

Urgensi contempt of court sebagai upaya eksekutorial putusan peradilan tata usaha negara = Urgency of contempt of court as an executorial effort on state administrative court judgment / Fiqi Fatichadiasty

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Abstrak

ABSTRAK

Hadirnya Peradilan Tata Usaha Negara (TUN) sebagai lembaga penegak hukum administrasi bagi para pencari keadilan, seringkali menemui hambatan atas pelaksanaan/eksekusi putusan. Putusan yang dimaksud ialah dalam konteks putusan tersebut sudah in kracht, terhadap putusan yang sudah in kracht tersebut Pejabat TUN selaku pihak yang kalah seringkali tidak mau mematuhi isi putusan dari para hakim PTUN. Jenis penelitian ini adalah penelitian hukum normatif dengan menggunakan data sekunder. Terhadap faktor-faktor tidak dilaksanakannya putusan TUN disebabkan oleh beberapa faktor diantaranya seperti belum adanya pengaturan pelaksanaan terkait uang paksa, penggunaan media massa sebagai upaya pejabat TUN jera ternyata tidak mudah dijangkau oleh penggugat, eksekusi hierarkis yang sering tidak ditindaklanjuti, serta dapat disimpulkan sekalipun terdapat berbagai macam upaya paksa ternyata letak martabat dan daya eksekusi putusan TUN sendiri berada pada kesadaran/self respect dari pejabat TUN. Adapun perbuatan tidak patuh terhadap isi putusan TUN tersebut dapat masuk kedalam unsur perbuatan Contempt of Court yang disebutkan dalam Undang-Undang Nomor 14 Tahun 1985 jo Undang-Undang Nomor 5 Tahun 2004 tentang Mahkamah Agung. Adapun jenis perbuatan konstitutif ketidak patuhan pejabat TUN masuk kedalam bentuk penentangan terhadap perintah pengadilan secara terbuka atau disebut Obstruction of Justice. Hal tersebut dapat berimplikasi terhadap kemungkinan kriminalisasi Pejabat TUN sesuai Pasal 216 KUHP atas konsekuensi perbuatan tidak patuh tersebut.

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ABSTRACT

The presence of the State Administrative Court (TUN) as an administrative law enforcement agency for justice seekers, often faces obstacles to the implementation / execution of decisions. The verdict in question is in the context of the verdict already in kracht, against the verdict that is already in kracht TUN officials as the losing party often do not want to comply with the contents of the decisions of the PTUN judges. This type of research is normative legal research using secondary data. The factors that the implementation of the TUN verdict were not caused by several factors such as the lack of implementation

arrangements related to forced money, the use of mass media as a deterrent from TUN officials was apparently not easy to reach by the plaintiff, hierarchical executions were often not followed up, and it could be concluded even though there were various the kind of forced effort turns out that the location of the dignity and power of execution of the TUN decision itself is in the awareness / self respect of the TUN official. The act of not complying with the contents of the TUN decision can be included in the Contempt of Court element of action mentioned in Act Number 14 of 1985 jo Law Number 5 of 2004 concerning the Supreme Court. The type of constitutive act of disobedience of TUN officials goes into the form of open opposition to court orders or called Obstruction of Justice. This can have implications for the possibility of criminalization of TUN Officials in accordance with Article 216 of the Criminal Code for the consequences of such non-compliance.