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Penerapan Asas Legalitas Dalam Penegakan Hukum Pelaku Tindak Pidana Narkotika Berdasarkan Ketentuan Minimum Khusus

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ABSTRAK

Tujuan penelitian menganalisis penerapan Asas Legalitas dalam Undang-undang No. 35 Tahun 2009 terkait penyebutan sanksi dibawah batas minimum khusus, dan menganalisis konsekuensi hukum terhadap putusan hakim yang memutuskan perkara pidana narkotika dengan sanksi di bawah minimum. Penelitian ini menggunakan data primer dengan melakukan kajian pustaka yaitu Kitab Undang-Undang Hukum Pidana, Kitab Undang-Undang Hukum Acara Pidana Serta Undang-Undang No. 35 Tahun 2009 tentang Narkotika. Hasil Penelitian ini menunjukkan bahwa: (1) Berdasarkan Asas Legalitas sebagaimana yang dimaksud di dalam Pasal 1 ayat (1) KUHP yaitu nullapena sine lege memberikan makna bahwa setiap sanksi pidana haruslah ada peraturan hukum yang mengatur sebelumnya, selangkah penafsiran hukum yang melatar belakangi putusan hakim oleh hakim tersebut adalah diperikannya bilamana telah ada aturan yang secara jelas dan tegas diatur dalam peraturan perundang-undangan, agar mewujudkan tujuan hukum yakni rasa keadilan, kepastian hukum dan kemanfaatan, dan; (2) Adanya penyebutan pidana di bawah minimum menurut penulis memberikan konsekuensi hukum yang mana bertanggung dengan asas legalitas, jika didasarkan pada penafsiran peraturan perundang-undangan yang telah ada yang melatar belakangi putusan hakim oleh hakim, yang menyebabkan tidak adanya kepastian hukum.

Kata Kunci: Legalitas; Penegakan Hukum; Narkotika

ABSTRACT

The research objective is to analyze the application of the Legality Principle in Law no. 35 of 2009 regarding the imposition of sanctions below the special minimum limit, and, analyze the legal consequences of the judge's decision that decides on narcotics criminal cases with sanctions below the minimum. This study uses primary data by conducting a literature review, namely the Criminal Code, the Criminal Procedure Code and Law no. 35 of 2009 on Narcotics. The results of this study indicate that: (1) Based on the principle of legality as referred to in Article 1 paragraph (1) of the Criminal Code, namely nullapena sine lege, it means that every criminal sanction must have a legal regulation that regulates it beforehand, while the interpretation of the law that gives birth to legal findings by the judge is not needed if there are rules that are clearly and firmly regulated in the legislation, in order to realize the legal objectives, namely a sense of justice, legal certainty and expediency, and; (2) The existence of a criminal sentence below the minimum according to the author provides legal consequences which are contrary to the principle of legality, if it is based on the interpretation of existing laws and regulations that give birth to legal findings by judges, which causes the absence of legal certainty.

Keywords: Legality; Law enforcement; Drugs