

**AKIBAT HUKUM TERHADAP AKTA PENDIRIAN KOPERASI, PASCA
DIBATALKANNYA UNDANG-UNDANG NOMOR 17 TAHUN 2012
TENTANG KOPERASI OLEH MAHKAMAH KONSTITUSI REPUBLIK
INDONESIA BERDASARKAN PUTUSAN NOMOR 28/PUU-XI/2013**

Prisma Wardana Sasmita¹ Hariyanto²

INTISARI

Penelitian ini bertujuan untuk mengetahui mengenai hal-hal yang menjadi pertimbangan Mahkamah Konstitusi dengan melakukan pembatalan atas keseluruhan materi dari Undang-Undang No. 17 Tahun 2012 tentang perkoperasian berdasarkan putusan No. 28/PUU-XI/2013, akibat hukum terhadap akta pendirian koperasi dan akta pendirian koperasi yang anggaran dasarnya oleh notaris telah di sesuaikan dengan Undang-Undang No.17 Tahun 2012 tentang Perkoperasian sehubungan dengan Putusan Mahkamah Konstitusi No. 28/PUU-XI/2013. tentang sikap notaris terhadap permintaan pembuatan akta pendirian koperasi pasca adanya putusan Mahkamah Konstitusi No.28/PUU-XI/2013.

Peneliti dalam hal ini menggunakan metode penelitian normatif empiris. Penelitian hukum normatif yaitu penelitian yang bersumber pada bahan pustaka atau data sekunder yang mencakup bahan hukum primer, sekunder, dan tersier. Sedangkan, penelitian hukum empiris yaitu penelitian yang pada awalnya meneliti data sekunder yang kemudian dilanjutkan dengan penelitian terhadap data primer di lapangan

Dari hasil penelitian ini dapat disimpulkan Pertimbangan Mahkamah Konstitusi bahwa di dalam Undang-Undang No 17 Tahun 2012 tentang Pengkoperasian menjadikan koperasi sama dan tidak berbeda dengan perseroan terbatas, menjadikan Koperasi kehilangan prinsip-prinsip koperasi yang gotong royong, maka Undang-Undang tersebut dibatalkan dengan Putusan Mahkamah Konstitusi No 28/PUU-XI/2013 dan sementara waktu Undang-Undang No 25 Tahun 1992 tentang Pengkoperasian diberlakukan kembali. Akibat hukum dari Putusan Mahkamah Konstitusi No 28/PUU-XI/2013 terhadap akta pendirian koperasi yang dibuat oleh Notaris berdasarkan Undang-Undang No 17 Tahun 2012 koperasi tersebut tetap sah secara hukum karena undang-undang tersebut pernah berlaku sebagai hukum positif di Indonesia. Notaris akan menerima permintaan pembuatan akta pendirian koperasi berdasarkan ketentuan hukum peraturan perundang-undangan yang berlaku sekarang.

Kata kunci: Akibat hukum, Akta pendirian Koperasi, Keputusan MK No 28/PUU-XI/2013.

¹ Perum Pondok Permai 1 Blok C No 9, Tambak, Jalan Godean Km 1, Yogyakarta.

² Jalan Sosio Justisia, Bulaksumur, Yogyakarta

ABSTRACT

This legal research is to understand the considerations of Constitutional Court in annulment the entire materials of Law No. 17 year 2012 concerning Cooperation based on Decision No. 28/PUU-IX/2013 and re-apply Law No. 25 year 1992 about Cooperation until the establishment of the new law, legal consequences of deed establishment of Cooperation with article of association by notary has been adapted with Law No. 17 year 2012 concerning Cooperation and or to the deed establishment of Cooperation made by notary based on Law no 17 year 2012 in relation with Constitutional Court decision No 28/PUU-XI/2013 concerning the Action of Notary to the request of making deed establishment of Cooperation after the annulment Law No 17 year 2012 concerning Cooperation by Constitutional Court based on Constitutional Court Decision No.28/PUU-IX/2013.

Writer in this research use empiris research method. Normative legal research is a research with the source on library materials or secondary data that include primary law materials, secondary, and tertiary. Meanwhile empirical legal research is research initially examined secondary data then followed by research to research on primary data in the field.

From this legal research, can be conclude that consideration by Constitutional Court that in Law No 17 Year 2012 concerning Cooperation become cooperation is the same and not different with limited liability company. Cooperation are losing its principle that is mutual cooperation, so that Law no 17 year 2012 concerning Cooperation is null by the Constitutional Court Decision No 28/PUU-XI/2013 and to avoid the legal vacuum, Law no 25 year 1992 concerning Cooperation are back again applicable. Legal consequences from the Constitutional Court Decision No 28/PUU-XI/2013 to the deed establishment of cooperation that has been made by notary based on Law no 17 year 2012 concerning Cooperation are still legally valid because the law has been applicable as the positive law in Indonesia, but coopertion has to adjust back to the article of association based on the Law no 25 year 1992. Menawhile cooperation that has deed establishment based on Law no 25 year 1992 and has been made changes on article association to adjust with Law no 17 year 2012 has to be make adjustment with the previous law which ish Law no 25 year 1992. Notary has to make the deed of establishment based on the regulation which is now applicable.

Keywords : Law Consequence, the deed of establishment of cooperative, the decision of the Constitutional Court number 28/PUU/IX/2013.