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Termination of Employment for Urgent Reasons: Issues on Worker Protection

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ABSTRACT
Termination of Employment for urgent reasons has made it easier for Employers to carry out layoffs without going through the Industrial Relations Dispute Resolution Institution process in accordance with the Job Creation Law in conjunction with Article 52 paragraph (2) of Government Regulation No. 35 of 2021. The provisions for layoffs for urgent reasons have experienced ups and downs, after being prohibited by the Constitutional Court Decision Number 012/PUU-I/2003 and then revived by the Job Creation Law in conjunction with Government Regulation No. 35 of 2021. In law enforcement, decisions of the Industrial Court also pave the way for layoffs for urgent reasons. This research uses a normative juridical approach, conducted to find out the history of regulations for layoffs for urgent reasons starting from those regulated in the Civil Code, Law No. 57 of 1957 in conjunction with Law No. 12 of 1964, Law No. 13 of 2003, Constitutional Court Decision No. 12/PUU-I/2003 and the Job Creation Law in conjunction with Government Regulation No. 35 of 2021 and to determine the application of the law by Industrial Relations Court judges in disputes over termination of employment for urgent reasons. The research findings regarding the provisions on termination of employment for urgent reasons as stipulated in the current provisions and the application of the law by Industrial Relations Court judges do not consider the principle of maintaining employment relationships to the extent possible.

Keywords: Worker Protection, Termination of Employment, Urgent Reasons.

INTRODUCTION
The employment relationship between an Employer and a Worker is established within the framework of Industrial Relations. This system is formed among actors in the production of goods and/or services, consisting of employers, workers/laborers, and the Government, based on the values of Pancasila and the 1945 Constitution of the Republic of Indonesia (Law No. 13 of 2003, Art. 1(16)). Within this construction, the employment relationship is a specific civil relationship defined by an inherent imbalance (Law No. 13 of 2003, Art. 1(15); Soepomo, 2003, p. 3).

Naturally and sociologically, the Employer possesses a stronger position compared to the Worker. To provide protection for workers, Labor Law through various regulations governs both substantive and procedural aspects in the event of Termination of Employment (*Pemutusan Hubungan Kerja* or PHK), specifically regarding termination for "urgent reasons" (*alasan mendesak*) within the context of this research.

Regulations concerning termination of employment for urgent reasons are currently governed by Law No. 6 of 2023 on the Enactment of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into Law ("Job Creation Law") *jo.* Government Regulation No. 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Breaks, and Termination of Employment ("GR No. 35 of 2021").

The history of regulations regarding termination for urgent reasons has experienced significant fluctuations. First, based on Article 1603n of the Indonesian Civil Code (*KUHPerdata*), termination could be executed immediately without legal procedures if an

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urgent reason existed (Soepomo, 2003, p. 218). Second, under Articles 6 and 26 of Law No. 22 of 1957 on Labor Dispute Settlement, termination was required to go through the Regional/Central Committee for Labor Dispute Settlement (P4D/P4P); failure to do so could result in criminal sanctions (Law No. 22 of 1957). Third, Article 158 of Law No. 13 of 2003 on Manpower stipulated that termination for "grave misconduct" or urgent reasons could be executed immediately without the dispute settlement mechanism (Law No. 13 of 2003, Art. 158). Fourth, this was overturned by Constitutional Court Decision No. 012/PUU-I/2003, which ruled that Article 158 lacked binding legal force (Constitutional Court Decision No. 012/PUU-I/2003). Fifth, Articles 81 and 185(b) of the Job Creation Law *jo.* Article 50 of GR No. 35 of 2021 essentially regulates that termination for urgent reasons may be conducted without prioritizing the industrial relations dispute settlement mechanism (Job Creation Law, Arts. 81 & 185(b); GR No. 35 of 2021, Art. 50).

