

Implementation of Article 90 of Kuhap in Connection Cases Based on Presidential Regulation Number 15 of 2021 About the Working Procedure Organization

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ABSTRACT

Presidential Regulation (Perpres) Number 15 of 2021 concerning the Organization and Work Procedure of the Prosecutor's Office of the Republic of Indonesia, revising Presidential Regulation Number 38 of 2010. The existence of this Perpres, attorney General's Office(AGO) officially has a Deputy Attorney General for Military Crimes. The Deputy Attorney General for Military Crimes has the duty and authority to carry out the duties and authorities of the Prosecutor's Office in the field of technical coordination of prosecutions carried out by the prosecutor and handling connectivity cases. In addition, the Deputy Attorney General for Military Crimes is also tasked with and authorized in conducting investigations of connectivity cases, researching the results of investigations, additional examinations, giving legal opinions to case handing officers, handing over cases, closing cases, stopping prosecutions, prosecutions, resistance, legal remedies, implementation of judge's determinations and court decisions that have obtained permanent legal force, examination, carrying out supervision of the implementation of conditional criminal decisions to supervisory criminal decisions, conditional release decisions.

Introduction

In the era of globalization, society will develop following the times, where this development is always followed by adjustments and adjustments in adjustments that do not occur as expected. In other words, without it, there will be a violation of norms such as the occurrence of various forms of crime. The social dangers to the community include moral decline, namely with crime and the growth and development of generations being stopped (Putra, 2018) law in the sense of rules or laws can indeed occur as a tool (regulator) in channeling the direction of human activities towards development (Manullang, 2019).

Soekanto also gave opinions related to the law, most of which are not codified, are coercive, and have sanctions or legal consequences (Haq, 2020). Acts that cause an effect that is prohibited by the rule of law will cause difficulties. (Sianturi, 2017). Criminals are perpetrators, but officials, law enforcers, and even the TNI can also commit criminal acts. Even though the military is a special way of life, which is regulated separately in military discipline law, (Waluyo, 2020). However, in reality, many TNI members commit criminal acts. If a member of the TNI commits a crime, the court that tries the TNI member is the Military Court. However, keep in mind that law enforcement through military courts is the last resort (ultimum premium) if disciplinary law enforcement by superiors cannot overcome

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existing problems (Sagala & Ferdian, 2017). Law Number 31 of 1997 concerning Military Courts states that members of the TNI can be tried in the community military court if they (Nugroho, 2017) and also that every matter can be resolved promptly (Ardiansyah, Marlina, Handoko, & Sukri, 2018).

Therefore, judges should ideally make decisions that reflect legal certainty, justice, and expediency. (Amarini, 2018). Judges also have the goal of certainty and justice and uphold the law (Wantu, 2012)

From several cases of criminal acts committed by members of the TNI or TNI, there is the involvement of members of the TNI together with civil society in committing a crime. In criminal law, the case is included in the Connectivity case. Connectivity is a judicial system that is applied to a crime in which the suspect or defendant participates (deelneming) or together (made a kris) between civilians and people with military status (TNI soldiers). Connectivity Court is a judicial system against suspects perpetrators of inclusion violations between civilians and military personnel. Thus, it is certain that the connectivity trial will involve inclusion offenses between civilians and military personnel as regulated in Articles 55 and 56 of the Criminal Code. Because basically the current law enforcement practice, the value of legal certainty is more prominent than the community's sense of justice (Irsyad, 2013) And there are still many legal cases that have not been completely resolved so that it affects people's trust in law enforcement (Langgeng, 2018)

The Connectivity Court is the scope of a settlement of criminal acts committed jointly by those with the status of a Military and the other as a Civilian, in the sense that they are included in a different scope of Court, where Civilians are tried in the General Courts, while the Military is tried in the General Courts. Military Court, (Sopnar Maru Hutagalung, 2018)

The legal basis for judicial connectivity is regulated in Articles 89-94 of the Criminal Procedure Code, Law Number 31 of 1997 concerning Military Courts, Article 22 of Law no. 14 of 1970 which has been amended by Article 16 of Law Number 48 of 2009 concerning Judicial Power. And with the enactment of Law Number 48 of 2009 concerning Judicial Power, an implementing

regulation regarding Article 16 is needed, so that there is harmony in the provisions of the Articles regarding judicial connectivity.

