

Due to Legal Decisions of the Industrial Relations Court that Exceed the Time Limitation of 50 Working Days Since the First Session

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ABSTRACT

This study examines the legal consequences of industrial relations court decisions that exceed the time limit of 50 working days from the first trial. This research is normative legal research, which is conducting research by examining various laws and regulations and legal principles related to the settlement of industrial relations disputes. The study results indicate that the industrial relations court's decision is still legally valid even though the decision has passed the time limit of 50 working days from the first trial as regulated in Article 103 of the PPHI Law. This is because the procedural law adheres to *lex stricta*, which must be interpreted strictly, including the prohibition on the interpretation of analogies. Apart from the principle of *lex stricta*, the principle of *res judicata pro veritate habetur*, and the null and void nature of the law, it also confirms that the IRC's decision remains valid even though it violates the provisions of Article 103 of the PPHI Law. Based on the research results, it can be suggested that the Supreme Court immediately issued a Supreme Court Regulation (PERMA) regarding the imposition of administrative sanctions on the industrial relations court judges who violate the provisions of Article 103 of the PPHI Law.

Keywords: decision, industrial relations court, time limit

ABSTRAK

Penelitian ini bertujuan untuk mengkaji akibat hukum putusan pengadilan hubungan industrial yang melebihi batas waktu 50 hari kerja sejak sidang pertama. Penelitian ini merupakan penelitian hukum normatif, yaitu melakukan penelitian dengan mengkaji berbagai peraturan perundang-undangan dan asas hukum yang berkaitan dengan penyelesaian perselisihan hubungan industrial. Hasil penelitian menunjukkan bahwa Putusan pengadilan hubungan industrial tetap sah secara hukum walaupun putusan tersebut melewati batas waktu 50 hari kerja sejak sidang pertama sebagaimana diatur pada Pasal 103 UU PPHI. Hal itu karena hukum acara menganut asas *lex stricta*, yaitu harus ditafsirkan secara ketat, termasuk ke dalamnya larangan penafsiran analogi. Selain asas *lex stricta*, asas *res judicata pro veritate habetur* dan sifat batal demi hukum tidak murni juga menguatkan bahwa putusan PHI tetap sah walaupun melanggar ketentuan Pasal 103 UU PPHI. Berdasarkan hasil penelitian, maka dapat disarankan agar Mahkamah Agung segera menerbitkan Peraturan Mahkamah Agung (PERMA) mengenai pengenaan sanksi administratif terhadap majelis hakim pengadilan hubungan industrial yang melanggar ketentuan Pasal 103 UU PPHI.

Kata Kunci: putusan, pengadilan hubungan industrial, batas waktu

INTRODUCTION

Legal protection efforts for workers are carried out when workers carry out their work and when there are disputes between workers and employers. Protection of workers is intended to guarantee the fundamental rights of workers and ensure equal opportunity and treatment without discrimination for anything to realize the welfare of workers and their families while taking into account the progress of the business world and the interests of entrepreneurs (Santoso, 2011).

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One form of legal protection for workers in the event of a dispute is that there is a time limit for resolving disputes. The time limit setting is carried out at each stage of the dispute, including settling disputes in the industrial relations court. Article 103 of Law Number 2 of 2004 (PPHI Law) states that "the panel of judges is obliged to give a decision on the settlement of industrial relations disputes not later than 50 (fifty) working days from the first trial." Juridically, Article 103 of the PPHI Law is an incomplete provision because there is no juridical consequence if the decision on the settlement of industrial relations disputes exceeds the specified time. As a result, the panel of judges may decide beyond the 50-day time limit.

Sociologically, many industrial relations court decisions still exceed the time limit of 50 working days. This can be seen from several decisions of the Industrial Relations Court in six major cities in Indonesia, namely Jakarta, Bandung, Surabaya, Semarang, Medan, and Makassar, for example, shown in the following table 1.