Based on the necessity of worker protection regarding termination and the fluctuating regulatory history described above, legal problematics arise in the application of the law in cases of termination for urgent reasons. On one hand, Judges adjudicate based on prevailing laws that facilitate termination; on the other hand, Judges are also required to consider that labor law fundamentally aims to protect workers. Furthermore, the Constitutional Court, in Decision No. 012/PUU-I/2003, ruled that termination for urgent reasons/grave misconduct cannot be applied without a fair trial process. This research will examine decisions from the Industrial Relations Court and the Supreme Court following the enactment of the Job Creation Law *jo.* GR No. 35 of 2021 concerning disputes over termination for urgent reasons. Through the analysis of legal considerations in these decisions, this research aims to discover whether judges have provided protection to workers, in accordance with the essence of labor law, specifically regarding termination of employment.

METHODS

This study employs a normative juridical approach, examining law as a set of rules and norms prevailing in society. The primary focus of this research is to examine the regulatory framework regarding termination of employment for urgent reasons (*alasan mendesak*), ranging from the Indonesian Civil Code (*KUHPerdata*) to current regulations. Furthermore, it analyzes decisions from the Industrial Relations Court and the Supreme Court concerning termination of employment for urgent reasons (Effendi & Ibrahim, 2016).

Data collection was conducted through library research to obtain relevant materials, which were subsequently analyzed using qualitative analysis methods. The analysis involves interpreting the content of legal norms, examining the consistency among regulations, and comparing the effectiveness of norms applicable before and after the enactment of regulations on termination for urgent reasons under the Job Creation Law *jo.* Government Regulation No. 35 of 2021, as well as their application by judges in Industrial Relations Court decisions (Irwansyah, 2021).

RESULTS AND DISCUSSION

History of Regulation on Termination of Employment for Urgent Reasons

The history of regulations concerning termination of employment for "urgent reasons"

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(*alasan mendesak*) has undergone six changes, calculated from the regulations under the Indonesian Civil Code (*KUHPerdata*) up to the regulations under the Job Creation Law. It is essential to discuss these regulations, as examining the substance of these laws reveals that the essence of each regulation is grounded in the principle of worker protection, which constitutes the core of labor law.

Regulation under the Indonesian Civil Code (KUHPerdata)

The provisions regarding urgent reasons are stipulated in Article 1603n of the Indonesian Civil Code (ICC/BW), which states that either party (employer or worker) may terminate the employment relationship without notice of termination. The termination of employment for urgent reasons includes:

a. Urgent reasons by the "master" or employer, or *dringende redenen voor de werkgevers* (Civil Code, Art. 1603o(2)).
b. Urgent reasons by the "laborer" or worker, or *dringende redenen voor de arbeider* (Civil Code, Art. 1603p(2)).

The provision of Article 1603n of the Civil Code (the formulation of which is nearly identical to Article 158 of Law No. 13 of 2003 on Manpower) placed workers in a weak position without legal protection. Workers could be immediately terminated by the employer without their consent, and if the worker objected, they were required to file a lawsuit in the district court.

Regulation under Law No. 22 of 1957

Law No. 22 of 1957 on Labor Dispute Settlement did not specifically regulate termination of employment for urgent reasons. However, Article 6 of Law No. 22 of 1957 mandated that all types of labor disputes, regardless of the reason, must be notified to the Regional/Central Committee for Labor Dispute Settlement (P4D/P4P) for a decision. Furthermore, pursuant to Article 26, failure by an employer to notify a termination could result in criminal sanctions (Law No. 22 of 1957).

Article 6 states:

(1) If in a dispute one party intends to take action against the other, the intent to take such action must be notified in writing to the other party and to the Chairman of the Regional Committee. The letter must also explain that in-depth negotiations regarding the points of dispute between the laborer and the employer have genuinely been conducted, presided over or mediated by an Official, or that a request to negotiate has genuinely been refused by the other party, or that two attempts within a period of two weeks have failed to induce the other party to negotiate regarding the matters in dispute.
(2) The receipt of the notification referred to in paragraph (1) and the date of receipt shall be recorded by the Chairman of the Regional Committee and notified in writing to the disputing parties.
(3) The action referred to in paragraph (1) may only be carried out after the party concerned receives the Letter of Receipt of Notification from the Chairman of the Regional Committee.
(4) The Letter of Receipt of Notification referred to in paragraph (3) shall be issued by

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the Chairman of the Regional Committee immediately, no later than 7 days after receiving the notification letter referred to in paragraph (1), calculated from the date of receipt.