The government officially established the position of Deputy Attorney General for Military Crimes at the Attorney General's Office. This is stated in Presidential Regulation (Perpres) Number 15 of 2021 concerning the Second Amendment to Presidential Regulation Number 38 of 2010 concerning the Organization and Work Procedure of the Prosecutor's Office of the Republic of Indonesia.

The regulation came into effect on February 11, 2021. The regulation was issued to increase the effectiveness of the implementation of the duties and authorities of the Indonesian Attorney General in carrying out technical coordination of prosecution. human rights (Maringka, 2019) In addition, it is deemed necessary to reorganize the organization and work procedures of the Indonesian Attorney General's Office to apply the principles of realizing bureaucratic reform and accelerating the provision of legal services to the public. Article 5 of the regulation states that the organization of the Attorney General's Office consists of the Attorney General, Deputy Attorney General; Deputy Attorney General for Development, Deputy Attorney General for Intelligence, Deputy Attorney General for General Crimes, and Deputy Attorney General for Special Crimes. Then, Deputy Attorney General for Civil and State Administration, Deputy Attorney General for Military Crime, Deputy Attorney General for Supervision, Education and Training Agency, Expert Staff, and the Center.

Article 25A reads The Deputy Attorney General for Military Crimes is an auxiliary element of the leadership in carrying out the duties and authorities of the Prosecutor's Office in the field of technical coordination of prosecutions carried out by the prosecutor and the handling of connectivity cases, responsible to the Attorney General.

Meanwhile, the Attorney General for Military Crimes is led by the Deputy Attorney General for Military Crimes. Furthermore, Article 25B states that the task of this position is to carry out the duties and authorities of the Prosecutor's Office in the field of technical coordination of prosecutions carried out by the prosecutor handling connectivity cases.

The scope of the technical coordination of prosecution carried out by the prosecutor and the handling of connectivity cases includes investigation of connectivity cases, research on the results of investigations, and additional examinations.

Then, giving legal opinions to the case handling officer, submitting the case, closing the case, stopping the prosecution, prosecution, resistance, legal remedies, implementing judge decisions and court decisions that have permanent legal force, examination, supervision of the implementation of conditional criminal decisions, criminal decisions supervision, parole decisions, and other legal actions in the field of technical coordination of prosecutions carried out by the prosecutor and the handling of connectivity cases.

The duties and authorities as intended are carried out by the provisions of the legislation. Article 36 also stipulates that each young attorney general consists of a Secretariat of the Junior Attorney General and a maximum of five directorates. The secretariat consists of groups of functional positions. In its implementation, Presidential Regulation No. 15 of 2021 concerning the Organization of the Prosecutor's Office cannot be carried out properly because the stage is until the High Prosecutor's Office does not reach the District Prosecutor's Office.

Method

The research method is descriptive-analytical, which describes the problems and facts that occur based on positive legal norms, namely the laws related to this research.

The normative juridical approach is to use positive legal norms related to the disparity of court decisions.

Data analysis was carried out qualitatively, meaning without using numbers and statistical formulas.

Results And Discussion

President Joko Widodo signed Presidential Regulation (Perpres) Number 15 of 2021 concerning the Organization and Work Procedure of the Attorney General's Office of the Republic of Indonesia. This rule revises Presidential Regulation No. 38 of 2010. With this Presidential Regulation, the

Attorney General's Office (AGO) officially has a Deputy Attorney General for Military Crimes.

As for the organizational structure Attorney General's Office contains the existence of the Deputy Attorney General for Military Crimes as stated in Article 5 of Presidential Regulation Number 15 of 2021. The Deputy Attorney General for Military Crimes is an auxiliary element of the leadership in carrying out the duties and authorities of the Prosecutor's Office in the field of technical coordination of prosecutions carried out by the prosecutor and handling connectivity cases, is responsible for to the Attorney General.

