

Crime Analysis of Payment Transactions Using Checks and Giro Bilyets

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Abstract

Background: The growing level of crimes committed by unscrupulous businessmen related to payments using blank checks or giro drafts makes it important to conduct research whether this includes criminal law in the realm of criminal law or only civil law. **Object:** The object of this research is a payment crime involving the use of blank checks and demand deposits in a banking environment. The purpose of this analysis is to ascertain whether this is a crime that belongs to the realm of crime or not. **Method:** The research method used is literature study and relevant data analysis. In this analysis, data were collected on payment crime cases using blank checks and demand deposits, as well as interviews. The data includes statistics, case studies, and reports from law enforcement and related financial institutions. **Result:** The results of the analysis show that payment traffic using blank checks and giro forms is a form of criminal offense in accordance with articles 378 and 379a of the Criminal Code in Indonesia. Payments using blank checks and demand deposits have a significant impact on banking and society. This crime is detrimental to the parties who become victims, such as traders, entrepreneurs, and individuals who receive payments with these financial instruments. Several factors that influence payment crimes include technological developments, lack of public awareness, ineffective banking supervision systems, and the increased ability of criminals to manipulate financial instruments. In an effort to deal with payment crimes using blank checks and demand deposits, effective preventive measures and law enforcement are needed. These efforts include increasing public awareness of the risks and signs of this crime, increasing the security of financial instruments, cooperation between banks and law enforcement agencies, and using more sophisticated security technology.

Keywords: Check, giro bilyet, banking, crime.

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BACKGROUND

Along with the rapid progress of the world's economy marked by free markets, especially in the Asian region, known as the Era of Globalization. In Indonesia, this condition is especially felt in the industrial and trade (economy) sectors. The free market, which knows no boundaries, has inspired the emergence of effective, efficient, fast, easy and safe means of payment [1, 2], especially in the trading business world. For this reason, payment instruments in the form of demand deposits are needed [3] by issuing securities such as checks, money orders, promissory notes and giro slips. In addition to the above, the payment system using money contains risks that must be faced, such as the risk of loss, theft and robbery [4, 5].

So that in the current payment traffic more and more use of gira payment instruments is caused by

conditions that demand demand deposits. The customs of the trade community underwent various changes. In accordance with the rapid progress of the economy, the use of payment instruments in the trading system, which during World War II was only used by large traders. Currently, the payment system is used by giral or known as securities. The securities themselves are letters issued by a person as the executor of an achievement which is the payment of a price of money but the payment is not made using currency, but by means of payment in the form of a letter in which there is a message or order to a third party or a statement of willingness to pay a certain amount of money to the holder of the letter.

Check is a form of payment instrument that fulfills practical and safe elements [6]. Checks are often used in the trade sector and the corporate world. The term "check" comes from the French word "cheque".

According to the Commercial Code (KUHD) article 178, the formal requirements for checks are as follows:

1. Name of check letter;
2. Unconditional orders to pay;
3. Name of person obligated to pay;
4. Determination of place of payment;
5. Date and place of publication;
6. Signature of the publisher.

While Bilyet Giro [7] legally and legally there is no law that regulates it. However, the legal basis is guided by the rules issued by BI as the Central Bank, namely SEBI No. 28/32/UPB/date 04 January 1995, which confirms, among other things, that a Bilyet Giro is an unconditional order from a customer whose form has been standardized, to a depository bank to transfer an amount of funds from the current account in question to the recipient named. The mandate to transfer the bookkeeping of funds can be carried out if the current account in question has sufficient effective balance.

Among traders or entrepreneurs, they prefer payment through cashable securities [8, 9]. That is, even though payments are made by means of securities (checks and giro), the risk of the possibility of money going to unauthorized persons can be overcome. However, in everyday life (especially in the business world) irresponsible people can still take advantage of this. This means that payments often occur with Checks and Giro, known as blank Checks and Bilyet Giro [10].

This condition is certainly detrimental to honest parties involved in payment traffic. Things like this need to be handled from a legal perspective so that there is legal certainty because of the emergence of payments by check or by giro. Thus it is necessary to seek a legal settlement in anticipation of this problem. Legal certainty is very important for the smooth use of securities, especially Checks and Bilyet Giro in payment traffic, so that abuse does not develop more widely and there is protection for honest holders.

The misuse of securities in the form of Checks and Bilyet Giro as mentioned above is contrary to the facts. On the one hand, the government allows the use of payments by checks and giro for the reasons that it is effective, efficient, fast and safe. However, on the other hand, the government also did not anticipate that there would be other consequences, namely payment with blank Checks and Giro, so that until now there is no law that explicitly regulates these blank Checks and Giro. A person who issues checks and blank giro by a bank in Indonesia is only given a blacklist sanction by Bank Indonesia Regulation (PBI) Number 8/29/PBI/2006 concerning the National Black List of Checkers and or blank giro which only has administrative sanctions [11, 12]. It is this sanction that is unable to provide a deterrent effect for perpetrators who make payments using blank Checks and Giro.

Therefore, this research will ascertain whether misuse of securities as a means of payment in banking operations constitutes a business crime practice, and what solutions can be taken in the event of misuse of securities used as a means of payment.

RESEARCH METHOD

Research Approach

Some of the approaches that the authors apply so that the authors obtain information from various aspects of the existing problems to obtain answers. Among them: a) Approach to the Act (Statute Approach). This approach is carried out by examining all relevant laws and regulations relating to the problem of misuse of demand deposits and blank cheques; b) Case Approach. This approach is carried out by examining cases related to the misuse of giro bills and blank checks both at the stage of investigation or investigation, prosecution and after a court decision that has permanent legal force (inkrah). Even the decisions of judges (jurisprudence) are also reviewed; c) Conceptual Approach. This approach departs from the views and doctrines that have developed in the science of law. So that by studying this the author will find ideas that give birth to legal notions, legal concepts and legal principles that are relevant to the existing issues. An understanding of the views with these doctrines is a basis for the writers' part in building a legal argument in solving existing issues or problems.

