



ANALISIS SENKETA INFORMASI PUBLIK PADA PROGRAM KARTU PRAKERJA

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INTISARI

Tulisan ini mengkaji sengketa informasi publik mengenai program Kartu Prakerja antara Indonesia Corruption Watch (ICW) dengan Kementerian Koordinator Bidang Perekonomian (Kemenko Perekonomian) pada putusan Komisi Informasi Pusat No. 013/VI/KIP-PS-A/2020 dan Putusan Pengadilan Tata Usaha Negara Jakarta No. 233/G/KI/2020/PTUN.JKT. Terdapat 3 (tiga) informasi yang menjadi obyek sengketa, yakni: 1) dokumen notulensi dan daftar hadir pembahasan program Kartu Prakerja yang dilakukan oleh Manajemen Pelaksana bersama delapan platform digital (**informasi 1**); 2) dokumen mekanisme pendaftaran dan panduan pelaksanaan kurasi lembaga pelatihan (**informasi 2**); dan 3) dokumen perjanjian kerja sama (PKS) antara Manajemen Pelaksana dengan platform digital (**informasi 3**).

Penelitian ini merupakan penelitian hukum normatif yang menggunakan 3 (tiga) pendekatan, yakni pendekatan undang-undang (*statutory approach*), pendekatan konseptual (*conceptual approach*) dan pendekatan kasus (*case approach*).

Hasil dari penelitian ini menunjukkan bahwa substansi putusan Komisi Informasi Pusat pada dasarnya menguatkan hak publik untuk memperoleh informasi publik dengan menolak alasan-alasan pengecualian. Komisi Informasi Pusat menolak argumentasi Kemenko Perekonomian yang menggunakan SK internal sebagai justifikasi atas penolakan permohonan. Komisi juga menolak alasan bahwa pengungkapan dokumen PKS akan mengganggu kepentingan perlindungan hak kekayaan intelektual dan perlindungan dari persaingan usaha tidak sehat; merugikan proses penyusunan kebijakan; dokumen tidak boleh diungkapkan berdasarkan undang-undang lain; dan alasan karena telah diaudit lembaga berwenang. Selain itu, adanya klausul kerahasiaan berdasarkan asas *pacta sunt servanda* (Pasal 1338 KUH Perdata) juga tidak dapat mengecualikan dokumen PKS. Sedangkan, sikap PTUN dinilai sudah tepat dengan menjatuhkan putusan yang bersubstansi memperbaiki kesalahan putusan Komisi Informasi (minor) dan pada prinsipnya menguatkan putusan Komisi Informasi. Kemenko Perekonomian seharusnya memberikan akses terhadap dokumen PKS kepada ICW dengan mudah. Karena pada dasarnya dokumen PKS merupakan dokumen yang wajib tersedia setiap saat.

Kata kunci: keterbukaan informasi publik, sengketa informasi publik, Kartu Prakerja, dokumen perjanjian kerja sama (PKS)



PUBLIC INFORMATION DISPUTE ANALYSIS ON THE PREWORK CARD PROGRAM

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ABSTRACT

This paper discusses an informational dispute concerning the Pre-work Card between the Indonesian Corruption Watch (ICW) and the Ministry of Economic Coordination based on the Central Information Commission decision No. 013/VI/KIP-PS-A/2020 and Administrative Court decision No. 233/G/KI/2020/PTUN.JKT. There are 3 (three) information which was disputed, namely: 1) the discussion notes document and the attendance list of the Pre-work Card program discussion which were held by both the Executive Management and the 8 (eight) digital platforms (**information 1**); 2) the registration mechanism document and the curation guideline for the training institute (**information 2**); and 3) the contract document (PKS) between the Executive Management and the digital platform (**information 3**).

This research is a normative legal research which uses 3 (three) approach methods, namely: the statutory approach, the conceptual approach, and the case approach.

The result shows that the Information Commission's decision, basically, strengthens the public information right. The Information Commission declines the Ministry of Economic Coordination's argument that argue the refusal was based on their internal administrative decision. The Commission also declines the arguments that revealing the contract document will lead to violation of intellectual property rights and causing unfair competition; jeopardize the policy making processes; the document cannot be revealed because of the provision of other law; and the statement that providing access to public is no longer relevant as the document has been examined and audited by the Court of Audit. Moreover, the non-disclosure agreement which was based under the principle of *pacta sunt servanda* (Article 1338 of Civil Code) cannot exempt the contract document. The Administrative Court considered has given a proper response as although it, substantively, revises a mistake of the Information Commission (relatively minor) and, essentially, strengthens the Information Commission decision. The Ministry of Economic Coordination should give the access of contract documents to ICW without any obstacle. Because the contract document basically was disclosed information (should be available at any time).

Keywords: public information disclosure, public information dispute, Kartu Prakerja, contract document (PKS)