

LEGAL EFFORTS OF SPECIAL DETACHMENT 88 ANTI-TERROR INVESTIGATORS, POLICE OF THE REPUBLIC OF INDONESIA AFTER THE DECISION OF THE CONSTITUTIONAL COURT NUMBER 130/PUU-XIII/2015

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Abstract

A process of investigating the existence of a criminal act, especially a criminal act of terrorism, of course, the investigators of Special Detachment (Densus) 88 Anti-Terror Police will seek and collect preliminary evidence based on the provisions, namely at least two pieces of evidence and if all have been collected, the next process is conducting an investigation. Prior to entering into the investigation process, investigators are required to issue a notification letter for conducting an investigation (Surat Pemberitahuan Dilaksanakannya Penyidikan/SPDP) to the Prosecutor's Office and the families of suspected terrorists. Prior to the Decision of the Constitutional Court of the Republic of Indonesia Number 130/PUU/XIII/2015, investigators were given 21 days but after this decision was issued and enforced, investigators were only given 7 days to issue the SPDP. So that this becomes an obstacle in terms of collecting preliminary evidence by Investigators of the Anti-Terror Detachment 88 Police because our country has many islands separated by the sea and the geographical conditions of an area that are different from other regions, so inevitably investigators must coordinate with other parties. The Prosecutor's Office is related to this matter, but sometimes the Prosecutor still adheres to the decision of the Indonesian Constitutional Court. So the problem that arises is what legal action was taken by the Investigators of the Anti-Terror Detachment 88 of the Police in issuing the SPDP after the Decision of the Constitutional Court of the Republic of Indonesia Number 130/PUU/XII/2015. The results of the research show that legal efforts in the form of making a cooperation agreement between the Attorney General and the National Police Chief, and revising the Decree of the Head of the Special Detachment 88 Anti-Terror Number: Kep/11/IV/2018, can be an effective solution for the investigators of Densus 88 Anti-Terror Polri to implement the Decision of the Constitutional Court of the Republic of Indonesia No. 130/PUU-XIII/2015.

Keywords: *effort, investigator, law.*

INTRODUCTION

The phenomenon of terrorism is a form of criminal action using violent means by a person or group of people aimed at civilian targets, both society and property for certain purposes with different motivations.¹ Most victims of acts of terrorism are those who do not know anything about the goals of terror carried out by terrorists. In recent years it has shown that terrorist attacks are a very serious threat to individuals, society, countries and the international community. Terrorism is not an ordinary crime but is an extraordinary crime even classified as a crime against humanity.

The definition of criminal acts of terrorism based on Law Number 15 Year 2003 in conjunction with Law Number 5 Year 2018 concerning Amendments to Law Number 15 Year 2003 concerning Eradication of Criminal Acts of Terrorism states that:

¹ Arief Gosita, *Masalah Korban Kejahatan*, Bhuna Ilmu, Jakarta, 2000, p.12

"The criminal acts of terrorism that have occurred in Indonesia so far are serious crimes that endanger state ideology, state security, state sovereignty, human values, and various aspects of social, national and state life, and are cross-country, organized, and have extensive networks and have certain goals so that its eradication needs to be carried out in a special, planned, directed, integrated and sustainable manner, based on Pancasila and the 1945 Constitution of the Republic of Indonesia."

The crime of terrorism is one form of crime with an international dimension that is very frightening to the public. In various countries in the world there have been crimes of terrorism, both in developed and developing countries, the acts of terror that have been carried out have taken victims indiscriminately. This caused the United Nations at its congress in Vienna Austria in 2000 to raise the theme The Prevention of Crime and The Treatment of Offenders, among others, to mention terrorism as a development of acts of violence that need attention.

The acts of terror in Indonesia have generated sympathy and international pressure to eradicate and find the perpetrators of terrorism. In fact, the United Nations has issued 2 (two) Resolutions, namely Resolution Number 1438 Year 2002 which strongly condemns the bombing in Bali, conveying deep condolences and sympathy to the government and people of Indonesia as well as the victims and their families, while Resolution Number 1373 Year 2002 contains a call to cooperate and support and assist the Indonesian government in arresting and exposing all perpetrators associated with the incident and bringing them to justice.