Article 26 reads:
Punished by detention for a maximum of three months or a fine not exceeding ten thousand rupiah:

(1) Any person who violates Article 6 paragraph (3);
(2) Any person who takes action subsequent to the existence of:
    a. a binding decision of the Regional Committee as referred to in Article 8 paragraph (3);
    b. a decision of the Central Committee as referred to in Article 13;
    c. a decision of an arbitrator or arbitration board as referred to in Article 19;
    d. a decision of the Minister of Labor as mentioned in Article 17.
(3) Any person who does not comply with a decision of the Regional Committee which is binding and against which a request for re-examination can no longer be submitted as referred to in Article 10 paragraph (1);
(4) Any person who does not comply with a decision of the Central Committee which has become executable as referred to in Article 13;
(5) Any person who does not comply with a decision of the Minister of Labor as mentioned in Article 17;
(6) Any person who refuses mediation or settlement as referred to in Article 18 paragraph (12) or violates Article 18 paragraph (5);
(7) Any person who does not comply with a decision of an arbitrator or arbitration board which has obtained legal force as referred to in Article 19 paragraph (4).

The principle within Law No. 22 of 1957, which provided employment security or made it difficult to terminate employment, was reinforced by the provisions of Article 3 of Law No. 12 of 1964 concerning Termination of Employment in Private Companies.
Article 3 states:

(1) If in the negotiation the disputing parties themselves cannot reach a settlement, and they do not intend to submit their dispute for settlement by arbitration by a referee/board as referred to in Article 19 et seq., then such matter shall be notified by the parties or by one of them in writing to the Official.
(2) The notification referred to in the preceding paragraph implies a request to the said Official to provide mediation to seek a settlement in the dispute, which mediation must be provided.

Based on the provisions of these two Laws, the regulations fundamentally adopted the principle of employment security or providing protection to workers to remain employed as much as possible.

Regulation under Law No. 13 of 2003

Regulations regarding urgent reasons were not explicitly termed as such; however, Article 158 of Law No. 13 of 2003 on Manpower used the term termination of employment due

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to "grave misconduct" (*kesalahan berat*), the substance of which is nearly identical to the provisions of Article 1603n of the Civil Code. Under Article 158, employers could essentially dismiss workers who committed grave misconduct immediately without going through the industrial relations dispute settlement institution.

Article 158 states:

(1) An entrepreneur may terminate the employment of a worker/laborer on the grounds that the worker/laborer has committed grave misconduct as follows: a. committed fraud, theft, or embezzlement of goods and/or money belonging to the company; b. provided false or falsified information that causes loss to the company; c. been drunk, consumed intoxicating liquor, used and/or distributed narcotics, psychotropic substances, and other addictive substances in the workplace; d. committed immoral acts or gambling in the workplace; e. attacked, battered, threatened, or intimidated a coworker or the entrepreneur in the workplace; f. persuaded a coworker or the entrepreneur to perform an act contrary to laws and regulations; g. carelessly or intentionally destroyed or left goods belonging to the company in a state of danger, thereby causing loss to the company; h. carelessly or intentionally left a coworker or the entrepreneur in a state of danger in the workplace; i. divulged or leaked company secrets that should have been kept confidential, except for the interest of the State; or committed other acts in the company environment punishable by imprisonment of 5 (five) years or more.

(2) Grave misconduct as referred to in paragraph (1) must be supported by evidence as follows: a. the worker/laborer is caught red-handed; b. there is a confession from the worker/laborer concerned; or c. other evidence in the form of an incident report made by the authorized party in the company concerned and supported by at least 2 (two) witnesses.

