

Analisis perlindungan hukum bagi pembuat kebijakan di Bank Indonesia dalam menjalankan fungsinya sebagai lender of the last resort = Analysis of legal protection for policy makers in Bank Indonesia on doing of its function as lender of the last resort / Eva Aderia Simanjuntak

Simanjuntak, Eva Aderia, author

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Abstrak

[ABSTRAK

Tesis ini berjudul Analisis Perlindungan Hukum Bagi Pembuat Kebijakan Di Bank Indonesia Dalam Menjalankan Fungsinya Sebagai Lender of The Last Resort. Tugas sebagai Lender of The Last Resort (LoLR) merupakan tugas yang melekat dalam sejarah keberadaan bank sentral. LoLR dalam sistem keuangan Indonesia ditujukan untuk membantu bank-bank yang mengalami kesulitan likuiditas dan berfungsi untuk mencegah terjadinya krisis keuangan yang sistemik. Sebagai bank sentral, tugas LoLR tidak lepas dengan tugas dan kewenangan Bank Indonesia. Namun demikian, dalam pelaksanaan tugas LoLR ini beberapa kali pembuat kebijakan di Bank Indonesia terkait dengan kasus hukum.

Oleh karena itu, perlindungan hukum bagi para pejabat pengambil kebijakan atau keputusan di Bank Indonesia sangatlah penting, apalagi kebijakan erat kaitannya dengan diskresi yang apabila menyangkut urusan pemerintahan akan lebih mengutamakan pencapaian tujuan sarasannya (doelmatigheid) daripada legalitas hukum yang berlaku (rechtsmatigheid).

Terdapat 2 (dua) permasalahan yang dikaji dalam penelitian ini yaitu bagaimana pengaturan perlindungan hukum bagi pembuat kebijakan di Bank Indonesia dan bagaimana ketentuan perlindungan hukum yang diberikan kepada pegawai dan pejabat pengambil keputusan dengan ketentuan yang berlaku. Penelitian dalam tesis ini adalah penelitian hukum normatif yang bersifat deskriptif analitis dengan menggunakan pendekatan undang-undang dan ketentuan serta analisis konsep hukum. Bahan hukum yang digunakan terdiri dari bahan hukum primer berupa perundang-undangan dan ketentuan, bahan hukum sekunder berupa literatur yang berkaitan dengan permasalahan, dan bahan hukum tersier berupa kamus hukum dan artikel. Bentuk pengaturan hukum terhadap perlindungan hukum diatur dalam Pasal 45 Undang-Undang No. 23 Tahun 1999 Tentang Bank Indonesia sebagaimana telah diubah beberapa kali terakhir dengan Undang-Undang Republik Indonesia Nomor 6 Tahun 2009 dan Peraturan Bank Indonesia Nomor No.11/10/PDG/2009 tentang Bantuan Hukum. Perlindungan hukum ditujukan untuk menciptakan suasana kerja yang kondusif guna meningkatkan kinerja pelaksana tugas kedinasan Bank Indonesia dalam menghadapi permasalahan hukum yang semakin kompleks dan berkembang. Prinsip penyediaan perlindungan hukum adalah bahwa pegawai atau pejabat BI tidak dapat dihukum atas pelaksanaan tugas dan wewenangnya atau karena telah mengambil keputusan yang diperlukan dalam melaksanakan tugas dan wewenangnya, sepanjang dilakukan dengan itikad baik dan sesuai dengan peraturan perundang-undangan.

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ABSTRACT

This thesis entitled Analysis of Legal Protection for Policy Makers in Bank Indonesia on Doing of Its Function as Lender of the Last Resort. The task as Lender of Last Resort (LoLR) is embedded in the

existence of the central bank's history. LoLR in Indonesia's financial system aims to help banks experiencing liquidity problems and serves to prevent a systemic financial crisis. As a central bank, LoLR cannot be separated with the duties and authority of Bank Indonesia. However, in the execution of LoLR several times policy makers in Bank Indonesia related to the legal case.

Therefore, legal protection for officials or policy makers in Bank Indonesia is very important, moreover policy is closely related to discretion regarding the affairs of government will prioritize the achievement of the target objectives (doelmatigheid) rather than the legality of applicable law (rechtsmatigheid).

There are two (2) issues examined in this research is how the legal protection arrangements for policymakers in Bank Indonesia and how the legal protection that is given to employees and decision makers with applicable regulations. The research in this thesis is a normative legal research that is descriptive analytical approach by using legislation and regulations as well as analysis of legal concepts. Legal materials consisted of primary legal materials in the form of legislation and regulations, secondary legal materials in the form of literature related to the problems, and tertiary legal materials in the form of legal dictionaries and articles.

Form of legal regulation of the legal protection provided for in Article 45 of Law No. 23 of 1999 concerning Bank Indonesia as amended several times, most recently by the Law of the Republic of Indonesia Number 6 of 2009 and Regulation of Bank Indonesia Number 11/10 / PDG / 2009 on Legal Assistance. Legal protection is intended to create a working atmosphere which is conducive to improve the performance of executing official duties of Bank Indonesia in the face of increasingly complex legal problems and develop. The principle of the provision of legal protection is that BI's employee or official cannot be punished for the implementation of tasks and authority or for taking the necessary decisions in carrying out its duties and authorities, all done in good faith and in accordance with legislation., This thesis entitled Analysis of Legal Protection for Policy Makers in Bank Indonesia on Doing of Its Function as Lender of the Last Resort. The task as Lender of Last Resort (LoLR) is embedded in the existence of the central bank's history. LoLR in Indonesia's financial system aims to help banks experiencing liquidity problems and serves to prevent a systemic financial crisis. As a central bank, LoLR cannot be separated with the duties and authority of Bank Indonesia. However, in the execution of LoLR several times policy makers in Bank Indonesia related to the legal case.

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