In response to this, whether we like it or not, national preparedness, counter-radicalism and deradicalization are close and inseparable work within the framework of preventing criminal acts of terrorism.

Counter-radicalization is an effort to stop the spread of radical understanding of terrorism which is carried out against people or groups of people who are vulnerable to being exposed to radical ideas of terrorism directly or indirectly through counter-narrative, counter-propaganda, or counter-ideological.² Deradicalization is an effort to eliminate or reduce and reverse the radical understanding of terrorism that has occurred, so that suspects, defendants, convicts, convicts, ex-convicts, and people or groups of people who have been exposed to radical notions of terrorism can return to society.³

This effort must be carried out in a targeted manner by using a reliable, up-to-date and accurate counter-terrorism information system. Therefore, the handling of criminal acts of terrorism cannot be equated with the handling of criminal acts in general, because the handling is not based on the consequences, but it is necessary to find the root of the problem as the root of the emergence of radicalism.

In connection with the investigation and investigation of the Crime of Terrorism, at the end of 2018 the Constitutional Court issued Decision No. 130/PUU-XIII/2015 concerning the decision in the case of Judicial Review of Law Number 8 Year 1981 concerning the Criminal Procedure Code against the 1945 Constitution of the Republic of Indonesia, where one of the cases that has been approved and decided by the Constitutional Court is Article 109 paragraph (1) KUHAP which explains the investigator's obligation to issue an Investigation Commencement Notification (SPDP) to the public prosecutor within 7 (seven) days after the investigator has received an investigative order (Surat Perintah Penyidikan/Sprindik).

After the issuance of the Constitutional Court's decision, in practice in the field it greatly influenced the investigations and investigations carried out by Polri investigators, especially investigators from the Special Detachment 88 Anti-Terror Police of the Republic of Indonesia (hereinafter referred to as Densus 88 AT Polri) as special investigators for Terrorism Crimes, because investigators did not have plenty of time and flexibility (as before the issuance of the Constitutional Court's decision) to look for at least two evidences of criminal acts of terrorism as a condition for the issuance of the SPDP, because the search for at least two such evidence must be carried out within a period of 7 (seven) days.

Problems arise when there is a delay of more than 7 (seven) days in the search for at least two pieces of evidence in a criminal act of terrorism by Investigators of Densus 88 AT Polri, so that investigators cannot issue an SPDP to the Public Prosecutor within 7 (seven) days after the issuance of the Warrant Investigation (Sprindik) as stipulated in the Constitutional Court's Decision on Article

² Government Regulation of the Republic of Indonesia Number 77 Year 2019 concerning Prevention of Criminal Acts of Terrorism and Protection of Investigators, Public Prosecutors, Judges, and Correctional Officers.

³ Ludi Oktadhika, Upaya Deradikalisasi Melalui Program Pembinaan Narapidana Teroris Berbasis Intelijen, *Litercy: Jurnal Ilmiah Sosial*, Vol.2:2, December 2020, p. 79-80.

109 paragraph (1) of the Criminal Procedure Code above. However, in Law Number 5 Year 2018 it is stated that investigators are given the authority for 21 (twenty-one) days for the investigation period before being upgraded to the investigation stage. Observing the two provisions of the regulation, it can be seen that there are very clear differences in the rules for investigating terrorism crimes which in practice greatly affect the beliefs of the Densus 88 AT Polri investigators, so that some investigators feel doubtful in responding to the differences between the two rules, namely between choosing to use the Constitutional Court's decision or using the decision of the Constitutional Court. provisions in Law Number 5 Year 2018 concerning Amendments to Law Number 15 Year 2003 concerning the Eradication of Criminal Acts of Terrorism as the basis for carrying out its investigation tasks.

