

IMPLEMENTASI PERJANJIAN *MUTUAL LEGAL ASSISTANCE* ANTARA INDONESIA DAN KONFEDERASI SWISS DALAM PERSPEKTIF HUKUM PERJANJIAN INTERNASIONAL

Oleh:
Norhatijah
170574201092

Abstrak

Banyaknya aset hasil tindak pidana transnasional yang dilarikan ke luar negeri dan sulitnya proses pengembalian aset kepada negara menjadi latar belakang lahirnya mutual legal assistance treaty (perjanjian bantuan hukum timbal balik) antara Republik Indonesia dan Konfederasi Swiss, dimana Swiss dikenal dengan negara *Tax Haven* dengan sistem kerahasiaan banknya yang aman sehingga menyebabkan banyak warga negara asing yang menyimpan asetnya di Swiss. Perjanjian MLA yang mengatur mengenai bagaimana ruang lingkup serta mekanisme bantuan hukum yang dilakukan, perjanjian ini pun telah diratifikasi oleh kedua negara dan berlaku resmi mulai september 2021. Adapun tujuan dilakukan penelitian ini adalah untuk mengetahui bagaimana implementasi dari perjanjian ini dari sudut pandang perjanjian internasional serta hambatan dan kendala yang dihadapi dalam proses implementasinya. Metode penelitian yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan dan pendekatan perbandingan hukum, yang bersumber dari data sekunder yang diperoleh dari studi kepustakaan. Maka berdasarkan penelitian ini diperoleh hasil: implementasi perjanjian ini baru sampai tahap mentransformasikan perjanjian ini ke dalam hukum nasional sebagaimana amanat pasal 39 MLAT ini, sementara itu implementasi ruang lingkup perjanjian ini belum terlaksana, dan baru sampai pada tahap *encouragement* dari otoritas pusat kepada instansi yang terkait serta rencana pembentukan *working group* antara kedua negara, adapun hambatan dan kendala yang dihadapi dalam upaya implementasinya adalah karena adanya perbedaan bahasa, koordinasi antara otoritas pusat dan instansi terkait yang belum terjalin menyeluruh, serta adanya keharusan negara untuk fokus menangani masalah pandemi covid-19.

Kata Kunci: Implementasi, Perjanjian Internasional, *Mutual Legal Assistance*.

**THE IMPLEMENTATION OF MUTUAL LEGAL ASSISTANCE TREATY
BETWEEN INDONESIA AND THE SWISS CONFEDERATION IN THE
LEGAL PERSPECTIVE OF THE INTERNATIONAL TREATY**

**By:
Norhatijah
170574201092**

Abstract

The large number of assets resulting from transnational crimes that were taken abroad and the difficulty of returning assets to the state became the background for the birth of the mutual legal assistance treaty between the Republic of Indonesia and the Swiss Confederation, where Switzerland is known as a Tax Haven country with a confidentiality system. Safe bank, causing many foreign nationals to keep their assets in Switzerland. The mutual legal assistance treaty which regulates the scope and mechanism of legal aid is carried out, this treaty has also been ratified by both countries and is officially valid starting September 2021. The purpose of this research is to determine how this treaty is implemented from the point of view of the treaty under international law and the obstacles in the implementation process. The research method used is normative legal research with a statute approach and a comparative law approach, which is sourced from secondary data obtained from library research. So based on this research, the results obtained: the implementation of this mutual legal assistance treaty has only transformed this agreement into national law as mandated by Article 39 of this MLAT. Meanwhile, the implementation of the scope of this treaty has not been implemented and has only reached the stage of encouragement from the central authority to the related institutions, as well as plans to establish a working group between the two countries, and the obstacles faced in its implementation efforts are due to language differences, coordination between central authorities and related institutions that have not been comprehensively established, as well as the necessity of the state, to focus on dealing with the problem of the COVID-19 pandemic.

Keywords: The Implementation, International Treaty, Mutual Legal Assistance.