



**PERAN INFLUENCER DALAM KEGIATAN PROMOSI PLATFORM
TRADING ILEGAL DITINJAU DARI HUKUM PELINDUNGAN
KONSUMEN DI INDONESIA (Studi Putusan Pengadilan Tinggi Banten
Nomor 117/Pid.Sus/2022/PT. BTN.)**

Farasyalwa Choleyfa Annisa¹ dan Alfatika Aunuriella Dini²

INTISARI

Indra Kenz ditetapkan sebagai pelaku tindak pidana menyebarkan berita bohong dan menyesatkan yang mengakibatkan merugikan konsumen transaksi elektronik dalam Putusan Pengadilan Tinggi Banten Nomor 117/Pid.Sus/2022/PT. BTN. yang sudah sampai tingkat kasasi, tetapi ditolak melalui Putusan Mahkamah Agung Nomor 2029 K/Pid.Sus/2023. Ketidakjelasan mengenai kedudukan dan pertanggungjawaban hukum Indra Kenz pada putusan memunculkan perdebatan mengenai pemenuhan hak-hak konsumen dalam kasus tersebut. Penelitian ini bertujuan untuk mengetahui kedudukan dan pertanggungjawaban hukum Indra Kenz sebagai influencer yang mempromosikan *platform trading* ilegal dalam putusan *a quo* sebagai upaya pelindungan konsumen dalam hal pemenuhan hak konsumen.

Penelitian ini adalah penelitian hukum normatif yang bersifat deskriptif. Penelitian ini menggunakan pendekatan kasus dalam Putusan Pengadilan Tinggi Banten Nomor 117/Pid.Sus/2022/PT. BTN. Penelitian dilakukan dengan cara penelitian kepustakaan untuk menganalisis data sekunder berupa bahan hukum primer, sekunder dan tersier. Penelitian ini didukung wawancara terhadap narasumber hakim dan Satgas PASTI. Data hasil penelitian dianalisis secara kualitatif dan disampaikan dengan teknis analisis deskriptif.

Hasil penelitian menunjukkan terdapat tiga hubungan hukum dalam kasus Indra Kenz, yaitu Indra Kenz dengan Binomo, Indra Kenz dengan *trader*, dan Binomo dengan *trader*. Indra Kenz melanggar beberapa ketentuan dalam UU Perlindungan Konsumen, peraturan perundang-undangan terkait perdagangan berjangka komoditi, dan Pasal 45A ayat (1) jo. Pasal 28 ayat (1) UU ITE. Kesimpulan dari penelitian ini adalah Indra Kenz berkedudukan hukum sebagai konsumen antara saat berkapasitas menjadi afiliator Binomo dan pelaku usaha di bidang jasa edukasi berjangka saat berkapasitas menjadi Direktur Utama PT Kursus Trading Indonesia. Atas pelanggaran beberapa ketentuan dalam kedudukan hukumnya sebagai pelaku usaha, bentuk pertanggungjawaban hukum yang dapat dituntut pada Indra Kenz adalah *professional liability* dan *criminal liability* menurut ketentuan dalam peraturan perundang-undangan yang dilanggar.

Kata Kunci: Pelindungan Konsumen, Perdagangan Berjangka Opsi Biner, *Influencer*, Afiliator, Pertanggungjawaban Hukum

¹Departemen Hukum Perdata Fakultas Hukum Universitas Gadjah Mada, Jalan Sosio Yustisia No. 1, Bulaksumur, Sleman, D.I. Yogyakarta 55281

²Fakultas Hukum Universitas Gadjah Mada, Jalan Sosio Yustisia No. 1, Bulaksumur, Sleman, D.I. Yogyakarta 55281



The Role of Influencers in Promoting Illegal Trading Platform from the Perspective of Consumer Protection Law in Indonesia (A Study on Banten High Court Decision Number 117/Pid.Sus/2022/PT. BTN.)

Farasyalwa Choleyfa Annisa³ and Alfatika Aunuriella Dini⁴

ABSTRACT

Indra Kenz was determined to be the perpetrator of a criminal act of disseminating false and misleading information that caused losses to consumers in electronic transactions in the Banten High Court Decision Number 117/Pid.Sus/2022/PT. BTN., which was appealed to the Supreme Court, but was rejected through Supreme Court Decision Number 2029 K/Pid.Sus/2023. The ambiguity surrounding Indra Kenz's legal standing and legal liability in the decision has sparked debate regarding the fulfillment of consumer rights in this case. This research aims to ascertain the legal standing and legal liability of Indra Kenz as an influencer who promoted an illegal trading platform in the decision, as an effort to protect consumers in the fulfillment of their rights.

This research is a normative legal study with a descriptive nature. This research uses a case approach based on the Banten High Court Decision Number 117/Pid.Sus/2022/PT. BTN. This research was conducted through library research to analyzes secondary data in the form of primary, secondary, and tertiary legal materials. This research is supported by interviews with judges involved in the first instance decision and Satgas PASTI. The data obtained were analyzed qualitatively and presented using descriptive analysis method.

The research shows that there are three legal relationships in the case involving Indra Kenz, namely: (1) between Indra Kenz and Binomo, (2) between Indra Kenz and traders, and (3) between Binomo and traders. Indra Kenz violated several provisions of the Consumer Protection Law, the laws and regulations regarding futures trading, and article 45A paragraph (1) *juncto* Article 28 paragraph (1) of ITE Law. The conclusion of this research indicates that Indra Kenz occupies legal standing as an intermediate consumer in his capacity as Binomo affiliate and as a business actor in his capacity as President Director of PT Kursus Trading Indonesia. For the violations committed in his capacity as a business actor, Indra Kenz may be imposed with Professional Liability and Criminal Liability in accordance with the provisions of the violated laws and regulations.

Keywords: Consumer Protection, Binary Option Trading, Influencer, Affiliate, Legal Liability

³Departemen Hukum Perdata Fakultas Hukum Universitas Gadjah Mada, Jalan Sosio Yustisia No. 1, Bulaksumur, Sleman, D.I. Yogyakarta 55281

⁴Fakultas Hukum Universitas Gadjah Mada, Jalan Sosio Yustisia No. 1, Bulaksumur, Sleman, D.I. Yogyakarta 55281