Based on the above background, the problem raised in this paper is what legal remedies were taken by the Densus 88 AT Polri investigators in issuing the SPDP after the decision of the Constitutional Court of the Republic of Indonesia Number 130/PUU-XIII/2015?. The purpose of this paper is to examine and explain what legal remedies were taken by the Densus 88 AT Polri investigators in issuing the SPDP after the Decision of the Constitutional Court of the Republic of Indonesia Number 130/PUU-XIII/2015.

METHOD

The research method used in writing is normative legal research,⁴ with a statutory approach. Normative research is legal research conducted by researching and reviewing library materials or secondary data.⁵ Primary legal materials are legal materials that are closely related to the problem under study which consist of the Criminal Procedure Code, Law Number 15 Year 2003 concerning Ratification of Government Regulations in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism, Law Number 5 Year 2018 concerning Amendments to Law Number 15 Year 2003 concerning Ratification of Government Regulations in Lieu of Law Number 1 Year 2002 concerning Eradication of Criminal Acts of Terrorism, Decree of the Head of Detachment No. Kep/11/VI/2018 concerning Standard Operating Procedures for Investigation, Investigation and Implementation of Judges' Decisions for Criminal Acts of Terrorism. By using a statutory approach to explain legal issues from several laws and regulations⁶ related to terrorism and state security, mechanisms and procedures for investigating criminal acts of terrorism as well as legal remedies taken by Investigators of Densus 88 AT Polri.

RESULTS AND DISCUSSION

Terrorism and National Security

Terrorism is a theme that invites the attention of many in the academics to examine the main aspects of ideology, theology, networks and movements. At this time, terrorism has become a global phenomenon. Terrorism has penetrated almost every country in the world, including Indonesia. As in other areas, terrorism in Indonesia also has the basics of theology and ideology and networks so that it has a strong resistance. Until recently, terrorism became one of the challenges and threats to national security. This article is to examine the development of terrorism in Indonesia, which focuses on aspects of theology, ideology and movement.⁷ Terrorism is a crime against humanity and human civilization as well as a serious threat to the integrity and sovereignty of a country. Terrorism today is not only a local or national crime but has become a transnational or international crime, poses many threats or dangers to security, peace and is very detrimental to welfare. society and nation.

The target of terrorism is more based on ideological and political motives, so that victims, both humans and other physical objects are not something that must be taken into account, the important thing is that the ideological and political goals are achieved.⁸ The issue and activities of terrorism in Indonesia have made the public wary and alert to the presence of terrorists who continue to roam through their actions that have claimed many lives. Even the activities of these terrorists have attracted the attention of the world's public and media, and have an impact on the emergence of sympathy for their victims. The government has indeed made every effort possible with the establishment of the Anti-Terrorism Law. After the Bali Bombings 1 and 2 and a series of similar

⁴ Kadarudin, *Penelitian di Bidang Ilmu Hukum (Sebuah Pemahaman Awal)*, Formaci Press, Semarang, 2021, p. 223

⁵ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Raja Grafindo Persada, Jakarta, 1995, p.13

⁶ Suharsimi Arikunto, *Prosedur Penelitian : Suatu Pendekatan Praktek*, Rineka Cipta, Jakarta, 2002, p. 23

⁷ Zulfri Mubarak, Fenomena Terorisme di Indonesia: Kajian Aspek Teologi, Ideologi dan Gerakan, *Salam: Jurnal Studi Masyarakat Islam*, Volume 15:2, December 2012, p. 240

⁸ Juanrico Alfaromona Sumarezs Titahelu, Pelaksanaan Pembuktian Dalam Tindak Pidana Terorisme, *Jurnal Belo*, Vol. 4:2, February-July 2019, p. 146

events that resulted in the loss of life and loss of property, it had an unfavorable impact on Indonesia's social, economic, political life and relations with the international community.⁹

Against this threat, on October 18, 2002, the then President of the Republic of Indonesia, Megawati Soekarnoputri signed the Government Regulation in Lieu of Law (Perppu) Number 1 Year 2002 concerning Eradication of Criminal Acts of Terrorism and Perppu Number 2 Year 2002 concerning the Enforcement of Perppu Number 1 Year 2002 on the Eradication of Criminal Acts of Terrorism. In fact, on October 22, 2002, Presidential Instruction No. 4 Year 2002 was signed, which mandated the Coordinating Minister for Political, Legal and Human Rights to formulate a national policy strategy in dealing with terrorism.

