UNIVERSITAS GADJAH MADA
PELAKSANAAN PUTUSAN PENGADILAN MELALUI DISKRESI LPSK DALAM MEMBERIKAN DANA BANTUAN KORBAN TINDAK PIDANA KEKERASAN SEKSUAL DITINJAU DARI ASPEK KEMANFAATAN
Ery Kurnia, Hendry Julian Noor
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THE IMPLEMENTATION OF COURT DECISIONS THROUGH LPSK'S DISCRETION IN PROVIDING FUNDS TO ASSIST VICTIMS OF SEXUAL VIOLENCE IS REVIEWED FROM THE PERSPECTIVE OF USEFULNESS

Ery Kurnia* *and* Hendry Julian Noor**

ABSTRACT

This study aims to analyze the legal arrangements of the authority of the Witness and Victim Protection Institution (LPSK) in implementing court decisions that have permanent legal force in the provision of the Victim Assistance Fund for Sexual Violence (DBK) before Government Regulation Number 29 of 2025 concerning the Victim Assistance Fund (PP DBK) is issued using discretion reviewed from the aspect of legal utility. The problems studied include the basis of LPSK's discretionary authority, the implementation of court decisions regarding underpayment restitution carried out through DBK, and the extent to which the discretion produces benefits for victims of sexual violence crimes (TPKS victims).

This study uses a normative method. How to obtain secondary data through primary legal materials, secondary legal materials, and tertiary legal materials. The approach method is a conceptual approach, a case approach, and a legislative approach. Data analysis uses qualitative methods, presented in an analytical descriptive manner, and the method of drawing conclusions is carried out deductively.

This study has two conclusions: First, LPSK has the authority to implement court decisions regarding the granting of DBK, because in court decisions there is LPSK's authority obtained through attribution, using systematic legal affirmation methods. Second, in the implementation of the court decision, LPSK can issue discretion according to its authority to fill the legal void in achieving legal objectives in terms of benefit, LPSK discretion is issued through LPSK Decree so that TPKS victims can obtain recovery through DBK in accordance with court decisions. The issuance of the discretion still pays attention to the Government Administration Law so that it does not violate the applicable provisions. Although there are several obstacles in its implementation, it still does not abort LPSK's obligation to carry out the provision of DBK before the PP DBK is issued based on a court decision.

***Keywords**: LPSK Discretion, Implementation of Court Decisions, Victim Assistance Fund, Sexual Violence, Legal Utility*

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INTISARI

Penelitian ini menganalisis pengaturan hukum kewenangan Lembaga Pelindungan Saksi dan Korban (LPSK) dalam melaksanakan putusan pengadilan yang telah berkekuatan hukum tetap dalam pemberian Dana Bantuan Korban Tindak Pidana Kekerasan Seksual (DBK) sebelum Peraturan Pemerintah Nomor 29 Tahun 2025 tentang Dana Bantuan Korban (PP DBK) terbit dengan menggunakan diskresi ditinjau dari aspek kemanfaatan hukum. Permasalahan yang dikaji mencakup dasar kewenangan diskresi LPSK, pelaksanaan putusan pengadilan mengenai restitusi kurang bayar dilakukan melalui DBK, serta sejauh mana diskresi tersebut menghasilkan kemanfaatan bagi korban tindak pidana kekerasan seksual (Korban TPKS).

Penelitian ini menggunakan metode normatif. Cara perolehan data sekunder melalui bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier. Metode pendekatan yaitu pendekatan konseptual, pendekatan kasus, pendekatan peraturan perundang-undangan. Analisis data menggunakan metode kualitatif, disajikan secara deskriptif analitis, dan metode penarikan kesimpulan dilakukan secara deduktif.

Penelitian ini memiliki 2 (dua) kesimpulan: ***Pertama,*** LPSK memiliki kewenangan untuk melaksanakan putusan pengadilan pemberian DBK, berdasarkan kewenangannya yang diperoleh dari atribusi, menggunakan metode penafisiran hukum sistematis. ***Kedua,*** dalam pelaksanaan putusan pengadilan, LPSK dapat menerbitkan diskresi untuk mengatasi *legal gap* dalam mencapai kemanfaatan, diskresi LPSK terbit melalui Keputusan LPSK pemulihan korban melalui DBK sesuai putusan pengadilan. Penerbitan diskresi tersebut tetap memperhatikan UU Administrasi Pemerintahan sehingga tidak melanggar ketentuan yang berlaku. Walaupun terdapat beberapa hambatan dalam pelaksanaannya, namun tetap tidak menggugurkan kewajiban LPSK untuk melaksanakan pemberian DBK sebelum PP DBK terbit berdasarkan putusan pengadilan.

Kata kunci:
Diskresi LPSK, Pelaksanaan Putusan Pengadilan, Dana Bantuan Korban, Kekerasan Seksual, Kemanfaatan Hukum

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