Table 1. Industrial Relations Court Decisions Exceeding the Limit of 50 Working Days Since the First Session

| No. | Case Number | Type of Dispute | First Session Date | Decision Date | Information |
|-----|-----------------------------|------------------|--------------------|-------------------|-------------|
| 1. | 25/PHI.G/2013/PN.JKT.PST | Work termination | February 7, 2013 | June 10, 2013 | 123 Days |
| 2. | 105/PHI.G/2013/PN.JKT.PST | Work termination | July 1, 2013 | October 21, 2013 | 112 Days |
| 3. | 4/PHI.G/2014/PN.JKT.PST | Work termination | January 23, 2014 | 24 July 2014 | 182 Days |
| 4. | 11/PHI.G/2014/PN.JKT.PST | Work termination | February 3, 2014 | August 25, 2014 | 203 Days |
| 5. | 1/PHI/2016/PN.Mks | Right | January 21, 2016 | March 28, 2016 | 61 Days |
| 6. | 11/Pdt.Sus-PHI/2016/PN.Mks | Work termination | July 19, 2016 | October 12, 2016 | 84 Days |
| 7. | 29/Pdt.Sus-PHI/2017/PN.Smg | Work termination | 24 August 2017 | December 14, 2017 | 112 Days |
| 8. | 36/Pdt.Sus-PHI/2017/PN.Smg | Work termination | October 24, 2017 | 27 March 2018 | 154 Days |
| 9. | 5/Pdt.Sus-PHI/2018/PN.SBY | Work termination | January 31, 2018 | May 23, 2018 | 127 Days |
| 10. | 4/Pdt.Sus-PHI/2018/PN.SBY | Work termination | February 1, 2018 | May 17, 2018 | 105 Days |
| 11. | 182/Pdt.Sus-PHI/2018/PN.Bdg | Work termination | 19 September 2018 | January 21, 2019 | 123 Days |
| 12. | 212/Pdt.Sus-PHI/2018/PN.Bdg | Work termination | November 7, 2018 | February 13, 2019 | 98 Days |
| 13. | 223/Pdt.Sus-PHI/2018/PN.Bdg | Right | November 21, 2018 | February 6, 2019 | 77 Days |
| 14. | 25/Pdt.Sus-PHI/2019/PN.Mdn | Work termination | 7 February 2019 | May 2, 2019 | 84 Days |
| 15. | 35/Pdt.Sus-PHI/2019/PN.Mdn | Right | February 18, 2019 | May 6, 2019 | 77 Days |

Source: legal materials processed from the Supreme Court Case Investigation Information System

The legal material in table 1 shows that the decisions on industrial relations disputes at the Central Jakarta Industrial Relations Court, Bandung Industrial Relations Court, Medan Industrial Relations Court, Surabaya Industrial Relations Court, Semarang Industrial Relations Court, and Makassar Industrial

Relations Court passed the limit of 50 days from the first trial, thus contradicting the provisions of Article 103 of the PPHI Law. Even in some disputes, the ruling far exceeds the 50 working day deadline.

In addition to being reviewed juridically and sociologically, there have been several studies or articles related to the time limit for making decisions by industrial relations court judges. The articles are as follows in table 2.

Table 2. Articles Regarding Time Limits for Settlement of Disputes at the Industrial Relations Court

| No | Author | Title | Conclusion |
|----|---|--|--|
| 1 | Akbar Pahveli Iskandar dan Arinto Nugroho | Implementation of the Obligation to Settle Cases at the Industrial Relations Court within a maximum period of 50 days (Case Study at the Surabaya Industrial Relations Court) | The panel of judges at the Surabaya Industrial Relations Court has implemented the rules regarding the time limit in order to achieve a speedy trial, but the implementation of the obligation to settle cases at the Surabaya Industrial Relations Court cannot run optimally, this is evidenced by all court decisions in 2018 which exceed the 50 day time limit (Iskandar & Nugroho, 2018). |
| 2 | Benri Sitinjak dan Ediwarman | Application of the Special Procedure Law for the Industrial Relations Court at the Medan District Court (Study of Industrial Relations Court Decisions at the Medan District Court) | Sociologically, the application of special procedural law in the industrial relations court has not been implemented as effectively and efficiently as it should be, because there are still obstacles, namely the legal provisions that open up opportunities to be ignored because there are no sanctions, as well as the legal behavior of related parties who have not implemented a good legal culture. (Sitinjak & Ediwarman, 2014). |
| 3 | Maryanto dan Wahyuni Safitri | Mechanism of Settlement of Industrial Relations Disputes in View of Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes at the Samarinda Class 1A District Court | Article 103 of Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes states that "The Panel of Judges is obliged to give a decision on the settlement of industrial relations disputes within 50 (fifty) working days from the first trial", it cannot be implemented properly as the mandate of the applicable laws and regulations (Maryanto & Safitri, 2018). |