(3) Workers/laborers whose employment is terminated based on the reasons referred to in paragraph (1) may obtain compensation regarding rights as referred to in Article 156 paragraph (4).

(4) For workers/laborers as referred to in paragraph (1) whose duties and functions do not directly represent the interests of the entrepreneur, in addition to compensation regarding rights in accordance with Article 156 paragraph (4), they shall be given separation pay, the amount and implementation of which are regulated in the employment agreement, company regulations, or collective labor agreement.

Thus, the provisions of this article were fundamentally unfavorable to workers regarding protection against termination of employment.

Regulation under Constitutional Court Decision No. 12/PUU-I/2003

This Constitutional Court decision concerns the Petition for Judicial Review of Article 158 of Law No. 13 of 2003 on Manpower. In its holding, the Court ruled as follows:

ADJUDICATING:

Granting the petition of the Petitioners in part;

Declaring Law Number 13 of 2003 on Manpower:

Article 158;

Article 159;

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Article 160 paragraph (1) insofar as it concerns the phrase "… not upon the complaint of the employer";
Article 170 insofar as it concerns the phrase "… except Article 158 paragraph (1), …";
Article 171 insofar as it concerns the phrase "… Article 158 paragraph (1) …";
Article 186 insofar as it concerns the phrase "… Article 137 and Article 138 paragraph (1) …";
contrary to the 1945 Constitution of the Republic of Indonesia;

Declaring that Article 158; Article 159; Article 160 paragraph (1) insofar as it concerns the phrase "… not upon the complaint of the employer …"; Article 170 insofar as it concerns the phrase "… except Article 158 paragraph (1) …"; Article 171 insofar as it concerns the phrase "… Article 158 paragraph (1) …"; and Article 186 insofar as it concerns the phrase "… Article 137 and Article 138 paragraph (1) …" of Law Number 13 of 2003 on Manpower lack binding legal force;

Dismissing the remainder of the Petitioners' petition. (Constitutional Court Decision No. 012/PUU-I/2003).

However, in the Court's decision, two Constitutional Court Justices, Prof. H. Abdul Mukthie Fadjar, S.H., M.S. and Prof. Dr. M. Laica Marzuki, S.H., issued a dissenting opinion as follows:

a. Indeed, following the amendments to the 1945 Constitution (1999-2002), the Constitution of the Unitary State of the Republic of Indonesia is truly a constitution based on Human Rights through 10 (ten) Human Rights articles listed in Article 28A through Article 28J, thereby strengthening the state paradigm as intended by the Preamble of the 1945 Constitution.
b. However, it is deeply regrettable that the legal reform in the field of manpower through Law Number 13 of 2003 on Manpower (hereinafter "Manpower Law") is actually less humane and provides insufficient protection, particularly for laborers/workers, as indicated by various policies contained in the *a quo* law, inter alia:
    1) The "outsourcing" policy contained in Articles 64–66 of the Manpower Law has disrupted job security for laborers/workers, who may be threatened with termination of employment (PHK) at any time, and downgrades them to mere commodities, thus reflecting a character that is less protective of laborers/workers. This means the Manpower Law is inconsistent with the paradigm of humanitarian protection contained in the Preamble of the 1945 Constitution and contravenes Article 27 paragraph (2) of the 1945 Constitution.
    2) The policies contained in Article 119, Article 120, Article 121, and Article 106 of the Manpower Law, which essentially impose stricter requirements for negotiating Collective Labor Agreements (PKB) for labor unions/trade unions, constitute a covert policy to diminish the rights of laborers/workers to fight for their rights and reduce the essence of freedom of association/organization for laborers/workers as guaranteed by Article 28 of the 1945 Constitution.
    3) Administrative procedural policies regarding strikes tend to reduce the meaning of strikes as a basic right of laborers/workers as contained in Articles 137 to 140 of the Manpower Law. For example, the requirement for written notification by laborers/workers and labor unions within a period of at least 7 (seven) working

