

REFORMULASI UPAYA HUKUM TERHADAP PUTUSAN IN ABSENTIA PADA PERKARA TINDAK PIDANA KORUPSI

ABSTRAK

Peradilan *in absentia* merupakan mekanisme pengecualian dalam hukum acara pidana yang memungkinkan pemeriksaan dan putusan perkara tanpa kehadiran terdakwa, khususnya dalam perkara tindak pidana korupsi. Mekanisme ini bertujuan menjaga efektivitas penegakan hukum dan pemulihan kerugian keuangan negara ketika terdakwa melarikan diri atau sengaja menghindari proses peradilan. Namun, penerapannya menimbulkan persoalan serius terkait perlindungan hak terdakwa, terutama dalam konteks prinsip *due process of law*, *asas audi et alteram partem*, dan prinsip *equality of arms*. Penelitian ini bertujuan untuk menganalisis pengaturan peradilan *in absentia* di Indonesia serta merumuskan pengaturan upaya hukum yang ideal terhadap putusan *in absentia* dalam perkara tindak pidana korupsi di masa mendatang. Metode penelitian yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan, konseptual, dan perbandingan, khususnya dengan sistem hukum Kroasia dan instrumen hukum Uni Eropa. Hasil penelitian menunjukkan bahwa meskipun hukum positif Indonesia mengakui peradilan *in absentia* dalam tindak pidana tertentu, sistem hukum acara pidana belum menyediakan mekanisme upaya hukum khusus yang mampu memulihkan hak terdakwa secara substansial. Tidak adanya mekanisme *retrial* serta pembatasan peran penasihat hukum memperlemah jaminan peradilan yang adil. Oleh karena itu, penelitian ini merekomendasikan reformulasi upaya hukum terhadap putusan *in absentia* melalui pengaturan mekanisme pemeriksaan ulang yang komprehensif guna menjamin perlindungan hak terdakwa dan penerapan prinsip *due process of law* secara lebih optimal.

Kata Kunci: Peradilan *In Absentia*; Tindak Pidana Korupsi; *Retrial*; Upaya Hukum; *Due Process of Law*.

Reformulation of Legal Remedies Against In Absentia Judgments in Corruption Criminal Cases

ABSTRACT

Trial in absentia constitutes an exceptional mechanism in criminal procedural law that allows the examination and adjudication of a case in the absence of the defendant, particularly in corruption cases. This mechanism is intended to maintain the effectiveness of law enforcement and the recovery of state financial losses when the defendant absconds or deliberately evades judicial proceedings. However, its application raises serious concerns regarding the protection of the defendant's rights, particularly in relation to the principles of due process of law, audi et alteram partem, and equality of arms. This study aims to analyze the regulation of in absentia trials in Indonesia and to formulate an ideal framework for legal remedies against in absentia judgments in corruption cases in the future. The research employs a normative legal method using statutory, conceptual, and comparative approaches, with particular reference to the Croatian legal system and European Union legal instruments. The findings indicate that although Indonesian positive law recognizes in absentia trials for certain criminal offenses, the criminal procedural system does not provide a specific legal remedy capable of substantively restoring the defendant's rights. The absence of a retrial mechanism and the restriction on the role of defense counsel undermine the guarantee of a fair trial. Therefore, this study recommends a reformulation of legal remedies against in absentia judgments through the establishment of a comprehensive retrial mechanism to ensure the protection of defendants' rights and the more effective implementation of the principle of due process of law.

Keywords: *Trial In Absentia; Corruption; Retrial; Legal Remedies; Due Process of Law.*