

United nations convention against corruption dan kerjasama mutual legal assistance on asset recovery antara Indonesia dan Swiss = United nations convention against corruption and mutual legal assistance on asset recovery cooperation between Indonesia and Switzerland /
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Abstrak

[Upaya perlawanan terhadap korupsi yang merupakan tindak kejahatan lintas batas (transnational organized crime), kini menjadi salah satu agenda global penting yang membutuhkan kerjasama internasional untuk menanggulangnya. UNCAC merupakan sebuah institusi internasional yang menyoal isu korupsi, disahkan pada tahun 2003 dan hingga kini dianggap sebagai kerangka kerjasama internasional paling penting yang memberikan pilar-pilar utama dalam pemberantasan korupsi – pencegahan, penegakan hukum, kerjasama internasional, serta asset recovery. Penelitian ini secara khusus berupaya untuk melihat efektivitas UNCAC dalam proses asset recovery hasil korupsi Indonesia yang berada di Swiss, melalui kerangka Mutual Legal Assistance yang merupakan salah satu ketentuan di dalamnya. Hasil penelitian menunjukkan bahwa UNCAC tidak berhasil menjamin proses asset recovery melalui MLA antara Indonesia dan Swiss, karena: 1) Lemahnya proses dan mekanisme pengawasan, 2) Tertutupnya kemungkinan aksi kolektif negara-negara anggota, serta 3) Ketidakmampuan UNCAC dalam memfasilitasi proses negosiasi secara reguler dan terukur antara kedua belah pihak., International efforts in the fight against corruption—which is considered as the transnational organized crime—has become an important global agenda that requires international cooperation. UNCAC is an international institution that focus on the corruption issues. Passed in 2003 and entered into force in 2005, UNCAC regarded as the most important international framework which provides four main pillars in the fight against corruption – prevention, law enforcement, international cooperation, and asset recovery. This research specifically sought to measure the effectiveness of UNCAC in the asset recovery process between Indonesia and Switzerland through one of the the provisions in the convention, Mutual Legal Assistance (MLA) framework. The results showed that UNCAC does not succeed to ensure the asset recovery process through MLA between Indonesia and Switzerland, because: 1) The lack of control mechanism process, 2) The lack of possibility of collective action among member states, and 3) the inability of UNCAC in facilitating the negotiation process on a regular basis between the two parties.]