

INKONSISTENSI PENENTUAN KERUGIAN NEGARA AKIBAT KREDIT MACET PADA BANK BUMN (Studi Putusan Mahkamah Konstitusi No. 77/PUU-IX/2011 V. No. 62/PUU-XI/2013 dan Putusan Mahkamah Agung No. 238 K/PID.SUS/2014) = Inconsistency in Determination of State Losses for Consequence of Non Performing Loan in State Owned Enterprise Bank (Case Study Constitutional Court Decision No. 77/PUU-IX/2011 v. No. 62/PUU-XI/2013 and Supreme Court Decision No. 238 K/PID.SUS/2014)

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Abstrak

Kredit macet yang terjadi pada Bank BUMN sering sekali termasuk ke dalam kasus korupsi karena dianggap menyebabkan kerugian negara. Namun apakah kredit macet pada Bank BUMN masih termasuk ke dalam kerugian Negara setelah adanya Putusan Mahkamah Konstitusi Nomor 77/PUU-IX/2011 dan Putusan Mahkamah Konstitusi Nomor 62/PUU-XI/2013. Penelitian yang menggunakan metode yuridis normative ini mengungkapkan bahwa telah terjadi inkonsistensi dalam penentuan kerugian negara pada BUMN khususnya dalam kasus kredit macet pada Bank BUMN di mana seharusnya setelah Putusan Mahkamah Konstitusi Nomor 77/PUU-IX/2011 penyelesaian utang piutang BUMN diserahkan kepada Bank BUMN tersebut sehingga kredit macet pada Bank BUMN bukanlah termasuk kerugian Negara. Putusan Mahkamah Konstitusi Nomor 62/PUU-XI/2013 tidak menggunakan Putusan Mahkamah Konstitusi Nomor 77/PUU-IX/2011 sebagai yurisprudensi sehingga mengakibatkan inkonsistensi dalam penentuan kerugian negara karena adanya dualisme hukum dalam pengertian keuangan negara.

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Non performing loan on the state-owned enterprise banks often included in corruption case because it is considered a state loss. However, the non performing loans (NPLs) in the state-owned enterprise (BUMN) banks is still counted as losses of the state after the Decision of the Constitutional Court Number 77/PUU-IX/2011 and Decision of the Constitutional Court Number 62/PUU-XI/2013. The research using normative juridical method reveals that there has been inconsistency in determining state losses in BUMN, especially in the case of NPLs. It argues that after the Constitutional Court Decision Number 77/PUU-IX/2011, debt settlement of state-owned receivables is handed over to the BUMN. Thus, NPLs of the BUMN Banks are not counted as loss of the state. However, the Decision of the Constitutional Court Number 62/PUU-XI/2013 does not use the Decision of the Constitutional Court Number 77/PUU-IX/2011 as jurisprudence. This leads to inconsistency in the determination of state losses due to the existence of legal dualism in the definition of state finances.