That it turns out that terrorism now and, in the future, has become a threat to the state, so that whatever the reason, the state is responsible for various approaches to internal security. This is reasonable, because the impact of terrorism is very large. The number of victims due to terrorist acts has made terrorism no longer an ordinary criminal crime, but is a dangerous threat and needs serious handling from the government and security forces.

There are two important reasons that terrorism becomes the enemy of humanity, namely:

1. Democracy and political freedom are incomplete if you don't feel safe. Whereas the reform movement aims to make all of us feel safer at home and more comfortable in state life. We all take on the responsibility of fighting terrorism who want to take a sense of security.
2. Terrorism is a crime against humanity in the form of an organized movement. Today terrorism has a wide and global network that threatens national and international peace and security.¹⁰

From 2000 to 2018 there have been several cases of terrorism, including:

1. Year 2000 bombing at church with 19 casualties
2. In 2002 the bombing in Bali killed 202 people
3. In 2003 a suicide bombing at the JW Mariot Hotel, Jakarta with 12 people died and 150 victims;
4. In 2004 a suicide bombing outside the Australian Embassy in Jakarta killed 10 people;
5. In May 2005, a bomb explosion in Central Sulawesi killed 22 people;
6. In October 2005, three suicide bombers at several tourist sites in Bali killed 20 people;
7. In July 2009, suicide bombings at the Ritzs Charlton Hotel and JW Mariot Jakarta killed 7 people and injured 40 people
8. In 2016 bomb explosions and gunfights in Sarinah Jakarta, 5 perpetrators were killed and 20 injured.
9. In May 2018 bomb explosions at the Immaculate Santa Maria Church, GKI Diponegoro and the Surabaya Central Pentecostal Church and the Surabaya Police Station.¹¹

In principle, terrorism is an act that is against the law by spreading terror widely to the community with threats or violence, whether organized or not, and causing physical and/or psychological suffering for a prolonged period of time so that it is categorized as an extraordinary crime.¹² So that terrorism is not an ordinary crime, not an ordinary crime, but an extraordinary crime (Extraordinary Crime) against the state and nation. Therefore, the handling also requires an approach and utilization in extraordinary ways (Extra Ordinary Measure). As emphasized by Muladi, that:

"Every effort to overcome terrorism, even though it is said to be domestic because its characteristics contain elements of "Ethno Socio or Religious Identity", in overcoming it, inevitably, must consider these extraordinary standards by considering the advancement of modern communication, information and transportation technology".¹³

⁹ Hery Firmansyah, Upaya Penanggulangan Tindak Pidana Terorisme di Indonesia, *Jurnal Mimbar Hukum*, Vol. 23:2, June 2011, p. 376

¹⁰ The reasons and considerations for the issuance of a Government Regulation in Lieu of Law Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism.

¹¹ A Series of Bomb Terrorism Actions in Indonesia Since 2000, see <http://internasional.metro-new.com/read/2016/01/14/211915-serangkaian-aksi-teor-di-indonesia-2016>

¹² Terrorism is a Crime Against the State, see <https://tni.mil.id/view-115252-teroris-suatu-kejahatan-terhadap-negara.html>

¹³ Muladi, *Penanganan Terorisme Sebagai Tindak Pidana Khusus (Extra Ordinary Crime)*, Seminar Materials at Ambara Hotel Jakarta, 28 June 2004, p. 1

In response to this, the eradication of criminal acts of terrorism in Indonesia is a policy and principle of proactive anticipatory measures that are based on prudence and are long-term in nature because:

