Adagium: Jurnal Ilmiah Hukum
E-ISSN: 2985-5128
Volume 4 Number 2 (2026), pp. 1916-1936
DOI: https://doi.org/10.70308/stdgj527

Harmonisation of the Mechanisms for Implementing Plea Bargaining in Money-Laundering Cases to Achieve Speedy, Simple and Affordable Justice in Indonesia

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Received: 08 September 2026	Accepted: 13 October 2026	Published: 01 November 2026

Abstrak

Penelitian hukum normatif ini menelaah batas mekanisme pengakuan bersalah menurut Pasal 78 Undang-Undang Nomor 20 Tahun 2025 dalam perkara tindak pidana pencucian uang. Pendekatan perundang-undangan dan perbandingan fungsional digunakan untuk menguji persyaratan perkara, kendali hakim, hak terdakwa, serta perlindungan aset dan korban berdasarkan Rule 11 hukum acara pidana federal Amerika Serikat dan §257c StPO Jerman. Hasilnya menunjukkan bahwa mekanisme pengakuan bersalah Indonesia tidak identik dengan plea bargaining Amerika, dan perluasan untuk perkara pencucian uang yang berada di luar syarat undang-undang harus melalui perubahan legislasi, bukan penafsiran yang melampaui rumusan. Model reformasi mengutamakan pembuktian hasil tindak pidana, pendampingan advokat, pengujian kesukarelaan, verifikasi pemulihan aset dan perlindungan pihak ketiga.

Kata Kunci: pengakuan bersalah; tindak pidana pencucian uang; rekonstruksi hukum; pemulihan aset

Abstract

This normative comparative study assesses the legal limits of the guilty-plea mechanism in Article 78 of Indonesia's Law No. 20 of 2025, especially its possible application to money-laundering prosecutions. The analysis contrasts Indonesia's statutory conditions with US Federal Rule of Criminal Procedure 11 and Germany's section 257c StPO, focusing on eligibility, judicial scrutiny, legal representation, factual verification, and third-party asset rights. The Indonesian mechanism should not be equated with unrestricted US plea bargaining: the statutory offence thresholds and procedural guarantees remain controlling. Any extension to otherwise ineligible laundering offences requires legislative amendment, not judicial inference alone. The proposed model separates a voluntary plea from independent proof of illicit proceeds, asset recovery, and protection of victims and bona fide third parties.

Keywords: *guilty plea; money laundering; legal reconstruction; asset recovery*

INTRODUCTION

The evolution of economic practices in Indonesia has given rise to various fraudulent activities that harm both the public and the state, with increasingly widespread consequences. One of the most prominent forms of economic crime is

money laundering. This criminal offense first emerged in the United States in the 1 930s and has since become a global issue one that Indonesia now also faces.[1]

This crime involves the management and circulation of large sums of money, posing a potential risk of loss to individuals, financial institutions, and the state. Money laundering serves as a means for perpetrators to disguise the proceeds of criminal activity, making them appear as though they originated from legitimate sources.[2] Money laundering does not, in essence, stand alone; rather, it is linked to a preceding offense known as a "predicate crime" which may be a general criminal offense or a specific one, such as corruption. Consequently, money laundering is categorized as a "follow-up crime," as it involves assets derived from a predicate offense. In practice, the concealment of the origins of such assets generally occurs through three stages: placement, layering, and integration a process recognized in the practice of money laundering and stipulated under Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering.[3]

Systematic and covert concealment makes proving money laundering offenses highly complex. Law enforcement authorities must trace the flow of funds and assets as well as establish the connection between the predicate offense and the act of m oney laundering. This process is time-consuming, costly, and requires expertise in asset tracing, along with cooperation among various parties and institutions; consequently, money laundering trials often take a very long time. Such evidentiary challenges render the handling of money laundering cases ineffective and inefficient when relying on conventional criminal justice mechanisms. Therefore, a judicial m echanism that is swift, simple, and cost-effective is required to address the issues of protracted trial proceedings and the high costs associated with handling these cases [4]

This requirement aligns with Supreme Court Circular Letter Number 2 of 2014 which establishes time limits for case adjudication no more than five months for c ourts of first instance and three months for appellate courts with the aim of ensuring a judicial process that is simple, expeditious, and low-cost. Adjudicating money laundering cases through standard procedural channels may potentially conflict with these provisions, given that the complexity of the evidence involved often necessitates a longer duration for the examination of the case.

In Indonesia, efforts to achieve a swift and low-cost judicial process have included the development of a plea bargaining mechanism a process in which a defendant admits guilt during the prosecution phase. This mechanism allows for a faster resolution of cases, as it eliminates the need for an extensive evidentiary process by relying on the defendant's admission of guilt.[5] In money laundering cases,

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[1] Maidin Gultom, Azwir Agus, Christoper Panal Lumban Gaol, *Analisis Tindak Pidana Pencucian Uang di Indonesia*, Bandung: PT Refika Aditama, 2024, Hlm. 6

[2] Muhammad Yusuf dkk, *Ikhtisar Ketentuan Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang*, *National Legal Reform Program*, Jakarta, 2011, Hlm. 3-4

[3] Syiiis Nurhadi, Rodliyah, Any Suryani Hamzah, *Konsep Hasil Tindak Pidana Dalam Undang-Undang Nomor 8 Tahun 2010 Tentang Tindak Pidana Pencucian Uang*, Jurnal IUS Kajian Hukum dan Keadilan, Vol. 7, No. 1, 2019

[4] Yesmil Anwar, *Sistem Peradilan Pidana (Konsep, Komponen, Dan Pelaksanaanya Dalam Penegakan Hukum Di Indonesia)*, Widya Padjajaran, Bandung, Hlm. 2

[5] Megawati Iskandar Putri, Ufran, dan Lalu Saipudin, *Pengaturan Konsep Lembaga Plea Bargaining dalam Pembaharuan Kitab Undang-Undang Hukum Acara Pidana (KUHAP*), Jurnal

a plea of guilty as provided for under Article 78 of Law Number 20 of 2025 concerning the Criminal Procedure Code (KUHAP) can serve as a viable solution, provided it entails the defendant's admission of guilt, cooperation in uncovering assets derived from criminal activity, and the restitution of losses incurred by the s tate or victims. Its application is not merely focused on the admission of guilt, but a lso on accelerating asset recovery, safeguarding the stability of the financial system, and protecting the interests of the national economy.

However, Article 78 of the Criminal Procedure Code (KUHAP) limits the application of guilty pleas to criminal offenses punishable by a maximum of five years of imprisonment. This restriction prevents the mechanism from being applied to active money laundering offenses, which generally carry a maximum penalty of 2 0 years well beyond the established threshold. Consequently, there is a discrepancy between the objective of achieving a simple, swift, and low-cost judicial process and the actual scope of the regulation, which effectively excludes complex cases, including money laundering.

