

Abstrak

Komisi Pengawasan Persaingan Usaha (KPPU) adalah lembaga yang dibentuk berdasarkan Undang-Undang Nomor 5 Tahun 1999 Tentang Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat. KPPU memiliki kewenangan luas yakni meneliti, memeriksa dan memutus perkara dugaan pelanggaran UU No. 5 Tahun 1999. Peraturan yang menjadi dasar hukum beracara di KPPU adalah Peraturan Komisi KPPU Nomor 1 Tahun 2019 Tentang Tata Cara Penanganan Perkara Praktik Monopoli dan Persaingan Usaha Tidak Sehat. Selanjutnya, Kode Etik Anggota Komisi KPPU diatur dalam Keputusan Komisi Pengawas Persaingan Usaha No. 22/KPPU/KEP/I/2009 Tentang Kode Etik Anggota Komisi Pengawas Persaingan Usaha. Dalam Putusan KPPU Nomor 13/KPPU-I/2019 terdapat keberatan pihak Terlapor yakni berkenaan dengan pelanggaran hukum acara dan Kode Etik Anggota Majelis Komisi. Hal ini menjadi wacana baru karena belum pernah masalah etik menjadi bagian dari keberatan Terlapor dalam persidangan.

Penelitian ini adalah penelitian hukum normatif menggunakan metode deskriptif analitis. Data sekunder diperoleh melalui studi kepustakaan serta meneliti bahan-bahan pustaka yang merupakan data sekunder. Teori yang digunakan adalah teori kepastian hukum Van Apeldoorn dan Jan Michael Otto.

Hasil penelitian menyimpulkan Putusan KPPU Nomor 13/KPPU-I/2019 belum mencerminkan kepastian hukum dikarenakan Majelis Komisi yang memeriksa dan memutus dalam putusan tersebut diketahui tidak menerapkan asas dan ketentuan yang diatur dalam Peraturan Komisi KPPU No. 1 Tahun 2019 Tentang Tata Cara Penanganan Perkara Praktik Monopoli dan Persaingan Usaha Tidak Sehat. Selain itu, terkait pengawasan atas Kode Etik maka KPPU tidak memiliki pengawasan internal maupun eksternal. KPPU hanya memiliki Majelis Kehormatan yang dibentuk *insidentil* untuk memeriksa dan memutus jika ada dugaan pelanggaran Kode Etik Anggota Komisi KPPU. Dalam Putusan KPPU No. 13/KPPU-I/2019 Penulis menyimpulkan adanya penyimpangan hukum yakni dugaan pelanggaran Kode Etik diputus oleh Rapat Komisi dan bukan Majelis Kehormatan.

Kata Kunci: KPPU, Hukum, Acara, Kode Etik

Abstract

The Business Competition Supervisory Commission (KPPU) is an institution established under Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. KPPU has broad authority, namely to research, examine and decide cases of alleged violations of Law no. 5 of 1999. The regulation that become the legal basis for proceedings at KPPU is KPPU Commission Regulation Number 1 of 2019 concerning Procedures for Handling Cases of Monopolistic Practices and Unfair Business Competition. Meanwhile, the Code of Ethics for KPPU Commission Members is regulated in the Decree of the Business Competition Supervisory Commission No. 22 / KPPU / KEP / I / 2009 concerning the Code of Ethics for the Members of the Business Competition Supervisory Commission. In the KPPU Decision Number 13 / KPPU-I / 2019, there were objections from the Reported Party, namely regarding violations of procedural law and the Code of Ethics

of the Commission Council Members. This becomes a new discourse because ethical issues have never been part of the Reported Party's objection in a trial.

This research is a normative legal research using analytical descriptive method. Secondary data is obtained through literature study and researching library materials which are secondary data. The theory used is Van Apeldoorn and Jan Michael Otto's theory of legal certainty.

The results of the study concluded that the KPPU Decision Number 13 / KPPU-I / 2019 did not reflect legal certainty because the Commission Council which examined and decided on the decision was found not to have applied the principles and provisions stipulated in the KPPU Commission Regulation No. 1 of 2019 concerning Procedures for Handling Cases of Monopolistic Practices and Unfair Business Competition. In addition, regarding the supervision of the Code of Ethics, KPPU does not have internal or external supervision. KPPU only has an Honorary Council that is incidentally formed to examine and decide if there is an alleged violation of the Code of Ethics for the Commission's Commissioner. In the KPPU Decision No. 13 / KPPU-I / 2019 The author concludes that there are legal irregularities, namely that the alleged violation of the Code of Ethics is decided by the Commission Meeting and not the Honorary Council.

Key Words: *KPPU, Procedures for Handling Cases, Code of Ethics.*