



THE EFFECTIVENESS OF THE ROLE OF THE SUPERVISORY BOARD OF THE CORRUPTION ERADICATION COMMISSION IN IMPLEMENTING WIRING

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Abstract

The revision of Law No. 19 of 2019 on the Second Amendment to Law No. 30 of 2002 on the Corruption Eradication Commission (KPK) has raised a number of pros and cons regarding the additional articles. The existence of the Supervisory Board is considered to weaken the independence of the KPK and is at risk of expanding the authority of the addition of Article 12B, paragraph (1), which states "Wiretapping as referred to in Article 12, paragraph (1), is carried out after obtaining written permission from the supervisory board". The problem formulations in this research are: How is the regulation of wiretapping with its relation to the right to privacy right in the context of law enforcement? How is the implementation of wiretapping in Law Number 19 of 2019 and comparison with the ideal concept of wiretapping in the context of law enforcement? How is the review of the existence of a supervisory board in the judicial system in Indonesia? Furthermore, the method in this research is normative legal research, with a statutory approach, case approach, historical approach, comparative approach, and conceptual approach..

Keywords: *Authority, Supervisory Board, KPK, Wiretapping.*

1. INTRODUCTION

The amendment of Law No. 19 of 2019 on the Second Amendment to Law No. 30 of 2002 on the Corruption Eradication Commission (KPK) has sparked a debate over its supplementary provisions. The presence of the Supervisory Board is believed to compromise the autonomy of the KPK (Corruption Eradication Commission) and may result in an extension of the scope of Article 12B, subsection (1), which stipulates "Wiretapping as mentioned in Article 12, subsection (1), can only be conducted after obtaining written consent from the supervisory board." The research aims to address the issue of wiretapping regulations and their impact on individuals' right to privacy within the framework of law enforcement. What is the implementation status of wiretapping under Law Number 19 of 2019 and how does it compare with the ideal concept of wiretapping in the context of law enforcement? Additionally, what is the assessment of the presence of a supervisory board in the Indonesian judicial system? This study employs normative legal research with a statutory, case, historical, comparative, and conceptual approach.

2. IMPLEMENTATION METHOD

Legal research is essentially a form of scientific activity based on a certain methodology, systematic approach, and thinking. The aim is to study some or all of the existing legal symptoms by analyzing them. Additionally, an in-depth examination of the existence of one or several legal facts is carried out to attempt to find solutions for the problems that arise in the concerned symptoms.

1. Type of research:

The research/approach used by the author is normative legal research, namely legal research conducted with a statutory approach, historical approach, comparative approach,

and conceptual approach. In the normative concept, law is a norm defined by justice to be realised or manifested as a form of firm and clearly formulated orders. (*Ius Constitutum*) to ensure its certainty, and also norms that are an integral part of the legal products produced by a judge (judgments) when the judge decides a case by paying attention to the realization of benefits and benefits for the parties.

2. Data Source

The main data in this research is secondary data obtained from: Primary legal materials
Primary legal materials are legal materials.

3. RESULTS AND DISCUSSION

Based on the description in the previous chapter, it can be concluded that the KPK's authority to conduct wiretapping to reveal corruption crimes has been supported by various laws and regulations and, therefore, the use of wiretap recordings at the evidential stage in a trial is valid. The juridical value of wiretap recordings in trials has evolved in line with technological developments and the support of laws and regulations that guarantee the use of this technology to uncover criminal offences. Initially, wiretap recordings had no juridical value in court. The Criminal Procedure Code (KUHAP) does not recognise the existence of wiretapping authority. Therefore, wiretap recordings cannot be placed into the category of evidence. Wiretap recordings then have a place in evidence at trial as an extension of the source of evidence. The judicial value of wiretap recordings as an expanded source of evidence is regulated in Article 26 A of Law No. 20 of 2001 Concerning the Amendment to Law No. 31 of 1999 Concerning the Eradication of Corruption Crimes, which reads:

"Valid evidence in the form of clues as referred to in Article 188, paragraph (2) of Law Number 8 of 1981 concerning Criminal Procedure, specifically for criminal acts of corruption, can also be obtained from:

1) Other evidence in the form of information that is spoken, sent, received or stored electronically by optical means or similar, and."

2) Documents, namely any record of data or information that can be seen, read, or heard that can be issued with or without the aid of a means, whether it is written on paper, any physical object other than paper, or recorded electronically, in the form of writing, sound, images, maps, designs, photographs, letters, signs, numbers, or perforations that has meaning.