Data Collection Techniques

In an effort to collect the necessary data, this research was conducted by combining two methods, namely:

- a. Secondary data, by examining library materials, legal materials, results of research that has been done previously, as well as other materials that are related to the problem under study (library research).
- b. Primary data, namely a meeting of two people to exchange information and ideas through question and answer, so that it can be constructed in a particular topic.

Data Analysis

Qualitative analysis was carried out by the author by analyzing data between 2015 and 2019. From these data, the crime rate (Crime index) was obtained by using giro slips and blank checks. The analysis process has started since formulating and explaining the problem, before going into the field and continues until the writing of the research results. This study analyzes the laws or regulations governing the issuance of blank checks and Giro slips and analyzes the data obtained during the field process. Furthermore, the data obtained was analyzed in a simple way using systematic analysis techniques, namely data that is related to each other regularly and systematically. The analysis of this system reveals that qualitative data already contains an analysis of the data itself. This is because qualitative data is obtained through in-depth research activities.

RESULT AND DISCUSSION

The crime of blank checks [12, 13] is one of the problems that occur in Indonesia. This crime involves the misuse of checks without sufficient funds or counterfeit checks to make payments or transactions for the purpose of defrauding or making unlawful gains. Some of the problems associated with bad check crimes include:

1. **Fraud in Buying and Selling Transactions.**
Sellers who receive blank or fake checks in buying and selling goods or services become victims of this crime. They will incur a financial loss for not being able to cash the check.
2. **Fraud in Property Rentals**
Bad check crimes also often occur in property rental transactions. Tenants who use fraudulent checks or do not have enough funds are setting the landlord at a loss by not receiving a valid payment.
3. **Impact on Business Confidence**
Bad check crimes can undermine the trust between merchants, entrepreneurs, and the public. Whenever such fraud occurs, the victimized party may become more wary of accepting checks as a form of payment.

In this case, the Criminal Code in Indonesia explains in article 378 which regulates fraud. One of them is fraud involving the use of blank checks. This article states that any person who deliberately uses deception or forgery in order to obtain benefits for himself or others that harm others, may be subject to criminal action.

In the context of bad check crimes, Article 378 of the Criminal Code can be applied to perpetrators who deliberately write or use blank or counterfeit checks to gain illegal financial gain or harm other parties. If proven guilty, the perpetrator can be subject to criminal sanctions according to the provisions of article 378 of the Criminal Code.

Meanwhile, in the next article, namely article 389A of the Criminal Code which regulates embezzlement. This article states that anyone who embezzles the property of another person who is under his control with the intention of unlawfully enriching himself or others, can be subject to criminal action.

In the context of civil law, payment using a blank check is also a civil law issue, because a blank check is deemed not to have sufficient funds to cover the amount stated on the check. Therefore, if the check recipient attempts to cash the check and finds that there are insufficient funds in the check holder's account, the check recipient has the right to file a civil lawsuit to demand delayed payment.

These civil lawsuits are usually in the form of a lawsuit for payment of the amount stated on the check or giro and possibly compensation for losses suffered as a result of non-compliance with the payment instrument. This means that a checkholder who uses a blank check may be deemed to have breached his or her obligations under the payment agreement and may be forced to pay the amount owed.

To solve this bad check crime problem, the following steps can be taken:

1. **Awareness and Education.**
Educating the public, especially traders and entrepreneurs, about the risks and signs of bad check crime, as well as how to identify valid checks, can help reduce the likelihood of becoming a victim.
2. **Verification and Security.**
Ensure that checks received are valid and adequately funded before delivering goods or accepting payment. Verify by contacting the bank issuing the check to ensure the legitimacy and availability of funds.
3. **Collaboration with Authorities.**
Report bad check crimes to authorities, such as the police, and provide sufficient evidence to allow them to carry out the necessary investigations and legal action.
4. **Use of Payment Alternatives.** Using safer payment alternatives, such as electronic transfers or credit cards, can reduce the risk of bad check crimes.

However, the prevention of bad check and giro crimes requires collaboration and joint vigilance between traders, entrepreneurs and the authorities to create a safer and more reliable business environment.

CONCLUSION

The use of blank checks and demand deposits in the context of payment traffic in Indonesia is categorized as a criminal offense according to Articles 378 and 389A of the Indonesian Criminal Code. Article 378 of the Indonesian Criminal Code regarding fraud can be applied to perpetrators who deliberately use blank or counterfeit checks to gain illegal financial gain or harm other parties. The use of blank or fake checks with the intention of defrauding in financial transactions can be subject to criminal sanctions according to the provisions of Article 378 of the Criminal Code.

Furthermore, Article 389A of the Criminal Code regulates embezzlement which can be applied in cases of using giro slips with the intention of embezzling or unlawfully enriching oneself or others. If someone intentionally uses a fake giro or without enough funds to make payments and in the end it harms other parties, then the perpetrator can be subject to criminal sanctions under Article 389A of the Criminal Code.

In the context of Indonesian law, Articles 378 and 389A of the Criminal Code have an important role in upholding justice and providing legal protection against cases of criminal payments using blank checks and demand deposits. These articles provide a clear legal basis for prosecuting perpetrators and ensuring that they are held accountable for unlawful acts committed.

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