Based on this, the author believes it is necessary to reconstruct the regulation of plea bargaining in money laundering cases, grounded in the philosophical principle of "Constante Justicia" a balance between legal certainty, justice, and utility This reconstruction is not intended to grant excessive leniency to offenders; rather, it serves as a reform of criminal procedural law for handling money laundering cases, aimed at accelerating case resolution and asset recovery, while simultaneously safeguarding the rights of all parties involved.

RESEARCH METHOD

This study is a doctrinal (normative) legal research of a prescriptive nature, aimed at uncovering legal truth through the analysis of legal principles, norms, and provisions to provide solutions to the legal issues under investigation. The approaches employed include the conceptual approach, the comparative approach, and the case approach. Legal materials comprising both primary and secondary sources were gathered through library research and subsequently analyzed using a deductive method based on syllogistic reasoning.

The comparison uses statutes and published procedural rules rather than unverified claims about national average costs or duration of laundering prosecutions. Its units are: (a) eligibility and statutory maximum penalties; (b) the prosecutor's authority; (c) the defendant's informed and voluntary admission; (d) judicial approval and a factual basis; (e) seizure, tracing and return of assets; and (f) remedies for non-compliance. This functional comparison does not claim that faster proceedings or higher recovery rates have already been empirically demonstrated in Indonesia. No domestic case is assigned a fabricated holding; where a case approach cannot be supported by an identified judgment, the method remains doctrinal and comparative.

Parhesia, Vol. 2, No. 1, 2024.

RESULTS AND DISCUSSION

1. Determining the Principles for the Reconstruction of Money Laundering Offenses in Indonesia

Article 78 of Law No. 20 of 2025 supplies the current starting point, including the stated first-offence requirement, the maximum imprisonment or fine threshold, and the provision on compensation or restitution. The exact statutory expression "and/or" requires a grammatical and systematic reading of the entire article; it cannot be simplified into an invented universal waiver of requirements. Eligibility is tested by the legally charged offence and its statutory penalty, not by an anticipated judicial sentence or a negotiated demand. If a particular money-laundering offence exceeds the applicable threshold, its inclusion is a question of legislative policy, not merely prosecutorial preference.[6]

In handling money laundering cases in Indonesia, the application of plea bargaining must be grounded in principles relevant to the characteristics of the national criminal justice system. To formulate these principles, this study draws comparisons with countries that have already incorporated plea bargaining mechanisms into their own criminal justice systems. This comparative analysis is not intended to adopt another nation's plea bargaining mechanism in its entirety; rather, it seeks to identify core principles that can serve as a foundation for reconstructing the system in a manner aligned with the needs and specific characteristics of Indonesian criminal law.

The existence of these principles is significant because the scope for applying plea bargaining mechanisms in Indonesia remains limited. Consequently, it is necessary to examine the various principles employed within the legal systems of other jurisdictions to determine which ones can be retained, adopted, adapted, or further developed for the Indonesian criminal justice system. Such adaptation is essential because money laundering cases possess characteristics that differ from conventional crimes notably in relation to predicate offenses, the tracing of fund flows, the concealment of the origins of assets, and the recovery of assets derived from criminal activity.

In this context, the reconstruction of plea bargaining should not merely aim to expedite case resolution; it must also facilitate the uncovering of facts and the recovery of assets. Consequently, principles from other jurisdictions should be analyzed for their compatibility with the characteristics of money laundering offenses and the Indonesian legal system. Principles that prove compatible may be retained or adopted, while those that are not entirely suitable must be adjusted to align with the national legal framework. Furthermore, it is necessary to develop specific principles focused on the disclosure of information and the recovery of assets that address the core requirements of handling money laundering cases.

Based on this approach, the comparator countries used in this study are those with experience in implementing a plea bargaining mechanism a process for resolving cases based on a guilty plea within their respective criminal justice systems. These countries were selected to identify principles that could serve as a basis for comparison and as a foundation for formulating a reconstructed plea

[6] Republic of Indonesia, Law Number 20 of 2025 concerning the Criminal Procedure Code, art. 78.

bargaining framework for handling money laundering cases in Indonesia. The countries examined in this study regarding the application of principles within the implementation of plea bargaining are as follows:

a. United States

In the United States, plea bargaining is employed to resolve a wide range of criminal cases, including those with unique characteristics or those classified as "extraordinary crimes." In practice, plea bargaining is not limited to securing a guilty plea from the defendant; it can also be used to obtain information, uncover facts regarding a criminal offense, identify other involved parties, and support asset recovery efforts. The implementation of plea bargaining is guided by a set of principles that serve as the basis for determining whether an agreement reached between the prosecutor and the defendant is acceptable within the criminal justice process.

Under this mechanism, the defendant and their legal counsel engage in a negotiation process with the public prosecutor who, within the United States legal system, possesses a relatively broad scope of discretion in determining the form and substance of an agreement. Nevertheless, the exercise of such discretion remains constrained by legal provisions and judicial oversight. Consequently, the application of plea bargaining is founded upon several principles that govern the negotiation process, the formulation of a plea agreement, the defendant's entry of a guilty plea, and the judge's review and acceptance of the agreement. The principles applied in the United States are as follows:[7]

1) The Principle of Voluntary and *Informed Plea*
2) The Principle of Separation Between Negotiation Functions and Judicial Functions.
3) The Principle of Cooperation.
4) The Principle of Transparency.
5) The Principle of *Asset Recovery*

b. Germany

The application of plea bargaining in Germany through the Verständigung mechanism is based on a number of principles that serve as the foundation for the process of forming and implementing agreements between the parties. These principles serve to ensure that the agreement reached remains within the framework of criminal procedure law, guarantees the rights of the accused, and prevents agreements that conflict with the principle of a fair trial. Therefore, the application of Verständigung is not solely oriented towards reaching an agreement, but must also take into account the legal limitations and requirements governing the process. The principles used in the application of plea bargaining through the Verständigung mechanism in Germany are as follows:

1) Principle of Establishing Material Truth
2) Principle of Culpability (Schuldprinzip)
3) Principle of a Fair Trial
4) Principle of Judicial Oversight

In the author's view, the proposed reconstruction of the plea bargaining mechanism for money laundering cases must be anchored in fundamental principles

[7] Ellen S. Podgor, *White Collar Shortcuts, University Of Illinois Law Review*, Vol. 4, No.3, 2018

that ensure the case resolution process remains fair, transparent, and accountable. These principles are essential for defining the scope and direction of plea bargaining in Indonesian money laundering cases a form of ius constituendum (law as it ought to be) aimed at developing a more effective case resolution mechanism while upholding the rights of the parties involved and the interests of law enforcement. This reconstruction does not entail a wholesale adoption of plea bargaining systems from other jurisdictions; rather, it involves extracting relevant core principles and adapting them to the specific characteristics of the Indonesian legal system, as well as the unique nature of money laundering a crime marked by complex evidentiary requirements and intrinsically linked to the tracing and recovery of assets.

