

Kajian Kritis terhadap Wewenang Penyidik dalam Pelaksanakan Urinalisis dalam Tindak Pidana Narkotika Berdasarkan Asas Due Process of Law = Critical Study towards The Investigator's Authority to Perform Urinalysis in the Narcotics Crime based on The Due Process of Law Principle

Petrus Bachtiar, author

Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=9999920555330&lokasi=lokal>

Abstrak

Tindak pidana narkotika merupakan tindak pidana khusus yang berdampak merugikan terhadap kepentingan umum terkhusus generasi muda sehingga dapat mengancam ketahanan negara negara. Tindak pidana narkotika dilaksanakan secara terorganisir dan sistematis oleh pelakunya, maka dalam penegakannya dibutuhkan suatu upaya penanganan yang luar biasa. Oleh karena itu, Undang-Undang Nomor 39 Tahun 2009 tentang Narkotika mengatur suatu bentuk perluasan tindakan penyidikan yang mengoptimisasi perkembangan ilmu pengetahuan dan teknologi salah satunya ialah urinalisis yang pada dasarnya merupakan tindakan yang tergolong sebagai pemeriksaan barang bukti, di mana hasilnya berkedudukan sebagai alat bukti surat di pengadilan. Sebagai suatu bentuk tindakan hukum, jelas konsekuensinya bahwa pelaksanaan urinalisis harus dilaksanakan berdasarkan prinsip due process of law. Dalam penelitian yuridis-normatif ini penerapan prinsip due process of law dianalisis dengan menggunakan 5 (lima) asas yang mendasari admisibilitas alat bukti yakni, legality, necessity, legitimate aim, proportionality, dan safeguard against illegitimate access. Apabila, asas-asas tersebut tidak dipenuhi, maka akibatnya alat bukti hasil urinalisis yang dihadirkan di persidangan dapat dikesampingkan oleh hakim. Penelitian ini menemukan bahwa pelaksanaan urinalisis pada tindak pidana narkotika di Indonesia telah menerapkan ke-lima asas tersebut, akan tetapi belum terdapat unifikasi peraturan terkait tindakan urinalisis, dan terhadap asas safeguard against illegitimate access yang seharusnya dijamin oleh keberadaan lembaga praperadilan belum dapat diterapkan karena keterbatasan wewenang. Adapun saran yang dapat diberikan melalui penelitian ini ialah, perancangan peraturan yang mengunifikasi mekanisme pelaksanaan urinalisis dengan mempertimbangkan perspektif kepastian hukum, serta pemberian perluasan kewenangan pada lembaga praperadilan untuk menguji akuntabilitas aparat penegak hukum dalam pelaksanaan urinalisis pada tindak pidana narkotika.

.....Narcotics crime is a special crime that has a detrimental impact on the public interest, especially the younger generation so that it can threaten the resilience of the state. Narcotics crimes are carried out in an organized and systematic manner by the perpetrators, so in their enforcement extraordinary measures are needed. Therefore, Indonesian Narcotics Crime Acts regulates a form of expansion of investigative actions that optimizes the development of science and technology, one of which is urinalysis which is basically an action that is classified as an examination of evidence, where the results are located as documentary evidence in court. As a form of legal action, the consequence is clear that the urinalysis must be carried out based on the principle of due process of law. In this juridical-normative research the application of the due process of law principle is analyzed using 5 (five) principles that underlie the admissibility of evidence, namely, legality, necessity, legitimate aim, proportionality, and safeguard against illegitimate access. If, these principles are not met, then the result of the urinalysis evidence presented at the trial can be set aside by the judge. This study found that the implementation of urinalysis on narcotics crimes in Indonesia has

implemented the five principles, but there has been no unification of regulations related to urinalysis, and the principle of safeguard against illegitimate access which should be guaranteed by the existence of pretrial institutions has not been implemented due to limited authority. . The suggestions that can be given through this research are the design of regulations that unify the mechanism for implementing urinalysis by considering the perspective of legal certainty, as well as granting expansion of authority to pretrial institutions to test the accountability of law enforcement officers in carrying out urinalysis on narcotics crimes.