The conclusion of these articles shows that the provisions of Article 103 of the PPHI Law cannot be implemented properly. The difference between previous research and this research is that previous research examines the implementation of the provisions of Article 103 of the PPHI Law. In contrast, this research focuses on examining the legal consequences of industrial relations court decisions that violate Article 103 of the PPHI Law.

The decision of the industrial relations court that violates the provisions of Article 103 of the PPHI Law certainly creates legal uncertainty, so it is unfair for workers who have a weaker position. According to John Rawls in the theory of social justice, in an unequal situation, in this case, the socio-economic sector must benefit the weak (Prasetyo et al., 2021). Therefore, the time limit on the settlement of industrial

relations disputes must be enforced as formal legal protection for workers. Based on the background of the problem that has been described, a problem can be formulated, namely regarding the legal consequences if the decision on industrial relations disputes handed down by the panel of judges exceeds the time limit of 50 days from the first trial as stipulated in Article 103 of the PPHI Law.

RESEARCH METHOD

This research is normative legal research, which is conducting research by examining various laws and regulations and legal principles related to the settlement of industrial relations disputes. About the legal issues in question in this research, the norms of Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes will be analyzed, in particular Article 103, which does not completely regulate the time limit for the settlement of industrial relations disputes in the industrial relations courts, so that many decisions of the courts of industrial relations industry that has passed the 50 working day deadline since the first session.

RESULTS AND DISCUSSION

Legal Consequences of Industrial Relations Court Decisions Exceeding the Time Limit of 50 Working Days Since the First Session

The court's decision or the judge's decision is the final stage of the proceedings at the trial of civil proceedings. In court, decisions that need to be considered is the legal consideration of whether the decision has an objective reason or not (Sopnar Maru Hutagalung, 2019). A good judge's decision must meet two requirements: meeting theoretical and practical needs (Saleh & Mulyadi, 2012). The theoretical need is that considering the content and considerations, the decision must be accountable from a legal perspective, not infrequently. Even a decision in the form of jurisprudence can determine a new law.

In contrast, the practical need is that the judge is expected to be able to resolve the issue/dispute with his decision. In addition to considering decisions that meet theoretical and practical needs, the panel of judges must also pay attention to the formal requirements because it can result in the decision being null and void if the formal requirements are not met. The formal requirements of a court decision, among others, can be described as follows.

First, every Court Decision Must Begin With Irah-Irah "FOR JUSTICE BASED ON THE ALMIGHTY GOD." The juridical basis of the irah-irah is "FOR JUSTICE BASED ON THE ONE ALMIGHTY GOD" namely Article 2 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power which states, "Judgment is carried out for the sake of justice based on the Almighty God." In line with these provisions, Article 197 paragraph (1) sub an of Law Number 8 of 1981 concerning the Criminal Procedure Code states, "the head of the written decision reads 'For Justice Based on the One Godhead.' Meanwhile, Article 197 paragraph (2) states that non-fulfillment of the provisions in paragraph (1) will result in the decision being null and void.

In relation to these articles, we must understand and understand that although Indonesia is not a religious state or a state that makes one religion the official state religion, Indonesia is a country that respects religious values as a source of values or values. Source of the law of life (Jayadi, 2018). The logical consequence of the head of the decision, which reads 'In the Name of God', is a judge in deciding cases:

1. He must rely on normative provisions and must be by his conscience based on divinity.

2. In addition to relying on written norms, it is also based on living legal norms, which grow and develop, by and in line with the community's sense of justice.
3. Able and able to account for his decision to the Creator, namely God Almighty.
4. As an enforcer of justice, a judge is an inner/spiritual basic need for everyone and is the glue of social relations in society and the state (Wajdi, 2017).