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days before a strike is carried out essentially constitutes a restriction on the universal basic rights of struggle for laborers/workers and labor unions (vide Article 140 of the Manpower Law).

c. In addition to the substantial matters mentioned above (judicial review of the Manpower Law), from the perspective of formal review, the possibility of granting the petition should be considered. The 1945 Constitution indeed does not detail the procedure for the formation of a law, as it was to be regulated further by law (vide Article 22A of the 1945 Constitution). The law in question is Law Number 10 of 2004 on the Formation of Laws and Regulations, which was only promulgated on June 22, 2004... thus it could not yet serve as the legal basis for the procedure of forming the Manpower Law promulgated in 2003. However, to assess whether the formation procedure of the Manpower Law was in accordance with the 1945 Constitution, one should observe various prevailing regulations at that time... as well as general principles of good legislation... which include the principle of clear objectives, the principle of appropriate organ, the principle of necessity, and the principle of enforceability...
d. Based on the description above, the *a quo* petition should have been granted more broadly than merely what was stated in the Court's holding.

Furthermore, the Court's legal considerations essentially stated that termination of employment for reasons of "grave misconduct" must be treated effectively the same as other reasons for termination, namely through due process of law, specifically through an independent and impartial court decision.

This Court Decision restored the principle of protection for workers regarding termination of employment, mirroring the principles in Law No. 22 of 1957 *jo.* Law No. 12 of 1964 (Constitutional Court Decision No. 012/PUU-I/2003).

Regulation under the Job Creation Law *jo.* Government Regulation No. 35 of 2021

The provisions regarding termination of employment due to urgent reasons are governed by Article 81 and Article 15 letter b of the Job Creation Law *in conjunction with* Article 52 paragraph (2) of Government Regulation Number 35 of 2021 (PP 35/2021) and the Elucidation thereof.

Article 52 paragraph (2) of PP 35/2021 reads:

(1) An Entrepreneur may terminate the employment of a Worker/Laborer because the Worker/Laborer has violated provisions set forth in the Employment Agreement, Company Regulation, or Collective Labor Agreement and has been previously issued a first, second, and third warning letter consecutively; in which case the Worker/Laborer is entitled to:

a. severance pay in the amount of 0.5 (zero point five) times the provisions of Article 40 paragraph (2);

b. reward for service period (long service pay) in the amount of 1 (one) time the provisions of Article 40 paragraph (3); and

c. compensation for rights in accordance with the provisions of Article 40 paragraph (4).

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(2) An Entrepreneur may terminate the employment of a Worker/Laborer because the Worker/Laborer has committed a violation of an urgent nature as set forth in the Employment Agreement, Company Regulation, or Collective Labor Agreement; in which case the Worker/Laborer is entitled to:

- a. compensation for rights in accordance with the provisions of Article 40 paragraph (4); and
- b. separation pay (*uang pisah*), the amount of which is regulated in the Employment Agreement, Company Regulation, or Collective Labor Agreement.

(3) An Entrepreneur may terminate employment as referred to in paragraph (2) without notification as referred to in Article 37 paragraph (2).

Elucidation of Article 52 paragraph (2) of PP 35/2021 reads:
Paragraph (1) Warning letters are issued sequentially, namely:

a. The first warning letter is valid for a period of 6 (six) months.

b. If the Worker/Laborer commits another violation of the provisions in the Employment Agreement, Company Regulation, or Collective Labor Agreement within the 6 (six) month period, the Entrepreneur may issue a second warning letter, which also has a validity period of 6 (six) months from the issuance of the second warning.

c. If the Worker/Laborer still commits a violation of the provisions in the Employment Agreement, Company Regulation, or Collective Labor Agreement, the Entrepreneur may issue a third (final) warning which is valid for 6 (six) months from the issuance of the third warning.

If within the period of the third warning the Worker/Laborer again commits a violation of the Employment Agreement, Company Regulation, or Collective Labor Agreement, the Entrepreneur may terminate the employment.