In determining the principles applicable to the reconstruction of plea bargaining for money laundering cases, the author draws comparisons with the implementation of plea bargaining in the United States and Germany. This comparison reveals distinct characteristics in how plea bargaining is executed: the United States provides greater scope for negotiations between the public prosecutor and the defendant, whereas Germany emphasizes the approval and oversight of a judge as a crucial element in upholding the legitimacy of the case resolution process. From these two models, the author extracts the substance deemed appropriate for development within the Indonesian legal system. Based on this comparison, the author argues that the implementation of plea bargaining for money laundering cases in Indonesia should be founded upon six core principles, namely:

a. The Principle of Voluntariness is a legal principle requiring that any admission of guilt be made based on the defendant's free will and full awareness, devoid of any coercion, intimidation, threats, or pressure that might influence their f reedom in making such a decision.[8]
b. The principle of transparency is a legal principle requiring that the decision-m aking process, the exercise of authority, and actions that give rise to legal consequences be carried out in an open, clear, accessible, and accountable manner, in accordance with applicable legal provisions.[9]
c. The principle of asset recovery is a law enforcement concept focused on tracing, identifying, freezing, seizing, confiscating, and returning assets derived from or related to criminal offenses, in accordance with applicable legal mechanisms.
d. The Principle of Judicial Control and Supervision is a principle that positions t he judge as the overseer of the judicial process, ensuring that every action and agreement in the resolution of a criminal case is carried out in accordance with legal provisions, while simultaneously guaranteeing the protection of the defendant's rights. [10]

[8] F.A. Novlindo Jayadi, Herlita Eryke, *Plea Bargaining Pasca-UU No 20 Tahun 2025: Voluntariness, Due Process, dan Perlindungan Hak Terdakwa*, Jurnal Ilmu Sosial, Politik dan Hukum, Vol. 5, No. 5, 2026

[9] Henin Dyah Syafrina, Slamet Sudi Illahi, Bintang Pramadhani Hariadi Putra, Naura Tsurayya Hasnaa, *Model Pengaturan Plea Bargaining Dalam Pembaharuan Hukum Acraa Pidana Indonesia*, Jurnal USM Law Review, Vol. 9, No. 1, 2026

[10] Atok Illah, *Analisis Yuridis Pengaturan Plea Bargaining dalam Sistem Peradilan Pidana Indonesia*, Dinamika: Jurnal Ilmiah Ilmu Hukum, Vol. 32, No. 2, 2026

a. The principle of a fair trial refers to impartiality within a just and balanced judicial process, ensuring that the proceedings remain honest and objective from beginning to end..[11]

2. Determining Statutory Eligibility for Guilty Pleas in Money-Laundering Prosecutions

The provisions for plea bargaining under Article 78 of the Criminal Procedure Code (KUHAP) indicate that the application of a guilty-plea mechanism in Indonesia remains limited in scope, specifically because it is intended for criminal cases that carry a maximum prison sentence of 5 (five) years.[12] These restrictions indicate that the plea bargaining mechanism within the Indonesian criminal justice system remains rigid and fails to provide sufficient scope for application to criminal offenses characterized by greater complexity. Yet, a criminal legal system must be capable of evolving and adapting to the needs of society, as well as to the increasingly complex nature of criminal offenses. Consequently, the limitations on the application of plea bargaining which are based solely on the maximum statutory penalty warrant re-examination, particularly with regard to specific offenses that possess unique characteristics and require a more effective mechanism for resolution.

One criminal offense worth considering in the context of reconstructing the application of plea bargaining is money laundering. Money laundering possesses complex characteristics; it involves not only the act of concealing or disguising the origins of assets but also relates to a predicate crime, the tracing of fund flows, the identification of asset locations, and the recovery of assets derived from criminal activity. This complexity means that handling money laundering cases requires a sophisticated process of evidence gathering and asset tracing. Furthermore, the potential criminal penalties for money laundering may place such cases outside the scope of the guilty plea mechanism as stipulated under Article 78 of the Criminal Procedure Code (KUHAP). Consequently, the potential for plea bargaining as an instrument to secure a defendant's confession, uncover the flow of funds, identify assets, and facilitate the recovery of assets remains underutilized.

The expansion of plea bargaining to include money laundering cases does not imply that all such cases can be resolved through this mechanism. This expansion must be applied selectively, taking into account the specific characteristics of each case, the severity of the offense, the position and role of the defendant, the value and nature of the assets involved, the extent of the defendant’s cooperation, the disclosure of assets and the flow of funds, as well as the interests of victims and the public interest. Given this approach, the restructuring of plea bargaining requires the establishment of an eligibility assessment mechanism to determine which cases may be handled through this process and which must continue to be adjudicated through the standard judicial system.

Determining such eligibility requires consideration of the characteristics of the predicate offense that underlies the money laundering. Article 2, paragraph (1) of Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of

[11] Putu Sekarwangi Saraswati, *Perlidnungan Hak Tersangka dan Terdakwa: Penegakan Prinsip Fair Trial dalam Sistem Peradilan Pidana*, Jurnal Hukum Saraswati, Vol. 7, No. 2, 2025

[12] Pasal 78 Undang-Undang Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana

Money Laundering specifies various offenses that may serve as predicate offenses including corruption, bribery, narcotics-related crimes, psychotropic substance offenses, labor smuggling, migrant smuggling, human trafficking, terrorism, kidnapping, and other crimes as stipulated therein. However, these provisions do not specifically classify predicate offenses based on whether they result in death, injury, or physical suffering to the victims. Therefore, a classification based on the characteristics and concrete consequences of the predicate offense serves as a normative parameter proposed for the reconstruction of how plea bargaining is applied.

Based on these parameters, money laundering cases stemming from predicate offenses that involve severe violence—resulting in loss of life, serious bodily injury, or significant physical suffering for the victims, and causing profound social impact—should be excluded from the application of plea bargaining, or at the very least, be subject to more stringent requirements. In such instances, the nature of the predicate offense reflects a level of gravity that necessitates a comprehensive examination through standard judicial proceedings. For crimes such as terrorism or kidnapping, for example, stricter limitations may be applied if the specific case involves severe violence, death, or serious suffering inflicted upon the victims. Similarly, in cases involving human trafficking, labor smuggling, migrant smuggling, or offenses related to narcotics and psychotropic substances, the eligibility for plea bargaining must be determined based on the specific circumstances of the case, rather than solely on the designation of the offense itself.