Suppose in a court decision at the head of the decision it is not stated that the irrah-irah "BASED ON JUSTICE BASED ON THE ALMIGHTY GOD." In that case, the court's decision can legally be said to be legally flawed, so it cannot be implemented properly and/or can be canceled at the level of appeal (T Sarwono, 2018). That's because the inclusion of irah-irah "FOR JUSTICE BASED ON THE ALMIGHTY GOD" at the head of the decision is a must. Apart from that, these irahs also mean that the court's decision has executorial power, which in practice, if it turns out that the party who was convicted or defeated in a dispute in court turns out to be negligent or unwilling to carry out his obligations, then the court can carry out the execution assisted by the third party—local, territorial apparatus (SW Sarwono, 2019).

Second, every court decision must be read out in a court session which is declared open to the public. The principle of openly pronounced court decisions is regulated in Article 13 of Law Number 48 of 2009 concerning Judicial Power which states that:

1. Court hearings are open to the public unless the law provides otherwise;
2. A court decision is only valid and has legal force if it is pronounced in a trial open to the public;
3. Failure to comply with the provisions as referred to in paragraphs (1) and (2) will result in the decision being null and void.

These provisions indicate that a court decision read out in a trial that is not declared open to the public may result in the decision being legally invalid and null and void. Therefore, the court's decision must be read at a hearing which is declared open to the public. In addition, court decisions pronounced in court hearings that are open to the public are also an integral part of the fair trial principle (Yahya Harapan, 2017). According to the fair trial principle, the trial examination must be based on an honest process from the beginning to the end. Thus, openness in the trial process from beginning to end is part of the fair trial principle.

In the practice of district court trials which are held open to the public, there are still exceptions, namely in cases of divorce between husband and wife as stated in Article 33 of Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage, because the problem is personal and cannot be known to the public (T. Sarwono, 2018). It is very natural to protect one's privacy, considering that the reading of the verdict by the judge must contain considerations related to the subject matter of the case.

Third, every decision must be signed by the presiding judge, member judge, and clerk. For a court decision to be declared valid, the court decision must be signed by the presiding judge, member judges, and the clerk. This is by the provisions of Article 184 paragraph (1) HIR jo. Article 195 paragraph (3) RBg jo. Article 50 paragraph (2) of Law Number 48 of 2009. If a court decision is not signed by the presiding judge, member judge, and clerk, then the decision is legally invalid and has no binding force. Such a court decision can be a legally flawed decision and can be null and void by law.

The industrial relations court is a special court established within the district court with authority to examine, hear, and give decisions on industrial relations disputes. As one of the judicial bodies, the decision of the industrial relations court must meet the formal requirements as described above. In addition, in particular, the imposition of decisions in industrial relations disputes is limited to 50 working

days from the first trial. That means, apart from paying attention to the formal requirements set out in Law Number 48 of 2009, the panel of judges must also pay attention to the timing of dispute resolution.

Article 103 of Law Number 2 of 2004 indicates that the decision of the industrial relations court must be read out no later than 50 working days from the first trial. This is a special formal requirement in settlement of industrial relations disputes. The difference is that the formal requirements outlined in Law Number 48 of 2009 are related to the technicalities of writing and reading decisions, while the formal requirements outlined in Article 103 of Law Number 2 of 2004 relate to imposing decisions.

Although the regulation regarding the time limit for the imposition of a decision is expressly regulated in Law Number 2 of 2004, the consequences if the decision of the industrial relations court does not fulfill these provisions are not regulated. As a result, many industrial relations court decisions have passed the 50 working day deadline. This, of course, creates legal uncertainty and is detrimental to workers who have a weaker position.