“First, the Indonesian people are multi-ethnic people with various official religions recognized by the government and inhabit hundreds of thousands of islands scattered throughout the archipelago and some are located bordering other countries. Second, with the characteristics of the Indonesian people, all components of the Indonesian nation are obliged to maintain and increase vigilance in the face of all forms of activities that constitute international criminal acts of terrorism. Third, the conflicts that have occurred recently are very detrimental to the life of the nation and state as well as a decline in civilization and can be used as a fertile ground for the development of criminal acts of international terrorism, whether perpetrated by Indonesian citizens or by foreigners”.¹⁴

With the three considerations above, it can be shown that Indonesia in tackling terrorism always upholds human dignity and has the ideals of peace and the desire for prosperity with a strong commitment to maintaining the territorial integrity of the Unitary State of the Republic of Indonesia in the midst of the ups and downs of world peace and security.

Terrorism Crime Investigation Mechanisms and Procedures

Terrorism is also 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 by ideological, political, or security disturbances.

Black's Law Dictionary, terrorism has a meaning that can be understood as:

“an activity that involves a violent act or an act dangerous to human life that “an activity that involves a violent act or an act dangerous to human life that would be a criminal violation if committed within jurisdiction of the United States or of any State; and appears to be intended (i) to intimidate or coerce a civilian population, (ii) to influence the policy of a government by intimidation or coercion, or (iii) to affect the conduct of government by assassination and kidnapping”.¹⁵

With this understanding, it is at least conceivable that it turns out that handling terrorist crimes does require strong expertise and professionalism, because in addition to investigative techniques in disclosing crimes, there is also academic knowledge about terrorism itself, because acts of terrorism actually lie in the experience and knowledge of the people involved. perpetrators or terrorists who have a militant soul and persistent fighters.

Investigative actions generally use a criminal procedural law approach (KUHAP), namely investigative actions as referred to in Article 1 point 2 of the Criminal Procedure Code, are "a series of investigator actions in terms of and according to the method regulated in this law to seek and collect evidence with which evidence makes clear information about the crime that occurred and to find the suspect."

Investigative action is a series of units with investigative actions as the first stage of action or the beginning of an investigation. Investigation is not a stand-alone action, separate from the investigative function. Investigation is one of the methods or methods or sub-functions of an investigation that precedes other actions, namely taking action in the form of arrest, detention, search, confiscation, examination of letters, summons, examination actions, and submission of files to the public prosecutor.

The importance of conducting an investigation is intended to determine whether there is a criminal act through evidence as specified in Article 184 of the Criminal Procedure Code, namely at least 2 pieces of evidence.

Prior to conducting an investigation at the scene of the incident, the following must be considered:

1. Identification, if necessary to be questioned by the first person to report to the police;
2. Determine the perpetrator by direct examination or investigate if his identity is clear.
3. Detain all persons present at the crime scene;
4. Call a maid, if necessary;

¹⁴ General Explanation of Government Regulation in Lieu Number 1 Year 2002 concerning Eradication of Criminal Acts of Terrorism.

¹⁵ Henry Campbell Black, *Black's Law Dictionary*, 6th Edition, West Publishing, St. Paul-Minn, 1990, p. 1473

5. Guard the area by issuing orders and psychically isolation;
6. Only authorized persons may enter the area;
7. Separate witnesses so as not to influence each other;
8. Determine the task of each to start the investigation/investigation if the assistant is already there.¹⁶

The nickname of the all-computer era for this era is not wrong. Starting from typing documents, searching for information on the Internet, conducting simulation testing, conducting health checks, to criminal acts, fraud and terrorism, inevitably they also have to rely on computer assistance. This development is like two sharp swords, there are good sides and bad sides.¹⁷ In a criminal act of terrorism, the investigation is the starting point for the start of a legal process similar to other general crimes, only in the process of investigating a criminal act of terrorism, caution is required, because the subjects being examined are people who are intelligent and possess intellectual skills. experience and master many things. Likewise, the evidence found must be based on the standard of evidence as specified in the terrorism law. This is important, because it will be related to the verification process later.

