

**UPAYA HUKUM PENINJAUAN KEMBALI (PK) OLEH PENUNTUT
UMUM PASCA PUTUSAN MAHKAMAH KONSTITUSI NOMOR
33/PUU-XIV/2016..**

ABSTRAK

Putusan MK Nomor 33/PUU-XIV/2016 menimbulkan permasalahan di dalam implementasinya, hal ini dilatarbelakangi ketidakpastian hukum perihal kewenangan mengajukan permohonan Peninjauan Kembali (PK) diantara terpidana/keluarga terpidana ataukah Penuntut Umum. Di dalam putusan MK menegaskan Penuntut Umum tidak bisa mengajukan permohonan PK, kecuali terpidana atau ahli warisnya sesuai bunyi Pasal 263 ayat (1) KUHP. Dilarangnya Penuntut Umum mengajukan PK dalam perkara pidana, dilandasi oleh 4 pertimbangan yaitu PK hanya diajukan terhadap putusan yang telah berkekuatan hukum tetap, PK tidak dapat diajukan terhadap putusan bebas dari segala tuntutan, permohonan PK hanya diajukan terpidana / ahli warisnya, dan PK hanya diajukan pada putusan pidana.

Rumusan masalahnya *pertama*, bagaimana penerapan langkah-langkah hukum luar Biasa Peninjauan Kembali (PK) bagi Jaksa Penuntut Umum setelah putusan Mahkamah Konstitusi Nomor 33/PUU-XIV/2016 ?. *Kedua*, bagaimana dampak penegakan hukum di Indonesia setelah putusan Mahkamah Konstitusi Nomor 33/PUU-XIV/2016 ?.

Metode penelitian ini menggunakan penelitian hukum normatif, dengan mengkaji dan menganalisa permasalahan terkait dikeluarkannya Putusan Mahkamah Konstitusi (MK) Nomor 33/PUU-XIV/2016.

Hasil penelitian menunjukkan penerapan upaya hukum luar Biasa Peninjauan Kembali bagi Penuntut Umum setelah putusan Mahkamah Konstitusi Nomor 33/PUU-XIV/2016, menimbulkan pro kontra. Namun, pada hakekatnya penerapan Pasal 263 ayat (1) dan (2) KUHP pengajuan PK berlaku bagi terdakwa atau ahli waris terdakwa. Sedangkan Pasal 263 ayat (3) KUHP pengajuan PK khusus bagi JPU dengan memperhatikan kepentingan masyarakat dan korban. Namun demikian, kewenangan JPU mengajukan PK menjadi terbatas dan menimbulkan penafsiran hukum yang tidak jelas sehingga timbulnya ketidakpastian hukum.

Kata Kunci : Upaya Hukum, Peninjauan Kembali, Penuntut Umum

LEGAL REVIEW (PK) BY THE PUBLIC PROSECUTORS AFTER THE DECISION OF THE CONSTITUTIONAL COURT NUMBER 33/PUU-XIV/2016.

ABSTRACT

The Constitutional Court's decision Number 33/PUU-XIV/2016 caused problems in its implementation, this was due to legal uncertainty regarding the authority to submit a judicial review (PK) application between the convict/convict's family or the public prosecutor. The Constitutional Court's decision emphasized that the Public Prosecutor could not apply for a PK, except for the convict or his heirs according to Article 263 paragraph (1) of the Criminal Procedure Code. Prosecutors are prohibited from submitting PKs in criminal cases, based on four considerations, namely PKs are only filed against decisions that have permanent legal force, PKs cannot be filed against decisions acquitted of all charges, PK applications are only submitted to the convict/his heirs, and PKs are only filed on criminal verdict.

The formulation of the problem first, how is the application of extraordinary legal steps for judicial review (PK) for the Public Prosecutor after the decision of the Constitutional Court Number 33/PUU-XIV/2016?. Second, what is the impact of law enforcement in Indonesia after the decision of the Constitutional Court Number 33/PUU-XIV/2016?.

This research method uses normative legal research, by reviewing and analyzing problems related to the issuance of the Constitutional Court (MK) Decision Number 33/PUU-XIV/2016.

The results of the study show that the application of extraordinary legal remedies for judicial review for the Public Prosecutor after the decision of the Constitutional Court Number 33/PUU-XIV/2016, raises pros and cons. However, in essence the application of Article 263 paragraphs (1) and (2) of the Criminal Code for filing a PK applies to the defendant or the defendant's heirs. Meanwhile, Article 263 paragraph (3) of the Criminal Code submits a special PK for the Public Prosecutor by taking into account the interests of the community and victims. However, the prosecutor's authority to propose a PK is limited and creates an unclear legal interpretation, resulting in legal uncertainty.

Keywords : Legal Effort, Review, Prosecutor.