Decisions that do not meet the formal requirements will result in the decision being declared null and void. The statement is null and void by a higher court institution (Hasanah, 2018). This opinion is based on a teaching that holds the opinion that it is null and void (*van rechtsweenetig*) or null and void, which is not pure and not absolute. Even if the law formulates something null and void, but the situation is null and void by law, it doesn't happen automatically. There must be an official statement from a higher institution. This is in line with the principle of *res judicata pro veritate habetur* (a judge's decision must be considered correct until it is decided otherwise by a higher court).

Against the industrial relations court decision that exceeds the 50 working day time limit, the Employer (PT. DBI Consulting Group) has appealed to the Supreme Court in case Number: 782 K/Pdt.Sus-PHI/2016. In the memorandum of cassation, the entrepreneur questioned several things, one of which was related to the time limit for the decision. The entrepreneur is of the opinion that the decision of the Jakarta Industrial Relations Court must be declared null and void because it violates the applicable law. The panel of judges decided the dispute within 67 working days, thus violating the provisions of Article 103 of the PPHI Law. Based on this argument, the Supreme Court gave the opposite opinion. In its consideration, the Supreme Court stated:

"That regarding the grace period for case settlement, if it is more than 50 (fifty) working days as referred to in Article 103 of Law Number 2 of 2004, does not result in the cancellation of the decision according to the nature of the procedural law because it is not regulated, then the decision cannot be interpreted as null and void."

The nature of civil procedural law is to carry out punishments against violators of the rights of other parties by the provisions of the legislation in material law so that they can be carried out by force through the courts (T. Sarwono, 2018). The concrete nature of civil procedural law is to achieve what is the goal of civil procedural law in defending material civil law, namely:

1. In general, the rules of civil procedural law are regulatory and coercive. The interested parties cannot rule out the civil procedural law which is regulating and coercive, and the interested parties must submit and obey it;
2. Civil procedural law is complementary because it is considered to regulate the implementation of the special interests of the person concerned so that this complementary civil procedural law can be set aside or sidelined by interested parties;
3. If it is related to the nature of civil law that regulates personal legal relationships, the occurrence of civil cases is solely the initiative of the plaintiff who feels or feels that the defendant has violated his rights. In this case, there appears to be voluntarism;

4. When viewed from the aspect of the division of law based on the strength of the sanctions, the nature of civil procedural law, in general, is coercive. This characteristic was born because it maintains the existence of material civil law.
5. When viewed from the aspect of the process, civil procedural law is simple in its proceedings before a court session, which means that a legal process is not complicated. The simple nature is aimed at procedures that are clear, transparent, and can be understood by all levels of society, without leaving the aspects of formality, certainty, and values of justice (Suadi, 2019).

Based on this description, it can be concluded that the nature of civil procedural law is to settle disputes by enforcing material law to protect certain legal subjects. Legal considerations (*ratio decidendi*) of the Supreme Court in the decision Number: 782 K/Pdt.Sus-PHI/2016 indicates that one of the procedural law's characteristics is that it is not permissible to interpret incomplete norms. This can be seen in the sentence "...does not result in the cancellation of the decision according to the nature of the procedural law because it is not regulated so it cannot be interpreted as a decision to be void". In procedural law, the principles of *lex scripta* (must be written), *lex stricta* (cannot be interpreted) and *lex certa* (must be clear) (Eddy O.S. Hiariej, 2019). These legal considerations are by the principle of *lex stricta*, which must be interpreted strictly, including the prohibition of interpreting analogies (Hairi, 2016). The analogy is a method of interpretation by expanding the understanding if there is a void in the law or the law is incomplete (Mertokusumo, 2009).

There are two major groups in the flow of legal interpretation, namely (1) the textualist approach (focus on text) and (2) the purposive approach (focus on purpose) (Mawar, 2016). Procedural law adheres to the principle of the first legal school, which focuses on the text and relies solely on the harmonization process from the editorial power of the law. So what is seen first is the sound of regulation as it is according to the grammatical arrangement. Unlike the case with the second stream, which focuses on the objective approach, the first stream focuses more on the textual approach. Judging from the type of legal interpretation, the textual approach is by the descriptive interpretation. Restrictive interpretation or narrow interpretation means that legislation is given a limited meaning according to the sound of the regulation (Monteiro, 2018). According to Van Hattum, this interpretation is called a strict interpretation.