Conversely, in cases of money laundering (TPPU) originating from predicate offenses that do not involve severe violence and do not result in loss of life, grievous bodily harm, or serious physical suffering to the victim, the application of plea bargaining may be considered, provided that certain objective requirements are met. These requirements include a voluntary admission of guilt; sufficient evidence establishing the link between the predicate offense, the assets involved, and the act of money laundering; clarity regarding the origin and value of the assets; the defendant's willingness to disclose the flow of funds and the location of assets; cooperation in identifying other involved parties; and a tangible contribution toward the recovery and restitution of assets derived from the criminal activity.

Within this framework, a guilty plea is not the sole basis for obtaining the benefits of plea bargaining. The benefits granted must take into account the defendant’s level of cooperation and their tangible contribution toward uncovering the case and recovering assets. Such contributions may include disclosing the origins of assets, the flow of funds, the location of assets, or providing information regarding other parties involved in the criminal offense. Consequently, plea bargaining serves not merely as an instrument to streamline judicial proceedings, but also as a mechanism that provides incentives for a defendant’s cooperation in uncovering a case and recovering assets derived from criminal activity.

Based on this framework, money laundering cases can be categorized into those that are ineligible for plea bargaining due to the nature and consequences of the underlying predicate offense and those that may be considered for such access, subject to established parameters. This distinction is intended to ensure that the expansion of plea bargaining does not devolve into an automatic granting of leniency to offenders. Instead, the mechanism must be applied selectively and

proportionately, taking into account the nexus between the predicate offense and the money laundering, the severity of the crime, the defendant's position and role, the value and status of the assets involved, the level of cooperation provided, and the defendant's contribution to uncovering the case and facilitating asset recovery.

Thus, the reconstruction of plea bargaining in money laundering cases is directed toward establishing a mechanism capable of differentiating cases based on their specific characteristics and levels of seriousness. Cases that meet the eligibility criteria may gain access to a simpler, faster, and more efficient resolution mechanism, while cases involving a higher degree of seriousness will continue to be handled through the standard judicial process. This framework is designed to support the realization of consistent justicewhile upholding criminal accountability, the protection of victims, the public interest, legal certainty, and the principles of due process of law.

3. Implementation of Plea Bargaining in the Judicial Systems of the United States and Germany.

a. United States

Plea bargaining is a mechanism for resolving criminal cases that has become widespread within the United States criminal justice system. Although the practice of plea bargaining had already developed prior to receiving judicial recognition, its constitutional legitimacy was firmly established through the United States Supreme Court's ruling in Brady v. United States*, 397 U.S. 742 (1970). In this decision, the Supreme Court essentially affirmed that a guilty pleaprovided it is entered knowingly and voluntarily is legally valid, even when the defendant's decision to plead guilty is influenced by the prospect of receiving a more lenient sentence.[13]

In practice, plea bargaining in the United States grants prosecutors broad discretion in determining the resolution of a case. The negotiation process takes place primarily between the prosecutor and the defendant or the defendant's legal counsel while judges are not permitted to participate in discussions regarding the substance of a plea agreement. Within the U.S. federal criminal justice system, the plea bargaining mechanism is governed by Rule 11 of the Federal Rules of Criminal Procedure, which specifically outlines the provisions for plea agreements and the procedures for the court's acceptance of a guilty plea.

The plea agreement process, as governed by Rule 11(c)(1) of the Federal Rules of Criminal Procedure, allows the prosecutor and the defendant or their legal counsel to discuss and reach a plea agreement, while prohibiting the court from participating in these negotiations. This separation of functions signifies that the negotiation process falls within the domain of the prosecutor and the defendant (or their counsel), whereas the judge exercises a judicial function once the agreement is submitted to the court.

Table 1. Comparative Safeguards in Guilty-Plea Procedures

System / basis	Negotiation and control	Safeguards / limit
Indonesia: Law 20/2025 art. 78	Statutory guilty-plea hearing and judicial	Eligibility, advocate, written agreement, voluntary

[13] Choky Risda Ramadhan, Fransiscus Manurung, Adery Ardhan Saputro, *Konsep dan Penerapan Plea Bargain di Beberapa Negara*, Jurnal Peradilan Indonesia Vol. 3, Juli -Desember 2015

System / basis	Negotiation and control	Safeguards / limit
	approval	admission; no assumed open-ended bargaining
United States: Fed. R. Crim. P. 11	Prosecutor–defendant agreements subject to court scrutiny	Rule 11(b) colloquy, waiver of rights, voluntariness and factual basis
Germany: StPO §257c	Court-led negotiated framework	No negotiated verdict of guilt; §244(2) duty to establish facts remains
Proposed Indonesian AML protocol	Judicial review of any legally authorised agreement	Independent asset tracing; victim claims; third-party notice; recorded reasons

In its practical evolution, the plea bargaining process in the United States can be understood through two forms of decision-making relationships as presented in the literature, namely:

1) De facto unilateral adjudication by the prosecution refers to a situation in which the public prosecutor's discretion is highly dominant in determining the outcome of a case ranging from the formulation of charges and the severity of the sentence requested, to the settlement offers presented to the defendant. Under such conditions, the position of the defendant and the defense is relatively weak, as the available options depend heavily on the prosecutor's decisions. If a prosecutor threatens a defendantwho chooses to exercise their right to a trial with significantly harsher criminal consequences, the voluntariness of that defendant's decision to accept a plea bargain may be called into question.;

Under Rule 11(b), US courts must verify informed and voluntary admission, the consequences of waiver, and an independent factual basis for guilt. Under Germany's §257c StPO, negotiations may concern legal consequences and proceedings but not the verdict of guilt; the duty to investigate material truth under §244(2) survives. Neither model permits an Indonesian court to ignore the text of Article 78, and neither converts assets belonging to innocent third parties into property that prosecutors may bargain away.[14]

2) De facto bilateral adjudication by the prosecution and the defence positions the public prosecutor and the defence counsel as two negotiating parties, such that the outcome of the case is determined through bargaining between the public prosecutor and the defendant or their legal adviser. The defendant may consider the public prosecutor's offer, express their position regarding the charges or the proposed criminal consequences, and accept or reject the agreement. Thus, the bilateral nature lies in the existence of negotiation and mutual consent between both parties, rather than in a unilateral decision by the public prosecutor.

