

Pelindungan bagi Whistleblower Berstatus Pegawai Negeri Sipil dalam Perkara Korupsi = Protection of Whistleblowers with Status as Civil Apparatus in Corruption Cases

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Abstrak

Tulisan ini menganalisis bagaimana pelindungan yang diberikan bagi Pegawai Negeri Sipil (PNS) yang melaksanakan kewajiban melaporkan pelanggaran atau tindak pidana korupsi Komisi Pemberantasan Korupsi (KPK). Dengan menggunakan metode penelitian doktrinal serta pendekatan perbandingan ketentuan jaminan pelindungan whistleblower berstatus pegawai negeri di negara lain yaitu Korea Selatan, Ghana, Malaysia dan Amerika Serikat dengan mengambil best practices bentuk pelindungan yang disediakan oleh negara tersebut. PNS yang melaksanakan kewajiban melaporkan pelanggaran atau tindak pidana korupsi telah diatur ketentuan pelindungan kerahasiaan identitas dan materi laporan, pelindungan hukum, pelindungan fisik, penghargaan, akan tetapi PNS yang mengalami tindakan pembalasan terhadap pekerjaannya dikarenakan mengungkap tindak pidana korupsi tidak terdapat pelindungannya. Dalam praktiknya PNS yang melaporkan tindak pidana korupsi ke KPK memang dilindungi kerahasiaan identitas dan materi laporan, hukum, fisik dan diberikan penghargaan. Namun PNS yang mengalami tindakan pembalasan terhadap pekerjaannya harus berupaya sendiri untuk memulihkan pekerjaannya melalui mekanisme upaya administratif kepegawaian dikarenakan tidak terdapat ketentuan pelindungan tindakan pembalasan terhadap pekerjaan bagi whistleblower yang berstatus PNS. Adapun di Korea Selatan, Ghana, Malaysia dan Amerika Serikat memiliki pengaturan pelindungan whistleblower berstatus public official atas tindakan pembalasan atau tindakan merugikan terhadap pekerjaannya melengkapi pelindungan kerahasiaan identitas dan materi laporan, pelindungan hukum, pelindungan fisik dan penghargaan. Dalam praktiknya pelindungan tindakan pembalasan terhadap pekerjaan bagi whistleblower berstatus PNS sangat dibutuhkan agar terbentuk jaminan pelindungan menyeluruh sebagaimana semangat yang terdapat dalam United Nations Convention Against Corruption (UNCAC)

.....This paper analyzes how protection is provided for Civil Apparatus (PNS) who carry out the obligation to report violations or corruption crimes of the Corruption Eradication Commission (KPK). By using doctrinal research methods and a comparative approach to the provisions of the guarantee of protection for whistleblowers with civil apparatus status in other countries, namely South Korea, Ghana, Malaysia and the United States by taking best practices in the form of protection provided by the country. PNS who carry out the obligation to report violations or corruption crimes have been regulated by provisions on the protection of the confidentiality of identity and report materials, legal protection, physical protection, awards, however, PNS who experience retaliation against their work due to exposing corruption crimes do not have any protection provisions. In practice, PNS who report corruption crimes to the KPK are indeed protected by the confidentiality of their identity and report materials, legal, physical and are given awards. However, PNS who experience retaliation against their work must make their own efforts to restore their jobs through the mechanism of administrative efforts for employees because there are no provisions on the protection of retaliation against work for whistleblowers with civil apparatus (PNS) status. Meanwhile, in South Korea, Ghana, Malaysia and the United States, there are regulations for protecting whistleblowers with public

official status from retaliation or detrimental actions against their work, complementing the protection of confidentiality of identity and report materials, legal protection, physical protection and awards. In practice, protection of retaliation against work for whistleblowers with civil apparatus (PNS) status is very much needed in order to form a comprehensive protection guarantee as stated in the spirit of the United Nations Convention Against Corruption (UNCAC).