intent), whereby they were aware of the high possibility that the funds were the proceeds of crime and took that risk.

Although the defendant's actions were passive (omission)—that is, inaction or allowing the proceeds of crime to be stored—the judge successfully proved the causal relationship between these actions and the legal consequences that arose. Within the framework of causality

theory (Tomakati, 2023), the defendant's passive attitude (keeping and hiding) became a condition that could not be ignored (*conditio sine qua non*) for the success of the main perpetrator in protecting the proceeds of crime. Scientifically, this omission is considered a significant contribution to concealing the origin of the assets, which is the essence of the crime of money laundering (Laowo, 2022). By not reporting or returning the funds, the defendant de facto facilitated the protection of the illicit assets from law enforcement.

The application of the theory of participation (*deelneming*) further strengthens the basis for criminal liability. Although the defendants did not carry out the main act of money laundering (e.g., complex layering), their role in receiving and concealing can be categorised as a form of participation, specifically as an accomplice (*medeplichtigheid*) as stipulated in Article 56 of the Criminal Code, or as a perpetrator who directly carried out the elements in Article 10 of the Anti-Money Laundering Law (receiving or controlling). The theory of *deelneming* allows judges to reach every individual whose role, even if secondary, is an integral part of the criminal scheme to achieve the goal of concealing the proceeds of crime (Maulidah et al., 2024).

The imposition of criminal penalties in this case is a direct reflection of the principle of individual criminal liability (Gemilang et al., 2024; Perkara et al., 2021). This principle affirms that liability attaches to each individual based on their own fault and actions. In the context of TPPU, this means that the role of the defendant—even if only as a passive perpetrator—is assessed proportionally. The judge's decision to convict them shows that criminal law not only punishes active perpetrators who commit the original crime or complex layering, but also any party who consciously participates in the integration or concealment of the proceeds of crime, no matter how small their role.

From a scientific-legal perspective, Decision 626/PIDSUS/2020/PN JKT.SEL successfully proves the criminal liability of passive perpetrators of TPPU through a synthesis of criminal law principles. Fault (*schuld*) was proven through awareness (*dolus*) of the origin of the funds, and causality was proven through the passive role (omission) of those who facilitated the concealment of the proceeds of crime. Through the application of the theory of intent and participation, the court affirmed that legal protection of financial integrity requires reaching out to the entire chain of crime, including those who only act as asset holders. This strengthens the effectiveness of the Money Laundering Criminal Act as an instrument to dismantle and punish any contribution to economic crime.

C. Compliance of the Decision with Criminal Law Principles

Judgment Number 626/PIDSUS/2020/PN JKT.SEL, when examined through the lens of criminal law principles, demonstrates the serious efforts of the Panel of Judges in achieving a balance between legal certainty (*rechtszekerheid*), justice (*gerechtigheit*), and expediency (*doelmatigheid*) (Sutrisno et al., 2020). These three principles are fundamental pillars in the criminal justice system, whereby a ruling is considered ideal if it is able to fulfil all three harmoniously. In this case of passive involvement in money laundering, this balance has been the subject of in-depth analysis regarding its application.

From the perspective of legal certainty, this verdict is in line with and consistent with Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering (AML

Law). This law explicitly formulates money laundering crimes that can ensnare perpetrators, both those who actively engage in placement and layering, as well as those who are passive in the integration or concealment stage (through Articles 3 and 10). The application of criminal sanctions against Defendant I and Defendant II, despite their passive roles, confirms that the legal norms of TPPU have been strictly implemented in accordance with the applicable criminal provisions. This provides clarity of legal interpretation and predictability for law enforcement officials and the general public.

The aspect of justice in the verdict is measured through the principle of proportionality between the degree of guilt (*schuld*) of the perpetrator and the sanctions imposed. The imposition of a seven-month prison sentence and a fine of IDR 100,000,000.00 is considered to reflect formal justice because it takes into account the indirect or passive nature of the defendants' involvement. The judge acknowledged that although there was fault (*intent*), the level of social danger and the main role in the crime scheme were not as high as those of the main perpetrator of the original crime. Therefore, the sanctions imposed were a form of measured criminal responsibility, avoiding excessive punishment (*over-bestraining*) for a minor role in the crime.

Although strong in legal certainty and formal justice, this verdict has sparked significant debate regarding the principle of legal utility (Yusnani, 2023). This principle measures the extent to which the verdict has a positive impact and achieves legal objectives, particularly in terms of general prevention and deterrence. A seven-month sentence for a criminal offence related to the concealment of assets derived from serious crimes is considered insufficient to create an adequate deterrent effect. Critics such as Barda Nawawi Arief and Sudarto emphasise that substantive justice must prioritise prevention and restoration of social values, considering the magnitude of the losses caused by the original crime (Rahmawati, 2024).