In the event that the period of 6 (six) months since the issuance of the first warning letter has elapsed, and the concerned Worker/Laborer commits another violation of the Employment Agreement, Company Regulation, or Collective Labor Agreement, the warning letter issued by the Entrepreneur shall return to being a first warning; this also applies to the second and third warnings.

The Employment Agreement, Company Regulation, or Collective Labor Agreement may specify certain violations for which a first and final warning may be issued.

If the Worker/Laborer commits a violation of the Employment Agreement, Company Regulation, or Collective Labor Agreement within the validity period of the said first and final warning, the Entrepreneur may terminate the employment.

The mentioned 6 (six) month period is intended as an effort to educate the Worker/Laborer so that they may correct their mistakes, and on the other hand, this 6 (six) month period constitutes sufficient time for the Entrepreneur to evaluate the performance of the concerned Worker/Laborer.

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Paragraph (2) Violations of an urgent nature that may be regulated in the Employment Agreement, Company Regulation, or Collective Labor Agreement such that the Entrepreneur may immediately terminate the employment of the Worker/Laborer, for example in the event of:

a. committing fraud, theft, or embezzlement of goods and/or money belonging to the Company;
b. providing false or falsified information that causes loss to the Company;
c. being drunk, drinking intoxicating liquor, using and/or distributing narcotics, psychotropics, and other addictive substances in the work environment;
d. committing immoral acts or gambling in the work environment;
e. attacking, physically abusing, threatening, or intimidating a coworker or the Entrepreneur in the work environment;
f. persuading a coworker or the Entrepreneur to commit an act that is contrary to statutory laws and regulations;
g. carelessly or intentionally damaging or leaving in a state of danger goods belonging to the Company which causes loss to the Company;
h. carelessly or intentionally leaving a coworker or the Entrepreneur in a state of danger in the workplace;
i. divulging or leaking Company secrets which should be kept confidential, except for the interests of the State; or
j. committing other acts in the Company environment which are punishable by imprisonment of 5 (five) years or more.

Paragraph (3) Sufficiently clear.

This provision reverts to the provisions in Article 1603n of the Indonesian Civil Code (BW) *in conjunction with* Article 158 of Law No. 13 of 2003 before being struck down by the Constitutional Court. This Constitutional Court decision has restored the principle of facilitating termination of employment, thereby decreasing protection for workers.

Decisions Of The Industrial Relations Court

Do the decisions of the Industrial Relations Court or the Supreme Court regarding disputes over termination of employment for "urgent reasons" (*alasan mendesak*) post-enactment of the Job Creation Law provide protection for workers? To analyze these decisions, two (2) cases have been selected for analysis as follows:

Decision of the Semarang Industrial Relations Court

Semarang District Court Decision No. 52/Pdt.Sus-PHI/2023 *jo.* Supreme Court Decision No. 167 K/Pdt.Sus-PHI/2024 in the case between Dwi Purwanto vs. PT. Adira Dinamika Multi Finance, Tbk.

Case Position: Dwi Purwanto (Worker/Plaintiff) filed a lawsuit against PT Adira Dinamika Multi Finance Tbk (Employer/Defendant) because the worker was terminated for

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urgent reasons. Specifically, the worker possessed a motor vehicle repossessed from a customer (*tarikan nasabah*) for 28 days, whereas it should have been entered into the warehouse within 1x24 hours. Consequently, the worker's action violated the Company Regulations. The Industrial Relations Court justified the Employer's action, thereby upholding the termination of employment for urgent reasons. This Industrial Relations Court decision was affirmed by Supreme Court Decision No. 167 K/Pdt.Sus-PHI/2024 with the following considerations:

> "That the Plaintiff is proven to have committed a violation, namely possessing a unit received from a customer in the form of a Yamaha Mio Gear motorcycle from December 22, 2022, to January 20, 2023, without permission from the Defendant." "That the violation committed by the Plaintiff is regulated in Chapter VIII Article 43 paragraph (3) letters e 10 and f 24 of the Company Regulations, namely categorized as an urgent violation..." (Supreme Court Decision No. 167 K/Pdt.Sus-PHI/2024).

