

**IMPLIKASI YURIDIS ABOLISI PRESIDEN
TERHADAP PERTANGGUNGJAWABAN PIDANA TERDAKWA LAIN
DALAM PERKARA PENYERTAAN TINDAK PIDANA KORUPSI**

ABSTRAK

Pemberian abolisi oleh Presiden kepada menteri selaku aktor pemegang dominasi fungsional dalam perkara penyertaan (*deelneming*) tindak pidana korupsi impor gula memicu ketidakpastian dogmatis terhadap kelanjutan penuntutan para terdakwa dari sektor swasta yang diadili melalui mekanisme pemisahan berkas perkara (*splitsing*). Penelitian ini bertujuan mendekonstruksi implikasi yuridis instrumen prerogatif tersebut terhadap struktur pertanggungjawaban pidana berdasarkan ajaran aksesoir penyertaan (Pasal 55 KUHP) serta mengevaluasi validitas proses adjudikasi terhadap pihak swasta melalui optik *asas fair trial* dan doktrin *due process of law*. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan, pendekatan kasus dan pendekatan konseptual. Hasil penelitian menunjukkan bahwa pertanggungjawaban pidana pihak swasta tetap sah dipertahankan berdasarkan doktrin aksesoir terbatas (*beperkte accessoriteit*) yang memisahkan sifat melawan hukum objektif dari perbuatan (*strafbaarheid van het feit*) dengan kapasitas kesalahan personal pelaku (*strafbaarheid van de dader*). Namun, dalam dimensi formal prosedural, tindakan majelis hakim memblokir kehadiran menteri sebagai saksi akibat diberikannya abolisi secara nyata mereduksi prinsip *equality of arms* dan hak defensif terdakwa dalam membantah elemen kerja sama yang sadar (*bewuste samenwerking*). Ketidadaan batasan limitatif hak prerogatif eksekutif di tingkat hulu konstitusional mengakibatkan terjadinya defisit keadilan prosedural di tingkat hilir persidangan, sehingga menuntut adanya pembaruan regulasi organik guna memitigasi distorsi independensi kekuasaan kehakiman.

Kata Kunci: Abolisi, Penyertaan (*Deelneming*), Aksesoir Terbatas, *Fair Trial*, *Due Process of Law*

**JURIDICAL IMPLICATIONS OF PRESIDENTIAL ABOLITION
ON THE CRIMINAL LIABILITY OF CO-DEFENDANTS
IN CASES OF COMPLICITY IN CORRUPTION CRIMES**

ABSTRACT

The granting of abolition by the President to a minister, as the actor holding functional dominance in a sugar import corruption case involving complicity (deelneming), triggers dogmatic uncertainty regarding the continuation of the prosecution of private sector defendants tried through the mechanism of separating case files (splitsing). This research aims to deconstruct the juridical implications of this prerogative instrument on the structure of criminal liability based on the doctrine of accessory complicity (Article 55 of the Indonesian Criminal Code/KUHP) and to evaluate the validity of the adjudication process against private parties through the lens of the fair trial principle and the doctrine of due process of law. The research method employed is normative juridical, utilizing a statutory approach, a case approach, and a conceptual approach. The results indicate that the criminal liability of private parties remains validly sustained based on the doctrine of limited accessory (beperkte accessoriteit), which distinguishes the objective unlawfulness of the act (strafbaarheid van het feit) from the personal guilt capacity of the perpetrator (strafbaarheid van de dader). However, within the formal procedural dimension, the panel of judges' action in blocking the presentation of the minister as a witness due to the granted abolition significantly reduces the principle of equality of arms and the defendant's defensive rights to dispute the element of conscious cooperation (bewuste samenwerking). The absence of limitative boundaries on executive prerogative rights at the constitutional upstream level results in a procedural justice deficit at the downstream trial level, thereby necessitating organic regulatory reform to mitigate distortions to the independence of the judiciary.

Keywords: *Abolition, Complicity (Deelneming), Limited Accessory, Fair Trial, Due Process of Law.*