The debate in this case centres on the dialectic between substantive justice and formal justice. Formal justice is realised because the verdict is based on the letter of the law and proper procedures. However, substantive justice demands that the verdict also produce a materially fair impact on society, including a strong deterrent effect. If a verdict that is too lenient fails to deter others from becoming "receptacles" for criminal assets, then the objective of the TPPU Law, namely to break the chain of crime, is reduced.

Scientifically, this decision highlights the challenges in criminal policy related to TPPU. Although punishing passive perpetrators is the right step to reach the entire chain of crime, the need for heavier penalties for TPPU—regardless of active or passive roles—can be considered to increase the effectiveness of prevention. To maximise effectiveness, judges can consider aggravating factors more deeply, such as the amount of funds concealed and the duration of the concealment, in order to achieve an optimal balance between written law (certainty), case truth (justice), and social objectives (effectiveness).

D. Legal Implications and Critical Evaluation

The South Jakarta District Court Decision Number 626/PIDSUS/2020/PN JKT.SEL is an important milestone in the enforcement of money laundering laws in Indonesia, with significant implications for the expansion of criminal liability. This case clearly establishes a precedent that the national legal system has the capability to prosecute not only principal

offenders who commit predicate offences or complex layering, but also parties who passively allow or assist in the process of concealing the proceeds of crime. This implication is crucial because it effectively eliminates the legal loophole for "receptacles" of criminal assets to avoid criminal liability simply by hiding behind the excuse of non-active involvement.

The main positive implication of this ruling is the affirmation that money laundering is a comprehensive offence covering every stage of the money laundering process, including the integration or concealment of assets by third parties. This ruling sends a strong signal that the integrity of the financial system is a priority, and that even passive roles are considered to contribute to social and legal harm. Scientifically, this strengthens the extensive interpretation of the TPPU Law, which considers TPPU to be a continuing offence that requires the pursuit of all links in the chain, including the roles of Defendant I and Defendant II, who were aware of facilitating the severing of the asset trail.

Although the principle of expanding accountability is appreciated, critically, the effectiveness of the punishment in this verdict needs to be evaluated, especially in relation to the risk of disparity in punishment. The relatively light prison sentence (seven months) could create a false perception. If the sanctions are not proportional to the level of danger posed by TPPU (which supports the continuation of the original crime and damages the economy), this could obscure the principle of substantive justice and reduce the deterrent effect. Justice demands that the weight of the sanctions reflect the functional role of the perpetrator in the overall crime scheme, regardless of how 'passive' that role may be physically.

The main challenge raised by this ruling is the achievement of the objectives of the law, particularly in terms of deterrence. If sanctions against passive perpetrators are considered too permissive, they may fail to act as an effective preventive instrument. To prevent money laundering, the law must be able to create a rational fear among potential passive perpetrators that their involvement, no matter how small, will be subject to severe sanctions. Therefore, this ruling triggers the need for further academic study on the formulation of effective minimum penalties for passive roles in money laundering.

To address this critical issue, consistency in law enforcement at all levels of the judiciary and criminal policy reform are required. Policy must explicitly affirm the role of passive perpetrators in money laundering schemes as an integral part of the crime itself, not merely as a minor offence. This can be achieved through sentencing guidelines that take into account aggravating factors, such as the value of the hidden assets and the long-term impact of the concealment on law enforcement.

Ultimately, the legal implications of Decision 626/PIDSUS/2020/PN JKT.SEL encourage the transformation of the function of ML law. The law should not only function as a repressive measure (punishing after a crime has been committed), but must be strengthened as an effective preventive instrument. By raising the standards of accountability and potential sanctions for passive perpetrators, the legal system can proactively maintain the integrity of the national financial system and break the chain of financial support for the original crime, thereby providing greater social benefits.

CONCLUSION AND SUGGESTION

Criminal liability in money laundering cases is regulated in Law No. 8 of 2010. Parties involved directly or indirectly in concealing the origin of illegal assets may be subject to criminal sanctions, including those who assist the main perpetrators. In Case No. 626/Pid.Sus/2020/PN Jkt.Sel, two defendants were convicted for their involvement in providing bank accounts used for transactions involving the proceeds of crime, including online gambling. The court considered their active role in facilitating money laundering as an aggravating factor in their criminal liability. Passive TPPU evidence focuses on suspicious financial transactions and the ownership of assets derived from criminal acts. This system uses a reversal of the burden of proof mechanism, whereby the defendant must prove that the assets they control are not derived from crime. In the case of defendants Fuja Widarsih and Irma Yunita, passive proof was carried out through an analysis of suspicious financial transactions related to online gambling, in which they were proven to be involved in the provision and sale of bank accounts. Passive acts in money laundering can also be subject to criminal sanctions under Law No. 8 of 2010. In Decision Number 626/Pid.Sus/2020/PN Jkt.Sel, two defendants were sentenced to 9 months in prison and fined Rp100 million for selling bank accounts used for online gambling activities. The application of this law shows that passive money launderers can still be prosecuted, even though their role in the money laundering process is not direct.

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