Legal certainty guarantees that the law is enforced, that those entitled by law can obtain their rights, and that decisions can be implemented (Mertokusumo, 1999). The Supreme Court's legal considerations state that the industrial relations court's decision that has passed the 50 working day time limit is not null and void. It will certainly cause Article 103 of Law No. 2 of 2004 to have no legal certainty. However, viewed from the aspect of justice, the Supreme Court's decision can be interpreted as protection for workers. It is said so because the applicant for the cassation is an entrepreneur. If the Supreme Court accepts the employer's request, the fate of the workers will become increasingly unclear. This is because the workers have to redo resolving industrial relations disputes from the initial stage. This condition does not benefit the workers, and legal certainty feels increasingly distant.

Court decisions that have permanent legal force reflect legal certainty in procedural law. If the court's decision does not go in *Kracht* or goes through a prolonged process, then the parties also do not get legal certainty. Likewise, in the settlement of industrial relations disputes. The settlement is carried out in several stages from bipartite, tripartite, industrial relations court, and the Supreme Court. The peace process with two stages plus decisions at the litigation stage, which never have permanent legal force, will certainly harm the litigants, especially the workers who have a weaker position. Therefore, the decision of the industrial relations court, which exceeds the time limit of 50 working days from the first trial, does not

automatically become null and void. This is legal protection for the disputing parties, especially for the workers, to obtain legal certainty immediately.

Based on the ratio decidendi of the Supreme Court Decision Number: 782 K/Pdt.Sus-PHI/2016, the principles of procedural law, legal certainty for the parties, and legal protection for the workers, it can be concluded that the legal consequences of industrial relations court decisions that exceed the 50 limit working days remain valid and cannot be declared null and void so that the decision has binding evidentiary power, executive power, and the power to file a rebuttal if it has permanent legal force.

Judge (2016) argues that the effectiveness and success of law enforcement depend on three elements of the legal system, namely legal substance, legal structure, and legal culture. Legal substance includes statutory instruments, legal structures regarding law enforcement officers, and legal culture is a human attitude towards the law. Judging from its substance, the legal system is directed at understanding the provisions governing human behavior, namely regulations, norms, and community behavior patterns in a system. Legal substance essentially includes all written and unwritten legal regulations, jurisprudence, material law, formal law, and customary law. The legal substance is also defined as rules and regulations regarding how legal institutions should behave (Lawrence, 2017). The substance of the law is regulated in stages and is interrelated and influential so that it is expected to be able to realize the ideals of law in achieving the objectives of the law.

Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes (UU PPHI) is one of the laws and regulations governing procedural law, whether outside or inside the court. As a formal law, the PPHI Law regulates procedures for enforcing material law played by stakeholders, namely workers, entrepreneurs, representing attorneys, mediators, conciliators, arbitrators, and the industrial relations court judges. Each stakeholder must comply with the applicable procedural law mechanism. Enforcement of formal law is important in order to realize the due process of law. Due process of law consists of two dimensions, namely substantive legal process and procedural legal process (Juniarti, 2021). The implementation of Article 103 of the PPHI Law reflects the due process of law about the procedural legal process.

CONCLUSION

The industrial relations court's decision remains legally valid even though the decision has passed the 50 working day limit from the first trial as stipulated in Article 103 of the PPHI Law. This is because the procedural law adheres to *lex stricta*, which must be interpreted strictly, including the prohibition on the interpretation of analogies. The grace period for case settlement, if it is more than 50 working days as referred to in Article 103 of the PPHI Law, does not result in the cancellation of the decision by the nature of the procedural law because it is not regulated, then the decision cannot be interpreted as null and void. Apart from the principle of *lex stricta*, the principle of *res judicata pro veritate habetur*, and the null and void nature of the law, it also confirms that the IRC's decision remains valid even though it violates the provisions of Article 103 of the PPHI Law.

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