There are a number of new legal institutions that have been introduced in the terrorism proof system. The new institution in question is e-mail. The acknowledgment of e-mail as evidence can be captured from the sound of Article 26 which states that in addition to those stipulated in the Criminal Procedure Code, there are many things that can be used as evidence, such as:

1. Other evidence in the form of information that is spoken, sent, received, or stored electronically with optical devices or similar.
2. Data, recording, or information that can be seen, read, and or heard, which can be issued with or without the help of a means, whether written on paper, any physical object other than paper, or recorded electronically, including but not limited to (a) text, sound or images; (b) maps, designs, photographs, or the like; (c) letters, signs, numbers, symbols, or perforations that have meaning or can be understood by people who are able to read or understand them.

The explanation of the investigation of criminal acts of terrorism, especially those related to investigations and investigations in Law Number 5 Year 2018 is explained in articles 25 to 28. The details regarding these articles can be explained as follows:

a. Article 25

- 1) Investigations, prosecutions, and examinations in court hearings in cases of criminal acts of terrorism are carried out based on criminal procedural law, unless otherwise provided for in this law.
- 2) For the purposes of the investigation, the investigator is authorized to detain a suspect for a maximum period of 120 (one hundred and twenty) days.

Article 25 paragraph (2) stipulates that for the purposes of investigation, investigators are authorized to detain a suspect for a maximum of 120 (one hundred and twenty) days or for 4 (four) months.

b. Article 26

- 1) To obtain sufficient preliminary evidence, investigators may use any intelligence report;
- 2) Determination that sufficient preliminary evidence as referred to in paragraph (1) has been obtained or has been subject to examination by the Chairman or Deputy Chairperson of the District Court;
- 3) The examination process as referred to in paragraph (2) shall be carried out in a closed manner for a maximum period of 3 (three) days;
- 4) If in the examination as referred to in paragraph (2) it is determined that there is sufficient preliminary evidence, the Head of the District Court shall immediately order an investigation to be carried out.

The condition for conducting an investigation is that an investigation is carried out by an investigating official with the intent and purpose of collecting "preliminary evidence" or "sufficient

¹⁶ Andi Hamzah, *Pengantar Hukum Acara Pidana Indonesia*, Ghalia Indonesia, Jakarta, 1986, p. 46

¹⁷ Kadarudin, *Cybercrime: Suatu Kejahatan Kontemporer*, *Jurnal Hukum Internasional "Jurisdictionary"*, Volume 5:1, June 2009.

evidence" so that a follow-up investigation can be carried out. Thus, according to him, as a condition for conducting an investigation of a criminal act, it is necessary to have "sufficient preliminary evidence". As meant by "sufficient preliminary evidence" in Article 17 of the Criminal Procedure Code is at least 2 (two) valid pieces of evidence as referred to by Article 183 of the Criminal Procedure Code, so that by itself to start investigating criminal acts of terrorism it is necessary at least 2 (two) valid evidence as referred to in article 27 of the law on criminal acts of terrorism. Thus, the provisions contained in Article 26 paragraph (1) of the Act on the Crime of Terrorism will determine that in order to obtain at least 2 (two) valid evidence as referred to in Article 27, investigators may use any intelligence report.

Legal Efforts Made by Investigators of Densus 88 AT Polri in Issuing SPDP After the Decision of the Constitutional Court of the Republic of Indonesia Number 130/PUU-XIII/2015

After the issuance of the Constitutional Court Decision No. 133/PUU-XIII/2015 then there are some quite prominent changes that distinguish the technical investigation from before, these changes include:

- 1) There is a clear time limit that regulates the delivery of SPDP;
- 2) Adding SPDP Delivery Objects;
- 3) The establishment of intensive coordination between investigators and the Public Prosecutor (JPU);
- 4) The Public Prosecutor's Supervision of Investigation Performance;
- 5) Speed is needed in the arrest of suspected criminal acts of terrorism.