The Deputy Attorney General for Military Crimes has the duty and authority to carry out the duties and authorities of the Prosecutor's Office in the field of technical coordination of prosecutions carried out by the judiciary and the handling of connectivity cases. In addition, the Deputy Attorney General for Military Crimes is also tasked and authorized in conducting investigations on connectivity cases, researching the results of investigations, additional examinations, giving legal opinions to case handling officers, submitting cases, and closing cases.

Then, the termination of prosecution, prosecution, resistance, legal remedies, implementation of judge's determinations and court decisions that have obtained permanent legal force, examination, carrying out supervision of the implementation of conditional criminal decisions to supervisory criminal decisions, and conditional release decisions. The duties and authorities are carried out by the provisions of the legislation.

The issuance of Presidential Decree Number 15 of 2021 concerning the Organization and Work Procedures of the Attorney General's Office of the Republic of Indonesia still leaves obstacles in its implementation because the Deputy Attorney General for Military Crimes has only reached the high prosecutor's office, but it has not been completed by the District Attorney's Office, so it is necessary to re-evaluate the organization and work procedures of the Attorney General's Office of the Republic of Indonesia.

The Connectivity Court was originally formed because of concerns that if a military-related case was brought to a civilian court, it

could open the door a state secret, so for the sake of state security, the settlement of the case is resolved by a connectivity procedure. (Ambarwati, 2021).

The provisions of the Criminal Procedure Code regulate connectivity in CHAPTER XI Article 89 to Article 94.

Article 90 of the Criminal Procedure Code:

- 1) Measured in terms of losses caused by the crime.
- 2) If the losses incurred are mostly suffered by the military, the examination of the connectivity case is examined and tried in the Military Court even though most of the defendants are civilians

Determination of Connectivity Court:

Article 90

- a. Joint research is held by the prosecutor or high-ranking prosecutor and the military prosecutor or high-ranking military prosecutor based on the results of the team's investigation in Article 89 paragraph (2).
- b. Opinions and joint research are stated in minutes signed by the parties.
- c. If in the joint research there is a conflict of opinion regarding the court authorized to hear the case, then it is reported by the prosecutor or high prosecutor to the Attorney General and by the military prosecutor or high military prosecutor to the Public Prosecutor General of the Armed Forces of the Republic of Indonesia.

If it is applied that the connection case is tried by a court within the general court environment, then the composition of the panel of judges is the chairman of the panel of judges from the general court environment and the respective member judges from the general court environment and the military court environment in a balanced manner. If the case is tried in a military court environment, then the chairman of the panel of judges from the military court environment and member judges from the military court and general court environment is balanced.

The complexity and dynamics of complex process problems in the context of resolving both the investigation and trial stages of criminal acts of connectivity make it difficult for investigators and general courts or military courts to apply the connectivity examination procedures that have been regulated in the Criminal Procedure Code and

the Military Criminal Procedure Code which should be absolute (limitative and imperative).

The justification and pragmatism of investigators and general courts or military courts that hide behind the principles of simple, fast, and low-cost justice is the right solution in law enforcement. It can also be explained that several provisions of the Criminal Procedure Code and the Military Criminal Procedure Code as an elaboration of these principles, in particular to the suspect or defendant "have the right" too :(Harahap, 2002).

- a. Immediately get an examination from investigators
- b. Immediately submitted to the public prosecutor by the investigator.
- c. Immediately submitted to the court by the public prosecutor.
- d. The right to be immediately tried by the court.

Conclusion

President Joko Widodo signed Presidential Regulation (Perpres) Number 15 of 2021 concerning the Organization and Work Procedure of the Attorney General's Office of the Republic of Indonesia. This rule revises Presidential Regulation No. 38 of 2010. With this Presidential Regulation, the Attorney General's Office (AGO) officially has a Deputy Attorney General for Military Crimes. The Deputy Attorney General for Military Crimes has the duty and authority to carry out the duties and authorities of the Prosecutor's Office in the field of technical coordination of prosecutions carried out by the judiciary and the handling of connectivity cases. In addition, the Deputy Attorney General for Military Crimes is also tasked and authorized in conducting investigations on connectivity cases, researching the results of investigations, additional examinations, giving legal opinions to case handling officers, submitting cases, and closing cases. Then, termination of prosecution, prosecution, resistance, legal remedies, implementation of judges' decisions and court decisions that have permanent legal force, examinations, monitoring the implementation of conditional criminal decisions to supervisory criminal decisions, and conditional release decisions.

