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University 17 Agustus 1945 Semarang

PROCEEDING

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“HARMONIZATION ON LAW, ECONOMY, AND HEALTH
TOWARDS SOCIAL JUSTICE SOCIETY”



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International Conference on Law, Economy and Health
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Theme:

***“Harmonization of Law, Economy and Health
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TAPPING AUTHORITY BY THE CORRUPTION ERADICATION COMMISSION (KPK) IN THE INDONESIAN CRIMINAL JUSTICE SYSTEM

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ABSTRACT

The Commission for the Eradication of Corruption (KPK) of an independent State institution established under Law No. 30 of 2002 in conducting its duties in the field of investigation, investigation and prosecution is authorized to intercept and record the discourse under Article 12 paragraph (1) a. Article 26 a Corruption Eradication Commission Law. This authority reaps some opinions that either support or refuse because it is considered the authority of this tapping is too broadly owned KPK. Therefore, the authors will try to investigate with the restriction of problem formulation (1) How is the difference between the wiretapping authority of KPK compared to the authority of wiretapping owned by other law enforcers ?, (2) How ideally gives this tapping authority to KPK and other law enforcement officers in the framework of accelerating the eradication of corruption in the Indonesian Criminal Justice System ?. This research is descriptive, using normative approach in the form of, approach of law and approach of law hermeneutika, using legal material of primary, secondary and tertiary legal material through literature study, using qualitative analysis. Research findings (1). The authority to intercept and record the conversation held by the KPK in carrying out the task of investigation, investigation and prosecution as referred to in Article 6 letter c, in applying the TPK perpetrator is wider than the wiretapping authority possessed by the police and prosecutor who need the permission of the Chairman of the District Court to be able to do (2) The tapping authority shall be maintained to deter the perpetrators and to assist the disclosure of corruption cases, by making the Implementing Regulation (PP) on the Implementation of Tapping as defined in the Telecommunication Law and the ITE Law which regulates the specific mechanism, the process and the implementation of intercepts conducted by each law enforcement apparatus, both the police, the prosecutor and the KPK, to avoid violations of human rights and realize the provisions of Article 28 F and G of the 1945 Constitution. And fulfill the three components of authority namely influence, legal basis and conformity law. without reducing the existing KJK's authority

Keywords: Tapping, KPK, Corruption, Indonesia

Introduction

The change of society and technology has had a profound effect on legal changes including in the criminal law system, both material criminal law implemented in the Criminal Code (KUHP), as well as in the formal criminal law listed in Law No. 8 Year 1981 on the Criminal Procedure Code (KUHAP). Proving means to give certainty to the judge about the existence of certain events, whether in civil law or criminal procedure, the proof has a very central role. In essence the proof began since the existence of a legal event. If there are criminal elements (initial evidence of crime), then the process begins by conducting an investigation, then an investigation is conducted (Edmon Makarim: 2004 ;419).

In connection with the increasingly musical *modus operandi* would require more effort to be able to prove it in order to seek material truth. Likewise with corruption (TPK). Therefore, the evidence contained in evidences to help reveal cases related to the use of information technology. This is in accordance with the stipulation of Electronic Information (IE) and Electronic Document (DE) as additional evidence of evidence of witness testimonies, expert information, letters, guidance and explanation of defendant that has been established as evidence in KUHAP Law No. 11 Year 2008 on Information and Electronic Transactions (ITE). It is also followed in Article 26 A of Law No. 20 of 2001 which amends and supposes Law No. 31 Year 1999 on Corruption Act (UU TPK), where the recording is included as evidence of guidance.

To obtain the above mentioned IE and DE evidence by lawmakers authorizes law enforcement officials to intercept and record the conversation of a suspected TPK actor. Tapping is a very effective tool in dismantling a crime. At least the belief is emanating from the expression of the proponents of the use of tapping methods. But on the other hand wiretaps also have a tendency to violate human rights.

According to Indonesian criminal procedure law, investigators in certain cases can wiretap with permission from the Chairman of the District Court. While interception as one of the authority given to KPK in order to carry out the task of investigation, investigation and prosecution, menurut Article 12 paragraph (1) letter a KPK Law does not require permission from the Chief Justice, this difference in authority gives rise to problems in practice so as to bring the desire from the police, the attorney and the House of Representatives Commission III to review the wiretapping authority given to the KPK widely.