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INTISARI

Penelitian ini bertujuan untuk mengetahui dan menganalisis interpretasi aparat penegak hukum terhadap frasa sidang pertama dalam putusan Mahkamah Konstitusi Nomor 102/PUU-XIII/2015 terkait gugurnya praperadilan serta mengkaji dan merumuskan ketentuan mengenai gugurnya permohonan praperadilan setelah keluarnya putusan Mahkamah Konstitusi Nomor 102/PUU-XIII/2015.

Penelitian ini menggunakan metode penelitian normatif-empiris karena penulis menggunakan baik data primer maupun data sekunder dalam menjawab dan memecahkan rumusan masalah dengan cara mengumpulkan, mengkaji, mengolah serta menganalisis secara deskriptif dan preskriptif terhadap bahan-bahan kepustakaan atau studi dokumen yang berkaitan dengan praperadilan dan didukung dengan wawancara narasumber dan responden kemudian dibuat kesimpulan secara kualitatif.

Berdasarkan hasil penelitian, disimpulkan sebagai berikut; **Pertama**, bahwa sampai saat ini belum ada keseragaman penafsiran di kalangan penegak hukum terkait frasa *mulai diperiksa*, dalam Pasal 82 ayat 1 huruf d KUHAP, maupun frasa *sidang pertama* dalam Putusan Mahkamah Konstitusi Nomor 102/PUU-XIII/2015. Berbagai macam penafsiran tersebut antara lain; pertama, sidang pertama adalah saat jaksa penuntut umum melimpahkan berkas perkara, telah diregister di pengadilan negeri, penunjukan hakim, penentuan jadwal sidang, dan pembukaan sidang. Patokannya di saat pelimpahan berkas pokok perkara dan pembukaan sidang. Kedua, sidang pertama adalah saat hakim mengetuk palu tanda sidang dibuka dan terbuka atau tertutup untuk umum. Patokannya di saat hakim mengetuk palu tanda pembukaan sidang pertama. Ketiga, sidang pertama adalah saat hakim membuka sidang, dan jaksa penuntut umum membacakan surat dakwaan, walaupun tidak hadirnya terdakwa. Patokannya di pembacaan surat dakwaan. Keempat, sidang pertama adalah saat hakim membuka sidang, hakim memeriksa identitas terdakwa, dan jaksa penuntut umum membacakan surat dakwaan di hadapan terdakwa. Patokannya di pembacaan surat dakwaan dihadapan terdakwa dan penasehat hukum. **Kedua**, kedepannya perlu dimuat suatu frasa yang jelas dan tegas, yang termuat di dalam pasal dalam KUHAP dan penjelasannya terkait gugurnya permohonan praperadilan. Bunyi frasa tersebut antara lain; Pertama, permohonan praperadilan gugur sejak berkas perkara telah dilimpahkan dan telah terregister di pengadilan negeri. Kedua, permohonan praperadilan gugur sejak hakim mengetuk palu tanda sidang dibuka dan terbuka atau tertutup untuk umum. Ketiga, permohonan praperadilan gugur sejak surat dakwaan dibacakan. Keempat, permohonan praperadilan gugur sejak surat dakwaan dibacakan di hadapan terdakwa. Kelima, permohonan praperadilan gugur sejak surat dakwaan diterima oleh majelis hakim. Keenam, pengaturan terkait gugurnya permohonan praperadilan dihilangkan, yang perlu diatur adalah jika ada permohonan praperadilan, maka sidang pokok perkara ditunda hingga ada putusan praperadilan. **Kata Kunci : Gugur, Praperadilan, Putusan MK Nomor 102 Tahun 2015.**

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ABSTRACT

This research aims to comprehend and to analyze the interpretation of law enforcement officers to the first trial phrase of Constitutional Court Decree number 102/PUU-XIII/2015 related to the abortion of pre-trial and to investigate the rule of pre-trial application abortion after the announcement of Constitutional Court Decree number 102/PUU-XIII/2015.

This research applied normative-empirical method because the writer used both primary and secondary data in fulfilling and resolving research questions by collecting, investigating, processing, and analyzing literature material and document that related to pre-trial descriptively and prescriptively. The research data was also supported by interviews from source and respondent. The result of the interview was concluded qualitatively.

The research concluded that: **first**, until now there had not been any uniformity yet on the interpretation of the phrase *started to examine* in article number 82 sections 1 letter d (KUHAP) and phrase *first trial* in Constitutional Court decree number 102/PUU-XIII/2015 among law enforcement officers. Various interpretations of *first trial* were: 1) *first trial* referred to the time when the prosecutor transferred the case files, registered the case in state court, the chief of the state court pointed the judges, the trial time has been determined, and the opening of the trial. The benchmark was in the case files transfer and the trial opening; 2) *first trial* referred to the time when the judge knocked the trial hammer as the sign of trial opening and as it was opened and opened or closed for public. The benchmark was the time when judge knocked the trial hammer as the trial opened; 3) *first trial* referred to the time when judge opened the trial and prosecutor red the charge even though the suspect was not present. The benchmark was charge letter reading; 4) *first trial* referred to the time when judge opened the trial and then checked the identity of suspect and general prosecutor red the charge letter in front of suspect. The benchmark was the reading of the charge letter in front of suspect and his lawyer. **Second**, phrase in the (KUHAP) and its explanation related to the abortion of pre-trial application needed to be ruled clearly and firmly. Those phrases are: 1) pre-trial application would be aborted since the case files were transferred and registered in the state court; 2) pre-trial application would be aborted since the judge knocked the hammer as the sign of trial opening and as it was opened or closed for public; 3) pre-trial application would be aborted since the charge letter was red; 4) pre-trial application would be aborted since the charge letter was red in front of the suspect; 5) pre-trial application would be aborted since the charge letter was accepted by the judges; 6) the rule related to the pre-trial application aborted needed to be removed, which need to be regulate is the main case trial should be postponed until there was a pre-trial judgment if there were any pre-trial application.

Keywords: Aborted, Pre-trial, Constitutional Court Decree Number 102 of 2015

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