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References

- Amarini, Indriati. (2018). Generating A High Quality And Integrity Career Judges Recruitment Post-Constitutional Court Decision Number 43/Puu-Xiii/2015. *Jurnal Dinamika Hukum*, 18(3), 301–308. [Google Scholar](#)
- Ambarwati, Siska. (2021). Omnibus Law On Job Creation: State Capture? *Jurnal Media Hukum*, 28(1), 29–46. [Google Scholar](#)
- Ardiansyah, Irfan, Marlina, Tat, Handoko, Duwi, & Sukri, Beni. (2018). *Tata Hukum Positif Indonesia*. Hawa Dan Ahwa. [Google Scholar](#)
- Haq, Hilman Syahrial. (2020). *Pengantar Hukum Adat Indonesia*. Penerbit Lakeisha. [Google Scholar](#)
- Irsyad, Syamsuhadi. (2013). Tanggapan Atas Kajian Pemetaan Pembangunan Struktur Hukum Di Indonesia (Fokus Pada Pembangunan Lembaga Peradilan). *Kosmik Hukum*, 13(2). [Google Scholar](#)
- Langgeng, Setyo. (2018). Peran Advokat Sebagai Penegak Hukum Dalam Mendukung Terwujudnya Sistem Peradilan Pidana Terpadu Dalam Penegakan Hukum Pidana Di Indonesia. *Jurnal Daulat Hukum*, 1(1). [Google Scholar](#)
- Manullang, Herlina. (2019). *Pengantar Ilmu Hukum Indonesia*. Bina Media Perintis. [Google Scholar](#)
- Maringka, Jan S. (2019). *Reformasi Kejaksaan Dalam Sistem Hukum Nasional*. Sinar Grafika. [Google Scholar](#)
- Nugroho, Trisapto Wahyu Agung. (2017). Reposisi Dan Transformasi Organisasi Litbang Kementerian Hukum Dan Ham Repositioning And Transformation Of The Organization For Research And Development Of The Ministry Of Law And Human Rights. *Jurnal Ilmiah Kebijakan Hukum*, 7(1), 84–103. [Google Scholar](#)
- Putra, Yudhi Pratama. (2018). *Penerapan Sanksi Pidana Pasal 114 (1) Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika Terhadap Anggota Tni Yang Melakukan Tindak Pidana Sebagai Perantara Dalam Jual Beli Narkotika: Studi Kasus Di Wilayah Hukum Pengadilan Militer Ii-09 Bandung, Putusan Nomor: Put/145-K/Pm. Ii-09/Au/Viii/2010 Jo Nomor: 196 L/Mil/2011*. Uin Sunan Gunung Djati. [Google Scholar](#)
- Sagala, Parluhutan, & Ferdian, Fredy. (2017). Yurisdiksi Peradilan Militer Dalam Kekuasaan Kehakiman Di Indonesia. *Diambil Dari <https://www.dilmiltama.go.id/home/ejournal/yurisdiksiperadilanmilitar>. Pdf*. [Google Scholar](#)
- Sianturi, Edward Suhendro. (2017). *Pertimbangan Hakim Dalam Menjatuhkan Putusan Bebas Atas Dakwaan Alternatif (Studikasusputusan: 413/Pid. Sus/2013/Pn Mtr)*. [Google Scholar](#)
- Sopah Maru Hutagalung, N. P. M. (2018). *Perlindungan Hukum Hak Cipta Musik Dalam Pembangunan Sistem Hukum Di*

Indonesia (Suatu Kajian Melalui Pendekatan Politik Hukum Undang-Undang Hak Cipta). Universitas Pasundan. [Google Scholar](#)

Waluyo, Bambang. (2020). *Penyelesaian Perkara Pindana*. Sinar Grafika. [Google Scholar](#)

Wantu, Fencem. (2012). Mewujudkan Kepastian Hukum, Keadilan Dan Kemanfaatan Dalam Putusan Hakim Di Peradilan Perdata. *Jurnal Dinamika Hukum*, 12(3), 479–489. [Google Scholar](#)

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