

ABSTRACT

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IMPLEMENTATION OF ARTICLE 27 LAW NUMBER 2 OF 2020 ON CORRUPTION IN TIME OF COVID-19 PANDEMIC

(x + 101 pages)

On March 2, 2020 Indonesia announced its first COVID-19 case. As a result, the government issued law No. 2 of 2020. There are a lot of issues regarding the law, specifically in No.1 and 2 of article 27 which does not give any legal certainty. Article 27 of the law contradicts with the Eradication of the Criminal Act of Corruption Law (UU TIPIKOR) which emphasizes death penalties if certain conditions are met. Based on the explanation above, the issue discussed is how harmful is the implementation of No.1 of article 27 of law No. 2 of 2020 in terms of giving legal certainty during the COVID-19 pandemic. Furthermore, the paper will discuss how actions taken by the government based on No. 2 of article 27 of law No. 2 of 2020 cannot be accounted for in relation to the corruption eradication law during the COVID-19 pandemic. The method used for this research is a normative legal research, which was done by examining documents and other secondary data through desk research. When discussing the first issue, the findings of this paper show that the change of phrase from “state loss” (*kerugian negara*) into “economic cost” (*biaya ekonomi*) in article 27 No. 1 shows legal uncertainty. Furthermore, this law does not align with article 5F Law No. 12 of 2011 on the Establishment of Laws and Regulation, which necessitate legal certainty. On the second problem, the research shows that article 27 No.2 can be considered as an administrative corruption because the potential for future corruption acts can be done in accordance with the implementation of that law. However, because there are no current parameters that measure good intentions, the establishment of such parameters is needed. The General Principles of Good Governance (AUPB) on the Government Administration law and No. 5 of article 97 of the Limited Liability Company Laws (UU PT) can be used as a parameter to measure good intentions. As a result, the first conclusion is that article 27 No.1 does not express legal certainty and can cause misinterpretation on its implementation. The word “state loss” in that regulation does not ensure legal certainty for corruption acts during the COVID-19 pandemic. Furthermore, it gives an exception to certain political figures which could imply inequality and discrimination in the eyes of the law. The second conclusion refers to the judicial practice of implementing laws and regulation. Parameters of good intention should be based on AUPB and article 97 No. 5 of UU PT. Therefore, if state officials do such things, they could not be criminally condemned.

Keyword: corruption, good faith, legal certainty, covid-19

References: 86 (1945-2020)