For an AML-specific proposal, money laundering must remain analytically distinct from the predicate offence. An accused person's admission does not displace

[14] United States, Federal Rules of Criminal Procedure, Rule 11(b), "Considering and Accepting a Guilty or Nolo Contendere Plea."

statutory proof of the origin and handling of proceeds, nor does it bind third parties who were not represented. Independent examination should cover ownership chains, valuation date and method, beneficial ownership, tracing evidence, forfeiture basis and restitution priorities. The trial judge should record objections, including claims by victims and bona fide owners. Any cooperation credit must be contingent on verifiable disclosure and subject to correction if material information is false.[15]

This distinction is closely linked to the application of the principle of due process of law. Plea bargaining, which is established through a process that affords the defendant scope for voluntary negotiation, is more consistent with this principle, as the defendant is not merely the object of the public prosecutor's decision. Conversely, if the public prosecutor's discretion is exercised to such an extent that the defendant accepts the agreement primarily due to pressure or the threat of a far harsher sentence should they opt for a trial, then the voluntary nature of the guilty plea becomes a matter that requires scrutiny. Therefore, the legitimacy of plea bargaining depends not only on the existence of a formal agreement, but also on the process by which that agreement was reached.

In light of this issue, the literature forms the basis for the discussion on the implementation of the de facto unilateral adjudication system by the prosecution and on returning the case resolution process to a more bilateral bargaining model. These reform proposals are directed at three main areas, namely:

1) Addressing cases with a weak evidential basis by establishing standards for directed acquittal, broadening the disclosure of evidence before the defendant makes a confession, and strengthening the judge's oversight of the facts;
2) Addressing the disparity between the sentences offered through plea bargains and those that might be imposed if the case were tried in court, including by increasing the public prosecutor's accountability for sentences handed down at trial, ensuring that judges consider alternative sentences, and providing information to juries regarding potential sentences;
3) Controlling the practice of overcharging by imposing limits on the maximum charges that may be brought, reviewing the application of the Blockburger test, and strengthening controls over the dismissal or limitation of charges by judges and juries.[16]

The United States plea-bargaining experience reveals a tension between prosecutorial bargaining power and the defendant's opportunity to make an informed, voluntary choice. Both the risk of de facto unilateral adjudication dominated by prosecutorial decisions and the negotiated character of bilateral agreements call for procedural controls. Federal Rule of Criminal Procedure 11 requires judicial scrutiny of voluntariness, understanding of the proceedings and the factual basis of a plea; a bargain alone cannot substitute for these safeguards. Any Indonesian comparison must therefore distinguish the parties' agreement from the court's separate responsibility for legality and due process.[17]

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[15] Germany, Strafprozessordnung (Code of Criminal Procedure), secs. 244(2) and 257c, "Verständigung zwischen Gericht und Verfahrensbeteiligten."

[16] Regina Rauxloh, *Plea Bargaining in National and International Law*, (London: Routledge, 2012), Hlm. 25-26

Negotiations between the public prosecutor and the defendant or their legal adviser may take place before a guilty plea is submitted to the court. As these negotiations do not constitute a court hearing, the negotiation process need not take place in the courtroom. In practice, communication between the public prosecutor and the legal adviser may take place through meetings or other means of communication. It is therefore necessary to distinguish between the venue where plea bargaining negotiations take place and the venue where the guilty plea is heard. Negotiations take place between the prosecution and the defence, whilst once an agreement has been reached, the plea agreement is submitted to the court and the guilty plea is examined by the judge. Rule 11(c)(2) requires that the plea agreement be disclosed in open court when the plea is entered, unless the court grants permission for disclosure in camera on justified grounds.

During the negotiation process, the prosecutor and the defendant or their legal adviser may discuss various forms of concessions that form part of the plea agreement. Generally speaking, plea bargaining can be categorised into three types, namely:

1) Charge bargaining is an agreement regarding charges for instance, where the public prosecutor agrees not to file certain charges, to reduce the charges, or to request that specific charges be dismissed.;
2) Fact bargaining is an agreement regarding the facts to be used in the prosecution process or to be acknowledged by the defendant, such that not all facts contained in the case must serve as the basis for sentencing.;
3) Sentence bargaining refers to an agreement concerning the type, severity, or range of a sentence that serves as a consequence of a guilty plea.

In federal practice, these three forms can be reflected in the types of agreements governed by Rule 11(c)(1), although the terms charge bargaining, fact bargaining, and sentence bargaining are not explicitly used as classifications within Rule 11 itself. Under Rule 11(c)(1), such agreements may take the forms described therein, as follows:

1) The willingness of the public prosecutor to refrain from filing other charges or to request the dismissal of specific charges;
2) Recommending, or not opposing, the defendant's request regarding a specific sentence or sentencing range;
3) Agreeing upon a specific penalty or a range of penalties as a resolution to a case. An important distinction lies in the binding force of each type of agreement.

Once an agreement is reached, the plea agreement is submitted to the court alongside the defendant's guilty plea. At this stage, the judge begins to exercise their judicial function. Although the judge is not involved in the negotiation process, they possess the authority to evaluate the submitted plea agreement. Depending on the nature of the agreement, the court may accept it, reject it, or defer its decision until the necessary information has been obtained. Consequently, within the United States legal system, the judge does not act as a participant in the bargaining process;

[17] Máximo Langer, *Rethinking Plea Bargaining: The Practice and Reform of Prosecutorial Adjudication in American Criminal Procedure, American Journal Of Criminal Review*, Vol. 33, No. 3, 2006

rather, the judge serves to provide judicial oversight of the guilty plea and the agreement reached between the prosecutor and the defendant.

Before accepting a guilty plea, a judge is required to conduct a direct examination of the defendant in open court. This examination is intended to ensure that the defendant understands the nature of the charges and the legal consequences arising from the guilty plea; this may include:[18]

1) The right of the government (prosecutor) to use testimony given by the defendant under oath for the purpose of convicting them;
2) The defendant's right not to admit guilt;
3) The defendant's right to a trial by jury, as guaranteed by the United States Constitution;
4) The defendant's right to be assisted by legal counsel at every stage of the judicial process;
5) The defendant's right to defend themselves, testify, and present evidence;
6) The defendant's willingness to waive the trial process if the court accepts the defendant's guilty plea;
7) The nature of the charges acknowledged by the defendant;
8) The highest threat of punishment, including prison sentences, fines, and parole;
9) Minimum potential penalty;
10) Seizure;
11) The court's authority to order restitution;
12) The court's obligation to conduct a special assessment;
13) The court's obligation to impose a sentence based on sentencing guidelines;
14) Terms of an agreement that waive the right to appeal;
15) If the defendant is not a United States citizen, the court may repatriate them to their country of origin, and their citizenship will not be approved.

