

ABSTRAK

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PRINSIP HUKUM RAHASIA BANK DALAM PENANGANAN PERMINTAAN *MUTUAL LEGAL ASSISTANCE* (MLA) ANTARA INDONESIA – SINGAPURA

Berdasarkan Undang-Undang bantuan timbal balik dalam masalah pidana (*Mutual Legal Assistance in Criminal Matters*/MLA), Menteri Hukum dan HAM adalah sebagai Pejabat Pemegang Otoritas (*Central Authority*) yang berperan sebagai koordinator dalam pengajuan permintaan kepada negara asing maupun penanganan permintaan MLA dari negara asing. Selanjutnya, Pemerintah Indonesia melalui Kementerian Hukum dan HAM sebagai otoritas pusat dapat mengajukan permintaan MLA kepada negara asing dan sebaliknya juga menerima permintaan MLA dari negara asing. Permintaan MLA tersebut diantaranya berupa informasi perbankan seperti data personal dan transaksi keuangan dari nasabah pemilik simpanan bank, baik nasabah sudah atau belum berstatus tersangka/terdakwa. Pemerintah Indonesia seringkali tidak dapat memenuhi permintaan MLA dari negara lain mengenai informasi perbankan, khususnya yang disampaikan oleh Pemerintah Singapura karena prinsip kerahasiaan bank di Indonesia. Di lain pihak, Pemerintah Indonesia hingga saat ini paling banyak menyampaikan permintaan MLA terkait informasi perbankan kepada Pemerintah Singapura dan telah dipenuhi secara kooperatif oleh Pemerintah Singapura. Indonesia dan Singapura sebagai negara pihak yang telah meratifikasi beberapa konvensi PBB dan perjanjian internasional, yakni *United Nation Convention Against Corruption* (UNCAC) dan *United Nation Convention Against Transactional Organized Crime* (UNTOC). Di dalam Pasal 46 ayat 8 UNCAC dan Pasal 18 ayat (8) UNTOC diatur ketentuan yang menyatakan bahwa para pihak tidak boleh menolak untuk memenuhi permintaan MLA dengan dasar kerahasiaan bank (*“States parties shall not decline to render mutual legal assistance pursuant to his article on the ground of bank secrecy”*) dan Pasal 3 angka 5 ASEAN *MLA Treaty*. Dalam penelitian ini, penulis menggunakan metode penelitian yuridis normatif, disertai dengan metode pengumpulan data sekunder yang diperoleh dari data kepustakaan. Dari hasil penelitian tersebut, dapat disimpulkan bahwa Pemerintah Indonesia perlu mengambil langkah-langkah untuk dapat memenuhi kewajibannya sebagai negara pihak pada konvensi dan perjanjian di atas serta memenuhi prinsip resiprositas dengan Pemerintah Singapura.

Referensi: Rahasia Bank, MLA, Singapura

ABSTRACT

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BANK SECRECY LAW IN HANDLING MUTUAL LEGAL ASSISTANCE REQUESTS BETWEEN INDONESIA - SINGAPORE

Based on the Law on Mutual Legal Assistance in Criminal Matters (MLA), the Minister of Law and Human Rights is the Central Authority who acts as a coordinator in submitting requests to foreign countries and handling MLA requests from foreign countries. Therefore, the Government of Indonesia through the Ministry of Law and Human Rights as the central authority can submit MLA requests to foreign countries and vice versa. The types of assistance of the MLA requests include request for banking information such as personal data and financial transactions from customers holding bank deposits, whether or not the customer has the status of a suspect/defendant. MLA cooperation was based on, among others, the reciprocity principle between the Requesting and Requested States. The Indonesian government is often unable to fulfill the MLA requests from other countries regarding banking information, especially those submitted by the Singaporean government, because of the principle of bank secrecy in Indonesia. On the other hand, the Government of Indonesia has so far submitted the most MLA requests related to banking information to the Government of Singapore and has been cooperatively fulfilled by the Government of Singapore. Indonesia and Singapore as state parties have ratified several UN conventions and international treaties, namely the United Nations Convention Against Corruption (UNCAC) and the United Nations Convention Against Transactional Organized Crime (UNTOC). In Article 46 paragraph 8 UNCAC and Article 18 paragraph (8) UNTOC stipulates that the parties may not refuse to fulfill the MLA request on the basis of bank secrecy ("States parties shall not decline to render mutual legal assistance pursuant to his article on the ground of bank secrecy") and Article 3 point 5 ASEAN MLA Treaty. In this study, the author uses a normative juridical research method, accompanied by a secondary data collection method obtained from library data. This research concluded that the Government of Indonesia needs to take further steps to be able to fulfill its obligations as a state party to the above conventions and treaties and to fulfill the principle of reciprocity with the Government of Singapore.

Keywords: Bank Secrecy, MLA, Singapore