

Kepastian Hukum Pembayaran Kompensasi PHK Pada Perusahaan Yang Mengalami Kerugian Secara Terus-Menerus = Legal Certainty Of Paying Off Compensation To Companies That Have Continuous Losses

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Abstrak

Menyebarnya wabah Covid 19 di seluruh dunia, turut berdampak negatif bagi kehidupan dan perekonomian di Indonesia. Pemerintah merespon dengan berbagai peraturan dan kebijakan untuk menghindari penularannya, dengan memberlakukan Lock down dan kebijakan Pembatasan Sosial Berskala Besar. Kebijakan tersebut menyebabkan penghasilan perusahaan menurun secara signifikan, karena kegiatan produksi perusahaan terhambat dan mengakibatkan kerugian drastis, ditambah lagi bagi perusahaan yang telah merugi pada tahun sebelumnya. Pada akhirnya perusahaan menyatakan rugi secara terus menerus dan terpaksa melakukan Pemutusan Hubungan Kerja. Konsekuensinya, perusahaan wajib memberikan uang pembayaran kompensasi PHK sesuai ketentuan undang-undang yang jumlah besar, sehingga sulit dipenuhi secara langsung oleh pengusaha.

.....Tujuan dari penelitian tesis ini adalah menganalisis upaya yang dapat dilakukan terhadap mantan pekerja, agar uang kompensasi PHK dapat dibayarkan dengan segera dan pasti. Penelitian ini menggunakan metode penelitian kualitatif dengan mengambil sampel di perusahaan di wilayah tangerang serta menggunakan metode penelitian yuridis normatif dan menggunakan analisis prescriptive analytics, guna mencari solusi terbaik bagi kedua belah pihak. Hasil penelitian diperoleh dari serangkaian wawancara dengan mantan pekerja yang di PHK serta menganalisis permasalahan, terungkap bahwa ketentuan UU No.40 tentang PT. mengenai upaya penyelamatan tidak terapkan sebagaimana mestinya. Ketentuan UU No. 11 Tahun 2020 tentang Ciptakerja mengenai pembayaran kompensasi PHK juga tidak dilaksanakan sesuai jumlah yang ditetapkan. Ketentuan UU No. 2 tahun 2004 tentang PPHI tidak memberikan daya paksa dalam pelaksanaan perjanjian bersama yang telah disepakati sehingga diingkari dengan alasan keuangan perusahaan yang sedang merugi. Penyelesaiannya adalah dengan melakukan pembayaran kompensasi PHK secara bertahap sesuai kemampuan perusahaan berdasarkan kesepakatan disertai pembebanan jaminan.

.....The spread of the Covid 19 outbreak throughout the world has also had a negative impact on life and the economy in Indonesia. The government responded with various regulations and policies to prevent the spread of the virus, by imposing Lockdown and Large-Scale Social Restrictions. This policy caused the company's income to decrease significantly, because the company's production activities were hampered and resulted in drastic losses, in addition to companies that had suffered losses in the previous year. In the end, the company declared continuous losses and was forced to terminate the employment relationship. As a consequence, the company is obliged to pay compensation for layoffs in accordance with the provisions of the law, which is a large amount, making it difficult for employers to fulfill directly. The purpose of this thesis research is to analyze the efforts that can be made to former workers, so that the compensation for layoffs can be paid immediately and surely. This study uses qualitative research methods by taking samples from companies in the Tangerang area and using normative juridical research methods and using prescriptive analytics analysis, in order to find the best solution for both parties. The results obtained from a

series of interviews with former workers who were laid off and analyzing the problems, it was revealed that the provisions of Law No. 40 concerning PT. regarding rescue efforts were not implemented properly. Provisions of Law no. 11 of 2020 concerning job creation regarding the payment of compensation for layoffs is also not carried out according to the stipulated amount. Provisions of Law no. 2 of 2004 concerning PPHI does not provide coercive power in the implementation of the agreed collective agreement so that it is denied on the grounds of the company's financial loss. The solution is to pay compensation for layoffs in stages according to the company's ability based on an agreement accompanied by the imposition of guarantees.