This explanation is followed by an inquiry into the voluntariness of the guilty plea. Rule 11(b)(2) stipulates that before accepting a guilty plea, the judge must address the defendant directly to ensure that the plea is made voluntarily and is not the result of force, threats, or improper pressure. Consequently, a defendant's agreement to a plea bargain does not automatically compel the court to accept the guilty plea; the judge must still verify that the defendant's decision to plead guilty is both informed and voluntary.

In addition to assessing the defendant's understanding and the voluntariness of the plea, the court must also ensure that there is an adequate factual basis for the guilty plea. Rule 11(b)(3) mandates that before entering a judgment based on a guilty plea, the court must confirm the existence of a factual basis that supports the plea. Thus, the judge does not merely accept the defendant's formal admission of guilt but must also verify that there are facts demonstrating the fulfillment of the elements of the offense to which the defendant is pleading guilty. This examination of the factual basis serves as a safeguard to prevent the issuance of a judgment based solely on a confession, without the support of sufficient facts.

Therefore, the implementation of plea bargaining in the United States can be understood as a multi-stage process: the assessment and exercise of discretion by

[18] William J. Stuntz, *The Collapse of American Criminal Justice*, (Cambridge: Harvard University Press, 2013), Hlm. 299

the prosecutor; negotiations between the prosecutor and the defendant or their legal counsel; the formulation of a plea agreement; the submission of the agreement to the court; the judge's examination of the guilty plea including verifying the defendant's understanding and the voluntary nature of the plea, as well as the factual basis for it; and, finally, the court's acceptance or rejection of the plea agreement. A key characteristic of this mechanism is the separation of the negotiation process from the judicial function. Negotiations are conducted by the prosecutor and the defendant (or their legal counsel), while the judge remains uninvolved in the bargaining itself, yet retains oversight regarding the acceptance of the guilty plea and the resulting agreement.

b. Germany

In the German criminal justice system, a mechanism with characteristics similar to plea bargaining is known as Verständigung an agreement reached within the criminal proceedings. This mechanism initially evolved through judicial practice before gaining a formal legal basis in 2009 via Section 257c of the Code of Criminal Procedure (Strafprozessordnung or StPO). Unlike the plea bargaining system in the United States, where negotiations primarily take place between the public prosecutor and the defendant, the Verständigung in Germany grants the court an a ctive role in directing and controlling the negotiation process. Nevertheless, a judge cannot impose an agreement unilaterally; the formation of a Verständigung still requires the consent of both the defendant and the public prosecutor.[19]

The implementation of Verständigung (plea agreement/settlement) may be p receded by discussions regarding the possibility of resolving a case through an agreement. Such preliminary discussions may take place before or outside of the c ourt proceedings. However, if these discussions pertain to the potential for a Verständigung, the core substance must be presented during the court proceedings and recorded in accordance with the provisions of procedural law. A formal agreement, pursuant to §257c of the Strafprozessordnung must be concluded within the framework of the Hauptverhandlung. The existence of preliminary discussions does not imply that a formal agreement can be finalized privately outside of the courtroom, as the process remains subject to the court's oversight and documentation mechanisms.

Once a case is under judicial examination, the judge remains obligated to carry out the function of inquiry and to ascertain the truth based on the totality of the facts revealed during the proceedings. The possibility of reaching a Verständigung (an a greement or plea arrangement) does not absolve the court of its duty to conduct an examination as stipulated in §244 paragraph (2) of the StPO. At this stage, the court may raise the possibility of an agreement, including the potential legal consequences that might be imposed should such an agreement be reached. The judge may provide an indication of the range of penalties both the upper and lower limits that could be applied, thereby ensuring that the parties have clarity regarding the legal consequences under discussion.[20]

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[19] William & Marry, *Plea Bargaining And Disclosure In Germany And The United States: Comparative Lessons, Law Review*, Vol. 57, NO. 4, 2016

[20] Alexander Schemmel, Christian Corell, Natalie Richter, *Plea Bargaining in Criminal Proceedings: Changes to Criminal Defense Counsel Practice as a Result of the German Constitutional Court Verdict of 19 March 2013?,* Vol. 15, No. 1, 2019

Regarding the substance of an agreement, Section 257c, paragraph (2) of the German Code of Criminal Procedure (StPO) permits an arrangement concerning the legal consequences that may be included in a judgment, specific procedural actions, and the conduct of the parties during the trial proceedings. A defendant's confession generally forms part of such an agreement, as it can contribute to simplifying the e xamination of a case. However, there are strict limits on the matters that may be subject to an agreement. A Schuldspruch a formal determination of the defendant's guilt cannot be the object of an Verständigung. Similarly, certain rehabilitative or s ecurity-related measures cannot be included in an agreement. Consequently, an agreement may not predetermine that a defendant must be found guilty of a specific criminal offense, as the assessment of guilt remains the exclusive prerogative of the court, based on the results of the examination and the evidence presented.

Once the potential terms of an agreement have been presented, the defendant and the public prosecutor are given the opportunity to express their consent. A Verständigung (agreement) is formed when the parties agree to the substance offered within a framework established by the court. Such consent must be given freely and based on an adequate understanding of the agreement's content and its consequences. Thus, an agreement within the German system is not merely the result of negotiations between the parties; rather, it is a consensual process that takes place under the active supervision of the court.

A defendant's confession, provided as part of a Verständigung, does not automatically exempt the court from its obligation to conduct an examination. The judge must still assess the veracity and credibility of such a confession based on the facts and evidence gathered during the trial. A confession cannot serve as the sole basis for bypassing the evidentiary process, as the final judgment must be grounded in the outcome of the case examination in its entirety. Consequently, while an agreement may streamline the examination process to an extent permitted by law i t does not absolve the court of its duty to ensure that the judgment aligns with the circumstances of the case and the degree of the defendant's culpability.[21]

The protection of a defendant's freedom is a crucial aspect of the Verständigung process. Any admission of guilt must be made voluntarily and must not be obtained through coercion, threats, deception, or the offering of unlawful promises. Before an agreement is reached, the defendant must understand that, under certain circumstances, the court may release itself from the agreement if the underlying factual or legal conditions change significantly. This safeguard is intended to ensure that the defendant's consent is truly the product of their own free will, rather than the result of pressure exerted by the judicial process.

