

INTISARI

KESEPAKATAN SEBAGAI DASAR PENETAPAN UPAH TERENDAH BAGI PEKERJA PADA USAHA MIKRO DAN KECIL DALAM PERATURAN PEMERINTAH NOMOR 36 TAHUN 2021 TENTANG PENGUPAHAN

Oleh :

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Penelitian ini bertujuan untuk mengetahui dan menganalisis penyelesaian secara normatif dalam hal kesepakatan dalam penetapan upah terendah antara pengusaha dan pekerja pada usaha mikro dan kecil tidak tercapai. Penelitian ini juga bertujuan untuk mengetahui dan menganalisis perlindungan hukum preventif terhadap pekerja pada usaha mikro dan kecil atas penyelesaian secara normatif tersebut.

Penelitian ini merupakan penelitian normatif yang bersifat deskriptif. Penelitian dilakukan melalui penelitian kepustakaan atas data sekunder berupa bahan hukum primer, tersier, dan sekunder dengan alat berupa studi dokumen. Penelitian normatif ini didukung wawancara terhadap narasumber yang berkompeten di bidangnya, dengan alat berupa pedoman wawancara. Data hasil penelitian dianalisis secara kualitatif dan disajikan secara deskriptif.

Hasil penelitian menyimpulkan pertama, penyelesaian secara normatif dalam hal kesepakatan penetapan upah terendah antara pengusaha dan pekerja pada usaha mikro dan kecil tidak tercapai mempergunakan formula paling sedikit 50% (lima puluh persen) dari rata-rata konsumsi masyarakat di tingkat propinsi dan paling sedikit 25 % (dua puluh lima persen) di atas garis kemiskinan di tingkat propinsi, sesuai ketentuan Pasal 36 ayat (2) Peraturan Pemerintah Nomor 36 Tahun 2021 tentang Pengupahan. Kedua, penyelesaian secara normatif tersebut belum memberikan perlindungan preventif bagi pekerja pada usaha mikro dan kecil karena dianggap tidak adil dan layak. Nominal besaran upah terendah bagi pekerja pada usaha mikro dan kecil secara normatif relatif jauh lebih rendah dari upah minimum pada umumnya, padahal kebutuhan dasarnya sama dengan pekerja pada usaha menengah dan besar. Penyelesaian secara normatif tersebut lebih memberikan perlindungan hukum preventif terhadap pengusaha pada usaha mikro dan kecil.

Kata kunci : Kesepakatan, Pekerja, Pelindungan Hukum Preventif, Upah Terendah, Usaha Mikro dan Kecil

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ABSTRACT

AGREEMENT AS THE BASIS OF DETERMINATION OF THE MINIMUM WAGES FOR THE WORKERS IN MICRO AND SMALL BUSINESS IN THE GOVERNMENT REGULATION NUMBER 36 OF 2021 ON WAGES

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The objective of this research is to identify and analyze settlement in normative manner in the event an agreement in determining the minimum wages between the entrepreneur and the workers in micro and small business is not reached. The objective of this research is also to identify and analyze preventive legal protection to the workers in micro and small business over the settlement in such normative manner.

This research constitutes as normative research which is descriptive in nature. The research is conducted through library research over secondary data in the form of primary, tertiary, and secondary legal material with tools in the form of documentary study. This normative research is supported by interview with competent respondent in the relevant field, with tools in the form of interview guidelines. The data resulted from research is analyzed in qualitative and presented in descriptive.

The result of research concludes that first, settlement in normative manner in the event an agreement in determining the minimum wages between an entrepreneur and a worker in micro and small business is not reached uses the formula at least 50% (fifty percent) of the average public consumption in provincial level and at least 25% (twenty five percent) above poverty line in provincial level in accordance with the Article 36 paragraph (2) of Government Regulation Number 36 of 2021 on Wages. The Second, settlement in such normative manner has not provided preventive protection for a worker in micro and small business because it is considered unfair and appropriate. The nominal minimum wage for a worker in micro and small businesses is normatively relatively much lower than the minimum wages in general, even though their basic needs are the same as a worker in medium and large business. This normative settlement provides more preventive legal protection for an entrepreneur in micro and small businesses.

Key words: Agreement, Workers, Preventive Legal Protection, the Minimum Wages, Micro and Small Business

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