

RUANG BAWAH TANAH DAN PROSPEK PENGATURANNYA (KAJIAN DARI PERSPEKTIF HUKUM PERTANAHAN NASIONAL)

INTISARI

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Penelitian disertasi hukum ini bertujuan untuk mengetahui, menganalisis serta memberi rekomendasi : 1. Pengaturan yang seharusnya (*dassollen*) ruang bawah tanah yang meliputi; a. obyek, b. Subyek dan c. Hak atas ruang bawah tanah. 2. Sinkronisasi antara pengaturan ruang bawah tanah dengan asas-asas hukum pertanahan nasional.

Cara penelitian ini menggunakan hukum normatif yang didukung wawancara narasumber, jenis penelitian menganalisis *dassollen* ruang bawah tanah, jenis data yang diperoleh, data sekunder yang berupa bahan hukum primer dan sekunder. Cara pengumpulan data dilakukan dengan studi pustaka terhadap bahan hukum primer dan sekunder serta tersier. Wawancara para narasumber dari para akademisi dan pejabat terkait, menggunakan cara analisis asas-asas hukum pertanahan Nasional serta pisau analisis teori *property right* dari RJ. Vincent. Sehingga peneliti menarik kesimpulan secara deduktif, dan memberikan rekomendasi atau saran sesuai tujuan penelitian.

Hasil penelitian menunjukkan 1. Pengaturan; a. objek ruang bawah tanah, b. subjek ruang bawah tanah, dan c. hukum hak ruang bawah tanah, tidak terdapat dalam UUPA dan peraturan perundang-undangan setingkat undang-undang, dalam hal ini terdapat kekosongan atau kevakuman hukum ruang bawah tanah, 2. Prospek pengaturan ruang bawah tanah secara nasional harus menampung dan menyelesaikan konflik hukum yang akan terjadi. Pembentukan hukum ruang bawah tanah harus sinkronisasi dengan asas-asas hukum pertanahan nasional (asas kenasionalan, asas hak menguasai negara atas ruang bawah tanah, asas didasarkan atas hukum adat tentang ruang bawah tanah, asas tidak dapat bertentangan dengan kepentingan nasional dan negara, asas harus sesuai dengan kepentingan rakyat, asas fungsi sosial; asas jaminan kepastian hukum; dan asas harus sederhana) begipula selaras dengan teori *property right* dari RJ. Vincent.

Kata kunci: ruang bawah tanah; prospek pengaturan; hukum pertanahan nasional.

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UNDERGROUND SPACE AND ITS SETTING PROSPECTS (STUDY FROM NATIONAL LAND LAW PERSPECTIVE)

ABSTRACT

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This law dissertation research aims to identify, analyze and provide recommendations: 1. The proper arrangement (das solleh) of the underground space, which includes; a. object, b. Subjects and c. The right to the underground space, 2. Synchronization between the arrangement of the underground space, with the principles of national land law

This research method uses normative law which is supported by interviews with sources, the type of research analyzes the dasollen basement, the type of data obtained, secondary data in the form of primary and secondary legal materials. The method of data collection is done by literature study of primary and secondary and tertiary legal materials. Interviews of resource persons from academics and related officials, using the analysis of the principles of national land law and the analysis knife of property rights theory from RJ. Vincent. So that researchers draw conclusions deductively, and provide recommendations or suggestions according to research objectives.

The results showed 1. Settings; a. the object of the underground space, b. the subject of the underground space, and c. the law of the right of the underground space, not contained in the LoGA and statutory regulations at the level of law, in this case there is a legal vacuum or vacuum in the underground space. 2. The prospect of a national underground space arrangement must accommodate and resolve legal conflicts that will occur. The establishment of the law on underground space must be in sync with the principles of national land law (the principle of nationality, the principle of the right to control the state over the underground space, the principle is based on customary law regarding the underground space, the principle cannot conflict with the national and state interests, the principle must be appropriate with the interests of the people, the principle of social function; the principle of guaranteeing legal certainty; and the principle of being simple) is also in line with theory of property rights. RJ Vincent.

Keywords: underground space; regulatory prospects; national land law.

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