The most prominent change to the investigation and investigation by the Densus 88 AT Polri investigators is the obligation for investigators to send SPDP within a period of no later than 7 (seven) days after the issuance of the Sprindik. This is stated in the Constitutional Court's decision as follows:

Whereas Article 109 paragraph (1) of Law Number 8 Year 1981 concerning the Criminal Procedure Code (State Gazette of the Republic of Indonesia of 1981 Number 76, Supplement to the State Gazette Number 3209) is conditionally contradictory to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force as long as the phrase "the investigator notifies the public prosecutor" does not mean "the investigator is obliged to notify and submit a warrant for the commencement of an investigation to the public prosecutor, the reported party, and the victim/reporter within no later than 7 (seven) days after the issuance of the investigation order".

There are threats to human security, namely uncontrolled population growth, illicit drug trafficking, and international terrorism.¹⁸ Therefore, investigators including the Densus 88 AT Polri investigators no longer have any reason to delay exceeding the 7 (seven) day time limit in sending the Notification of Investigation Conduct (SPDP) to the Public Prosecutor.

In addition, there is a provision in the decision that not only must the SPDP be sent to the prosecutor, but the investigator is also obliged to send it to the victim/reporter and to the reported party. This is understandable because the information regarding the start of the investigation for the victim/rappporteur as well as for the reported party is very important, because with the SPDP sent by the investigator to the victim/reporting party, the victim/reporting party can prepare everything needed related to the case that happened to him either in the form of documents or information as evidence needed by investigators in the context of developing cases.

With the obligation to send SPDP from investigators to the appointed prosecutor within a maximum time limit of 7 (seven) days after the issuance of the Sprindik, the prosecutor can certainly know that the investigator will begin the process of handling cases of criminal acts of terrorism.

The SPDP sent by the investigator to the prosecutor at the beginning of the start of the investigation, the prosecutor can supervise the performance of the investigation carried out by the investigator from the time the SPDP is sent until the case file is transferred.

Regarding the determination of the deadline for submitting the SPDP to the public prosecutor within 7 days for handling terrorism crimes, of course, the investigator considers it quite burdensome, because the preparation of the case file for a terrorist suspect is not only examining and or matching one piece of evidence with other evidence, but there is also the most basic of the investigation process, such as digging a network between suspected terrorists whose location is not somewhere, so that coordination between investigators and or investigators is needed.

¹⁸ Kadarudin, *Isu-Isu Kejahatan Internasional & HAM dalam Catatan Dr. Kadarudin*, Deepublish, Yogyakarta, 2020, p. 11

In line with this, it is related to responding to the uncertainty of investigators in responding to the Constitutional Court's decision No. 130/PUU-XIII/2015 it is necessary to make a cooperation agreement between the Attorney General of the Republic of Indonesia and the Police of the Republic of Indonesia which regulates the technical delivery of SPDP. The cooperation agreement must include:

1. SPDP submission mechanism;
2. Certain requirements in submitting the SPDP when the suspect is still under investigation and taking into account the geographical conditions in which the investigator is present during the investigation process;
3. Can be a binding legal basis for the parties in order to realize an effective investigation and provide legal certainty to both victims and suspects.

Theoretically, communities with high social cohesion are still a feature of Indonesian society. However, in reality, communities with high social cohesion can only found in rural communities, small towns or suburbs only. Participation that can be provided by the community is to provide information to the authorized security apparatus, namely the police. However, this community participation must be followed by police professionalism in following up on public information.¹⁹ Another thing that can be done to support the legal action of the Detachment 88 AT Polri investigators is to revise or amend the Decree of the Head of the Special Detachment 88 AT Number: 11/IV/2018 concerning Standard Operating Procedures for Investigations, Investigations and Implementation of Judges' Decisions (Court Decisions). Crime of Terrorism, so that investigators of criminal acts of terrorism have the same understanding in conducting the investigation process, especially regarding the time period for the issuance of the SPDP which is aligned with the Constitutional Court's decision.

CONCLUSION

The legal action that should be taken by the Detachment 88 AT Polri investigator in issuing the SPDP when the decision of the Constitutional Court of the Republic of Indonesia Number 130/PUU-XIII/2015 is set is to harmonize the factors, namely legal factors, law enforcement factors, legal facilities factors, community factors and factors. culture. Here the emphasis is on law enforcement factors, in this case the need for synergistic cooperation between investigators and public prosecutors who are appointed from the beginning when the SPDP is sent by the investigator until the case file is submitted to the public prosecutor.