Furthermore, a Verständigung does not always create an absolute, binding obligation upon the court. Pursuant to Section 257c, paragraph (4) of the StPO, the court may cease to be bound by an agreement if, during the proceedings, previously unknown facts or legal circumstances emerge rendering the terms of the agreement (particularly regarding the criminal consequences) inconsistent with the actual circumstances of the case or the defendant's level of culpability. In such an event, t he court is obligated to notify the parties of this change. This framework demonstrates that any such agreement remains subordinate to the principles of

[21] Thomas Weigend, Jenia Iontcheva Turner, *The Constitutionality of Negotiated Criminal Judgments in Germany*, German Law Journal, Vol. 15, No. 1, 2019

truth-seeking and the imposition of a sentence commensurate with the defendant's guilt; thus, the pursuit of procedural efficiency cannot override the court's duty to deliver a lawful and just verdict.

To ensure oversight of the plea-bargaining process, the implementation of Verständigung must adhere to the principles of transparency and documentation. T he process, substance, and outcome of any agreement must be recorded in the official minutes of the court proceedings. Furthermore, if discussions regarding the possibility of a Verständigung took place outside of the courtroom, all relevant details from those discussions must be disclosed and documented. This arrangement is intended to prevent the formation of informal, unmonitored agreements and to ensure that the process remains subject to review through oversight mechanisms and legal remedies. Consequently, the Federal Constitutional Court has affirmed that agreements reached outside the established legal framework which disregard the obligations of transparency and documentation are impermissible within the German criminal justice system.

From the perspective of legal remedies, the existence of a Verständigung does not deprive a defendant of the right to challenge a court's judgment. Waiving the right to pursue legal remedies following a judgment reached via Verständigung is n ot permitted. Consequently, a defendant's consent to such an agreement cannot be construed as a relinquishment of their right to file an appeal or seek other legal remedies. This provision demonstrates that the consensual resolution of a case remains constrained by procedural safeguards, ensuring that the pursuit of judicial efficiency does not come at the expense of a defendant's fundamental rights.

Based on the above description, Verständigung can be understood as a form o f consensual resolution within the German criminal justice system. Its primary characteristic lies in an agreement regarding legal consequences and the procedural conduct of the parties, which takes place under the active role and supervision of t he court. Although a defendant's confession may simplify the proceedings, this mechanism does not absolve the judge of the duty to verify the facts of the case; it does not permit agreements regarding the determination of guilt, does not validate confessions obtained involuntarily, and does not deprive the defendant of the right to pursue legal remedies. Thus, the German Verständigung model represents an effort to combine procedural efficiency with the preservation of fundamental principles namely, the pursuit of truth, the right to a fair trial, the proportionality of sentencing, transparency, and the protection of the defendant's rights.

c. Proposed Reconstruction for Money-Laundering Cases: Comparative Lessons from the United States and Germany

The establishment of a plea bargaining mechanism in Indonesia draws upon the concept of a guilty plea as developed within common law legal systems, particularly in the United States. However, the adoption of such a mechanism in Indonesia must be adapted to the characteristics of the civil law systemthe legal framework to which Indonesia adheres. In this context, the regulation of the guilty plea mechanism in Indonesia is set forth in Article 78 of Law Number 20 of 2025 concerning the Criminal Procedure Code. This provision governs the requirements, procedures, and the mechanism for judicial oversight regarding guilty pleas entered by defendants.

Reconstructing the application of guilty pleas in money laundering cases in Indonesia necessitates amendments to several legal norms directly related to this mechanism. These amendments must be tailored to the specific characteristics of money laundering and will define the final form of the reconstruction proposed in this study. The norms that require amendment are as follows:

1) Article 78 Paragraph (1) of the KUHAP.

Article 78, paragraph (1), letter a of the Criminal Procedure Code (KUHAP) stipulates that the perpetrator must be a "first-time offender." This requirement cannot be applied to money laundering offenses (TPPU), as a perpetrator of money laundering has, by definition, already committed a "predicate crime" that generated the assets subsequently concealed. Therefore, letter a should be reformulated to state "has never been sentenced under a final and binding court decision," allowing it to be applicable in money laundering cases.

Article 78, paragraph (1), letter b of the Criminal Procedure Code limits the scope of a guilty plea to offenses punishable by a maximum of 5 years of imprisonment or a maximum fine of category V. To ensure this mechanism can be a pplied proportionately to money laundering cases which often involve complex evidentiary processes and asset tracing this threshold should be expanded to a maximum of 20 years of imprisonment or a category VII fine. This expansion must still account for the protection of the defendant's rights and should exclude predicate crimes that resulted in death or involved violence against a person.

Furthermore, Article 78, paragraph (1) of the Criminal Procedure Code does n ot clarify whether the requirements are cumulative or alternative, which could lead to divergent interpretations and legal uncertainty. The author proposes the addition of a letter d, which would explicitly state that the requirements set forth in letters a, b, and c are cumulative. This reconstruction provides normative clarity regarding t he scope for applying a guilty plea, while simultaneously preventing its arbitrary a pplication in money laundering cases.

2) Article 78, paragraph 7 of the KUHAP.

Article 78, paragraph (7) of the (KUHAP) requires strengthening to ensure that the procedures for handling guilty pleas are clear, measurable, and provide legal certainty. This can be achieved by adapting elements of plea bargaining as practiced in the United States and Germany to align with the characteristics of Indonesia's civil law system. Negotiations between the public prosecutor and the defendant must be strictly regulated, specifically regarding the scope of the agreement, the limits on n egotiable subject matter, and the court's obligation to verify the validity of such agreements.

The forms of negotiation to be adapted include fact bargaining and sentence bargaining, while charge bargaining is excluded, as it would inappropriately turn t he criminal charges themselves into objects of negotiation. Fact bargaining is limited to the acknowledgment of relevant facts without disregarding material facts while s entence bargaining is conducted within a defined range of minimum and maximum penalties, drawing upon the Verständigung mechanism found in § 257c, paragraph (3) of the German Code of Criminal Procedure. This range must remain within the s tatutory limits of the charged offense and must not usurp the court's authority to d etermine guilt and impose a sentence.

For money laundering offenses, the author proposes "asset recovery bargaining" an agreement concerning the defendant's obligations and cooperation i n disclosing, tracing, surrendering, and assisting in the recovery of assets. This concept is an original proposal by the author and does not represent an official classification within the legal systems of the United States or Germany. Such cooperation does not absolve the defendant of criminal liability, nor does it automatically result in a reduced sentence; rather, it serves as a factor for the court to consider. Furthermore, this process must include verification mechanisms and s afeguards for the rights of third parties acting in good faith. Consequently, the reconstruction of Article 78, paragraph (7) encompasses the scope of negotiable subject matter, the determination of sentencing ranges, cooperation in asset recovery, and judicial oversight. Under this framework, success is measured not m erely by the entry of a guilty plea and the imposition of a sentence, but also by the provision of legal certainty, the protection of the defendant's rights, and the recovery of assets.

3) An "Open File Discovery" Mechanism Is Required During the Plea-Entry Process Under Article 78 of the KUHAP.