Based on this article, wiretap recordings are included in "other evidence in the form of information that is spoken, sent, received, or stored electronically by optical means or similar" as mentioned in letter a of Article 26A of Law No. 20 of 2001 Concerning the Amendment to Law No. 31 of 1999 Concerning the Eradication of Corruption. The judicial value of wiretap recordings as an extension of the source of evidential clues means that wiretap recordings cannot be relied upon as standalone evidence. This is due to the definition of evidence itself, which according to the Criminal Procedure Code is "an act, event or situation, which corresponds to the criminal act itself and indicates that a criminal act has occurred and who the perpetrator is." Thus, to be accepted as evidence of a clue, the wiretap recording must demonstrate compatibility with other sources of clue evidence, such as witness testimony, letters, and the defendant's testimony. The juridical value of wiretap recordings as a source of clue evidence has not changed with the enactment of Law No. 30 of 2002 on the Corruption Eradication Commission (KPK Law). The KPK Law.

Supervision is quite difficult to formulate, especially since the word "supervision" is often confused with the words inspection, control, and other similar terms. However, the essence of all these words boils down to the notion of supervision. Etymologically, the word "supervision" comes from the English language, namely "supervision" or controlling, which can also mean control. In carrying out its duties and responsibilities, the KPK is supervised by several parties. Legislative supervision of the KPK is conducted by the House of Commons (DPR), executive supervision by the President of the Republic of Indonesia, internal supervision by the Directorate of Internal Supervision, public supervision by the Deputy for Public Complaints, and media supervision by journalists. With the enactment of Law No. 19/2019 on the Second Amendment to Law No.



30/2002 on the Corruption Eradication Commission (revision of KPK Law), there is a change in external supervision, which used to be conducted by the Ethics Committee, to be conducted by the Supervisory Board. In the revision of the Corruption Eradication Commission Law, the government and the House of Commons established the Supervisory Board as the party that conducts external supervision of the KPK. It is the author's opinion that the position of the KPK prior to the revision of the Corruption Eradication Commission Law, which placed the KPK as an unlimited independent institution that was not in the realm of the legislature, executive or judiciary, was contrary to the principle of trias politica as the source of state law in the Republic of Indonesia. Whereas, the KPK should be placed in one of the three domains in the Trias Politika theory, namely the Executive, Legislative, or Judiciary. Based on the Constitutional Court Decision (MK) Number 36/PUU-XV/2017, the KPK is placed as an institution in the executive domain, which carries out functions in the executive domain, namely investigation, investigation, and prosecution.

Constitutionally, a KPK that cannot be controlled by any governmental power or institution is contrary to the Indonesian system of government. State institutions such as the KPK should have a check and balance system as a form of accountability for the institution. The existence of a check and balance system will create institutions that work and relate to each other towards the achievement of the objectives of state administration. The author argues that the most controversial issues are the establishment of a Supervisory Board and licensing obligations for wiretapping, seizure and detention. In the legal and constitutional aspects, when the DPR and the Government, who are given the authority and power to form laws and regulations, have used their mandate, the implication is that all parties must comply and are considered to know (fictional). The author argues that to understand the authority of wiretapping, an explanation is needed from other laws and regulations.

4. CONCLUSION

Based on the analysis and discussion of wiretapping regulations and their relationship to the right to privacy in the context of law enforcement, The implementation of wiretapping in Law Number 19 of 2019 and its comparison with the ideal concept of wiretapping in law enforcement, as well as an examination of the existence of a supervisory board in the judicial system in Indonesia based on the provisions of legislation, lead to the conclusion that the research problem is as follows: 1. As for the regulation of wiretapping and its relation to the right to privacy in law enforcement, recordings from wiretapping often provide surprising information about the corruption committed by the defendant. One interesting thing to discuss in the trial with Defendant M. Al Amien Nur Nasution is the connection between wiretapping recordings and privacy and morality. The issue of privacy and ethics in wiretapping recordings arose when the judge examining the corruption case with Defendant M. Al Amien Nur Nasution played a wiretapping recording containing information about the defendant's personal life. Indonesia currently lacks regulations or guidelines for judges to examine wiretapping recordings. The trial of the corruption case with defendant M. Al Amien Nur Nasution demonstrates the importance of such regulation. Without rules or guidelines for judges to examine the recordings of wiretapping, it would be difficult to address the issue of privacy protection in wiretapped recordings. Questions regarding privacy in wiretapping recordings, such as whether the legal value of recordings indicated to violate privacy is the same as the legal value of other wiretapping recordings, will be difficult to answer definitively.

2. Adapting the interception implementation in Law Number 19 of 2019 and comparing it to the ideal concept of interception in the framework of law enforcement, based on Article 26A of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Criminal Act of Corruption. The recording of wiretapping has been received as a standalone evidence with the same position as other evidences, as stipulated in KUHAP based on Article 5 paragraph 1 of Law No. 11 of 2008 concerning Electronic Information and Transactions. Regarding the criteria for the admissibility of wiretapping recordings as evidence in court, there is currently no clear regulation. The KPK Law does not clearly regulate the limits of wiretapping authority usage. Therefore, the desire arose to revise the granting of wiretapping authority for the KPK by various



parties, culminating in the issuance of Law number 19 of 2019 regarding Changes to the 2002 KPK Law, regulating changes to it.

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