

ABSTRAK

Optimalisasi pidana tambahan uang pengganti yang masih jauh dari kata ‘berhasil’ dikarenakan beberapa aspek, yaitu dari upaya preventif serta represif seperti penyitaan, perampasan dan pelelangan, gugatan perdata negara terhadap terdakwa atau ahli waris terdakwa jika terdakwa telah meninggal dunia dan subsidiaritas pidana tambahan uang pengganti yaitu pidana penjara pengganti yang belum mencapai preventif, penjeraan dan reformasi nilai moral terdakwa tindak pidana korupsi. Dalam mendukung penulisan ini, penulis menggunakan metode penelitian yuridis normatif dengan teknik analisis deskriptif kualitatif, lalu menggunakan pendekatan masalah perundang-undangan serta konseptual. Maka dari itu diperlukan beberapa konsep dalam membantu meningkatkan pidana tambahan uang pengganti khususnya seperti pelelangan pada proses hukum sedang berjalan dan putusan belum berkekuatan hukum, pedoman tolak ukur pidana penjara pengganti yang ideal berdasarkan pidana tambahan uang pengganti dan ketentuan penghitungan penghapusan sisa pidana penjara pengganti atas pembayaran uang pengganti saat menjalani pidana penjara pokok dan pidana penjara pengganti serta megadopsi gugatan perdata negara dengan konsep *Non-Conviction Based (NCB) Asset Forfeiture*. Konsep dan pedoman tersebut akan mendukung Pasal 18 ayat (1) huruf b Undang-Undang Nomor 31 Tahun 1999 sebagaimana telah diubah dengan Undang-Undang Nomor 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi dan Peraturan Mahkamah Agung Nomor 5 Tahun 2014 tentang Pidana Tambahan Uang Pengganti Dalam Tindak Pidana Korupsi.

Kata kunci: Pidana tambahan uang pengganti, Kerugian keuangan negara.

ABSTRACT

The optimalitation of additional compensation money is still far from 'successful' due to several aspects, namely from preventive and repressive measures such as confiscation, confiscation and auction, state civil lawsuits against the defendant or the defendant's heirs if the defendant has died and the criminal subsidence of additional replacement money. namely substitute imprisonment that has not achieved preventive, deterrent and reform of moral values of defendants of criminal acts of corruption. In supporting this writing, the author uses a normative juridical research method with qualitative descriptive analysis techniques, then uses a statutory and conceptual problem approach. Therefore, several concepts are needed to help increase of additional substitute money, in particular, such as auctions in the ongoing legal process and the decision is not yet legally binding, guidelines for benchmarking an ideal substitute imprisonment based on additional compensation for additional money and provisions for calculating the abolition of the remaining replacement imprisonment. for the payment of replacement money while serving the basic imprisonment and substitute imprisonment as well as adopting a state civil lawsuit with the concept of Non-Conviction Based (NCB) Asset Forfeiture. These concepts and guidelines will support Article 18 paragraph (1) letter b of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption and Supreme Court Regulation Number 5 of 2014 concerning the Criminal Law of Additional Compensation. In the Crime of Corruption.

Keywords: Additional money substitute, State financial losses.