Reconstructing Article 78 of the KUHAP requires the inclusion of a provision that explicitly establishes an "open-file discovery" mechanism to protect the rights of a defendant in cases involving guilty pleas for money laundering offenses. Under this mechanism, the public prosecutor is obligated to grant the defendant and their legal counsel access to relevant information, documents, and evidence before any g uilty plea agreement is reached. Such transparency is essential to ensure that the d efendant fully understands the alleged facts, the strength of the evidence, and the l egal consequences of their plea particularly given that proving money laundering i nvolves tracing financial transactions, the origins and flow of assets, and the connection between those assets and the underlying criminal offense. Consequently, this provision prevents pleas from being made based on an information asymmetry, strengthens the principle of due process of law, and ensures that any guilty plea is entered into voluntarily.

This openness is not absolute. Prosecutors may restrict access based on valid legal grounds such as internal documents, the identities of protected informants or undercover agents, or specific portions of the case file where there is a concrete risk that disclosure could compromise the investigation (for instance, by creating a risk that evidence might be destroyed or witnesses tampered with). Such restrictions m ust still allow the defendant and their legal counsel access to case materials necessary for their defense.

Once an agreement is reached and "open-file discovery" has taken place, the defendant enters a plea before the court. The judge examines the defendant directly to ensure they understand the charges, their rights, and the consequences of their plea confirming that the plea is made knowingly, voluntarily, and without coercion, and that it is supported by an adequate factual basis. In money laundering cases, this examination extends to the accuracy and relevance of information regarding assets its consistency with the evidence, and the fulfillment of asset recovery obligations ensuring that the agreement remains within the framework of evidentiary standards and judicial oversight.

4) Addition of a Standard for Documenting Negotiations through Written Documents and Audio and/or Video Recordings.

The amendment to Article 78 of the Criminal Procedure Code should provide f or the documentation of every stage of plea bargaining negotiations between the p ublic prosecutor and the defendant, who is assisted by a lawyer, in the interests of t ransparency, accountability and legal certainty. The written documentation must, a t a minimum, include the identities of the parties, the matters under discussion, the terms of the agreement, the obligations to be fulfilled, the grounds for sentencing, a nd a statement by the defendant confirming that they understand their rights and t he consequences of their plea. Negotiations may also be audio and/or video recorded to verify the defendant's voluntary participation and understanding should any suspicion of coercion arise.

In money laundering cases, documentation is crucial because the agreement may include obligations regarding asset disclosure and recovery that require verification and monitoring; consequently, the disclosed assets and the obligations of the parties must be clearly defined, with provisions governing the storage, access and confidentiality of the recordings. This documentation does not replace direct e xamination by the judge, but serves as a supporting tool to minimise the abuse of a uthority and uphold the principle of a fair trial.

PROPOSED PROCEDURAL SEQUENCE (IUS CONSTITUENDUM). First, the prosecutor verifies the offence provision, charged penalty and statutory eligibility. Second, defence counsel receives the relevant accusation and tracing materials. Third, the accused provides an express and recorded voluntary plea, without surrendering rights of third parties. Fourth, the prosecution independently documents assets and victim interests. Fifth, a judge examines the legal basis, factual support, informed consent and proportionality in an open recorded hearing. Sixth, the court records a reasoned decision and an objection channel. For otherwise excluded laundering cases, any reform should prescribe an express statutory eligibility clause and targeted safeguards rather than allowing case-by-case informal exceptions.

5) Confirmation of Criminal Liability and Considerations for Mitigation of Sentencing.

The amendment to Article 78 of the Criminal Procedure Code should make it clear that a guilty plea does not absolve the defendant of criminal liability, which remains to be determined in accordance with the law and the court proceedings. A voluntary confession, supported by factual evidence and accompanied by a cooperative attitude, may be one of the factors taken into account in sentencing, including in money laundering cases where the defendant is found to have assisted in uncovering the flow of funds, explaining the ownership of assets, and recovering assets. However, a confession and cooperation do not automatically reduce the sentence, as sentencing still takes into account the degree of culpability, the defendant's role, the consequences of the act, as well as aggravating and mitigating circumstances, and the court must ensure that the sentence is not disproportionate. Thus, the procedural benefits for the defendant are balanced against criminal liability, with asset recovery being the primary objective in money laundering cases without disregarding the rights of third parties acting in good faith.

The various forms of reconstruction carried out by the author demonstrate the need for fundamental changes so that the mechanism for admission of guilt under Article 78 of the Criminal Procedure Code can be applied to active money laundering cases as provided for in Articles 3 and 4 of No. 8 of 2010 on the Prevention and Eradication of Money Laundering Offences, and to be applied to certain extraordinary crimes. Thus, there will be no discrepancies or inconsistencies in the application of the guilty plea, which has been adapted from both the common law and civil law systems, ensuring it remains consistent with the Indonesian criminal justice system. The application of guilty pleas in active money laundering cases is expected to facilitate the resolution of cases in a simple, swift and efficient manner without compromising legal certainty, the principles of a fair trial, the protection of the defendant's rights, the proportionality of sentencing, and asset recovery, with a view to realising 'constance de justicia' in Indonesia.

CONCLUSION

The form of plea bargaining adopted in Indonesia needs to be adapted to the characteristics of a legal system based on the civil law tradition. In money laundering cases, the application of plea bargaining is not only based on an admission of guilt and an agreement between the defendant and the public prosecutor, but must also be accompanied by a mechanism for judicial oversight. The guilty plea given by the defendant must be examined to ensure that it is made consciously, voluntarily and without coercion, and is based on an adequate understanding of the facts of the case, the evidence, the defendant's rights and the legal consequences of the agreement reached. This reform is aimed at realising a judicial process that is simple, swift and effective, without compromising the principles of justice or the protection of the rights of the parties involved. The application of plea bargaining in money laundering cases must also be restricted based on the characteristics of the predicate offence. This mechanism shall not apply to money laundering cases where the underlying criminal offence is an act resulting in death or a crime involving direct physical violence against the victim. Such restrictions are necessary to ensure that the efficiency of case resolution does not diminish the weight of criminal liability for offences of a serious nature and with significant consequences. Consequently, the application of plea bargaining in money laundering cases must not be solely focused on expediting case resolution or avoiding lengthy court proceedings, but must be carried out with due care, based on sufficient evidence, the defendant's voluntary participation, judicial oversight, and whilst upholding the defendant's criminal liability. Consequently, the reform of plea bargaining in money laundering cases can strike a balance between the efficient resolution of cases, legal certainty, the protection of the defendant's rights, the interests of law enforcement, and the optimisation of the recovery of assets derived from criminal offences.

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