In the decisions of the Industrial Relations Court and the Supreme Court, the judges relied solely on syllogism, meaning there was a correspondence between the legal event and the law; thus, the judges decided to terminate the employment relationship for urgent reasons. In the considerations of this ruling, neither the Industrial Relations Court nor the Supreme Court provided other considerations regarding the principles of labor law to provide protection to the worker, specifically regarding the possibility of maintaining the employment relationship.

Decision of the Serang Industrial Relations Court

Serang Industrial Relations Court Decision No. 54/Pdt.Sus-PHI/2023 *jo.* Supreme Court Decision No. 320 K/Pdt.Sus-PHI/2024 in the case between Christiane Louise Julia Michiels vs. PT Aerofood Indonesia.

Case Position: Christiane Louise Julia (Worker/Plaintiff) filed a lawsuit against PT Aerofood Indonesia (Employer/Defendant) because she was terminated for urgent reasons. Specifically, the Plaintiff, in the procurement of goods and services, committed a conflict of interest during the period of November 2018 to February 2019 by engaging in cooperation for the procurement of goods and services with PT Rumah Dariswara Lestari, where the President Commissioner, named Mr. Arthur James, was the biological brother of the Plaintiff. This action violated the provisions of the 2018–2020 Collective Labor Agreement (PKB).

Similar to the Semarang Industrial Relations Court decision above (Point 1), in this decision, the court also considered the case based solely on syllogism: that the termination of employment was legally grounded because the worker had committed a violation involving a conflict of interest in the procurement of goods and services, thereby violating the provisions of the Collective Labor Agreement. The judges in this decision also failed to provide considerations regarding the principles of labor law that afford protection to workers, namely that termination should not be easily conducted and, if it must be done, it should only be a last resort (*ultima remedium*) (Supreme Court Decision No. 320 K/Pdt.Sus-PHI/2024).

CONCLUSION

Considering the two decisions of the Industrial Relations Court and the Supreme Court

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analyzed in this research, the author provides the following conclusion and future considerations regarding cases of termination of employment for "urgent reasons" (*alasan mendesak*):

First, labor law was established to protect workers because, both naturally and sociologically, the relationship between employers and workers is characterized by imbalance. Regulations regarding termination for urgent reasons have also experienced fluctuations. Therefore, notwithstanding that current regulations under the Job Creation Law *jo.* Government Regulation No. 35 of 2021 allow employers to terminate employment without going through dispute settlement institutions, the interpretation of said Law and Government Regulation should be linked to the fundamental principle of labor law: that termination of employment is a last resort (*ultima remedium*). Furthermore, it must be considered within the context of regulatory history (Job Creation Law; GR No. 35 of 2021).

Second, in accordance with Article 5 paragraph (1) of Law No. 48 of 2009 on Judicial Power, Judges are obliged to explore, follow, and understand the legal values and the sense of justice living within society. Similarly, Law No. 2 of 2004 on Industrial Relations Dispute Settlement states that in making decisions, the panel of judges shall consider the law, existing agreements, custom, and justice (Law No. 48 of 2009, Art. 5(1); Law No. 2 of 2004).

Based on the aforementioned regulations, in the future, Industrial Relations Court judges, when adjudicating cases of termination for urgent reasons, must not merely act as the "mouthpiece of the law" (*la bouche de la loi*). Instead, they must act as just law enforcers based on the law living within the labor society, upholding the principle that termination of employment is a last resort, as termination impacts not only the individual worker but also their family, society, and the Government.

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Government Regulation No. 35 of 2021 on Fixed-Term Employment Agreements, Outsourcing, Working Hours and Breaks, and Termination of Employment.

Court Decisions

Constitutional Court Decision Number 012/PUU-I/2003 regarding Judicial Review of Law No. 13 of 2003 on Manpower.

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