In order to realize this, it is recommended to make adjustments to the Decree of the Head of Detachment No. Kep/11/VI/2018 concerning Standard Operational Procedures for Investigation, Investigation and Implementation of Judges' Decisions (Court Decisions) for Criminal Acts of Terrorism which has not explained in detail the obligation to send SPDP to the Public Prosecutor, the victim and the reported party in accordance with Perkap No. 6 Year 2019 and the Constitutional Court Decision No. 130/PUU-XIII/2015.

REFERENCES

Books and Journals:

- Andi Hamzah, *Pengantar Hukum Acara Pidana Indonesia*, Ghalia Indonesia, Jakarta, 1986.
- Arief Gosita, *Masalah Korban Kejahatan*, Bhuana Ilmu, Jakarta, 2000.
- Government Regulation in Lieu of Law Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism.
- Government Regulation of the Republic of Indonesia Number 77 Year 2019 concerning Prevention of Criminal Acts of Terrorism and Protection of Investigators, Public Prosecutors, Judges, and Correctional Officers.
- Henry Campbell Black, *Black's Law Dictionary*, 6th Edition, West Publishing, St. Paul-Minn, 1990.
- Hery Firmansyah, Upaya Penanggulangan Tindak Pidana Teorisme di Indonesia, *Jurnal Mimbar Hukum*, Vol. 23:2, June 2011.
- Juanrico Alfaramona Sumarezs Titahelu, Pelaksanaan Pembuktian Dalam Tindak Pidana Terorisme, *Jurnal Belo*, Vol. 4:2, February-July 2019.
- Kadarudin, Cybercrime: Suatu Kejahatan Kontemporer, *Jurnal Hukum Internasional "Jurisdiction"*, Volume 5:1, June 2009.
- Kadarudin, *Isu-Isu Kejahatan Internasional & HAM dalam Catatan Dr. Kadarudin*, Deepublish, Yogyakarta, 2020.

¹⁹ Muhammad Mustofa, Memagami Terorisme: Suatu Perspektif Kriminologi, *Jurnal Kriminologi Indonesia*, Vol. 2:3, December 2002, p. 36

- Kadarudin, *Penelitian di Bidang Ilmu Hukum (Sebuah Pemahaman Awal)*, Formaci Press, Semarang, 2021.
- Ludi Oktadhika, Upaya Deradikalisasi Melalui Program Pembinaan Narapidana Teroris Berbasis Intelijen, *Litercy: Jurnal Ilmiah Sosial*, Vol.2:2, December 2020.
- Muhammad Mustofa, Memagami Terorisme: Suatu Perspektif Kriminologi, *Jurnal Kriminologi Indonesia*, Vol. 2:3, December 2002.
- Muladi, *Penanganan Terorisme Sebagai Tindak Pidana Khusus (Extra Ordinary Crime)*, Seminar Materials at Ambara Hotel Jakarta, 28 June 2004.
- Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Raja Grafindo Persada, Jakarta, 1995.
- Suharsimi Arikunto, *Prosedur Penelitian: Suatu Pendekatan Praktek*, Rineka Cipta, Jakarta, 2002.
- Zulfi Mubarak, Fenomena Terorisme di Indonesia: Kajian Aspek Teologi, Ideologi dan Gerakan, *Salam: Jurnal Studi Masyarakat Islam*, Volume 15:2, December 2012.

Online:

- A Series of Bomb Terrorism Actions in Indonesia Since 2000, see [http://internasional, metro-new.com/read/2016/01/14/211915-serangkaian-aksi-teor-di-indonesia-2016](http://internasional.metro-new.com/read/2016/01/14/211915-serangkaian-aksi-teor-di-indonesia-2016)
- Terrorism is a Crime Against the State, see <https://tni.mil.id/view-115252-teroris-suatu-kejahatan-terhadap-negara.html>