RINGKASAN

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Analisis Yuridis Pertanggungjawaban Pidana Pelaku Penyertaan (*Deelneming*) Dalam Tindak Pidana Perdagangan Orang Warga Negara Asing (Studi Putusan Nomor 7208 K/Pid.Sus/2024)
(Zulfan, S.H., Hum dan Prof. Dr. Malahayati, S.H., LL.M)

Pertanggungjawaban pidana pelaku penyertaan (*deelneming*) dalam Tindak Pidana Perdagangan Orang (TPPO) yang menimpa warga negara asing, dengan fokus studi terhadap Putusan Nomor 7208 K/Pid.Sus/2024 yang sebelumnya berada di tingkat banding dari PT Banda Aceh Nomor 254/Pid.Sus/2024 dan pengadilan tingkat pertama PN Lhokseumawe Nomor 44/Pid.Sus/2024 yang melibatkan pemindahan pengungsi etnis Rohingya. Penelitian menelaah bagaimana doktrin penyertaan (Pasal 55 KUHP) dan ketentuan khusus Pasal 10 UU No. 21/2007 diterapkan dalam menilai peran pelaku seperti penjemput, sopir, dan penyedia kendaraan yang diduga berperan dalam rantai TPPO. Tujuan penelitian adalah menganalisis pengaturan hukum pidana Indonesia terkait pelaku penyertaan dalam TPPO dan mengevaluasi analisis putusan hakim terhadap pertanggungjawaban pelaku penyertaan dalam kasus tersebut.

Penelitian ini menggunakan jenis penelitian yuridis normatif dengan teknik pengumpulan data melalui studi bibliografi (kepustakaan). Pendekatan yang digunakan adalah pendekatan perundang-undangan (*statute approach*), pendekatan kasus (*case approach*) terhadap Putusan Nomor 44/Pid.Sus/2024/PN Lsm, dan pendekatan analisis konsep hukum. Sumber bahan hukum meliputi bahan primer, sekunder, dan tersier yang dianalisis secara deskriptif menggunakan metode kualitatif.

Pengaturan TPPO menerapkan perluasan pertanggungjawaban pidana lewat Pasal 10 UU PTPPO *jo.* Pasal 55 KUHP, yang menghapus pengurangan sepertiga hukuman bagi pembantuan dan percobaan sehingga pelaku lapangan (seperti sopir) tetap dijerat penuh jika ada kesamaan niat (*wilsbestemming*) dan pembagian peran (*taakverdeling*). Melalui Putusan MA Nomor 7208 K/PID.SUS/2024, hakim menegaskan bahwa tindakan memobilisasi pengungsi ke jalan raya sah merupakan "permulaan pelaksanaan" percobaan TPPO, dan hakim tingkat pertama dilarang keras menjatuhkan vonis di bawah batas minimal khusus (*minimum klandestin*).

Berdasarkan hasil penelitian ini, disarankan kepada Legislatif merumuskan pedoman eksplisit mengenai batasan sanksi bagi pelaku lapangan kecil agar selaras dengan prinsip keadilan proporsional dan tidak disamakan dengan aktor intelektual. Kedua, kepada Majelis Hakim tingkat pertama disarankan meningkatkan kecermatan dalam membedakan peran *medepleger* dengan *medeplichtige*, serta wajib mematuhi batas pidana minimum khusus undang-undang untuk menghindari kesalahan penerapan hukum (*error in iudicando*).

Kata Kunci: ***Pertanggungjawaban Pidana, Penyertaan (Deelneming), Tindak Pidana Perdagangan Orang (TPPO).***

SUMMARY

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Legal Analysis Of The Criminal Responsibility Of The Perpetrator Of Participation (Deelneming) In The Criminal Act Of Trafficking Foreign Citizens (Study Of The Verdict Number 7208 K/Pid.Sus/2024)
(Zulfan, S.H., Hum dan Prof. Dr. Malahayati, S.H., LL.M)

Criminal liability of perpetrators of accompaniment (deelneming) in the Crime of Human Trafficking that befell foreign nationals, with a focus on the study of Decision Number 7208 K/Pid.Sus/2024 which was previously at the appeal level from the Banda Aceh High Court Number 254/Pid.Sus/2024 and the first instance court of the Lhokseumawe District Court Number 44/Pid.Sus/2024 involving the relocation of Rohingya ethnic refugees. The study examines how the doctrine of accompaniment (Article 55 of the Criminal Code) and the special provisions of Article 10 of Law No. 21/2007 are applied in assessing the role of perpetrators such as pick-ups, drivers, and vehicle providers who are suspected of playing a role in the TPPO chain. The purpose of the study is to analyze the Indonesian criminal law regulations related to perpetrators of accompaniment in TPPO and evaluate the analysis of the judge's decision on the accountability of perpetrators of accompaniment in the case.

This research uses a type of normative legal research with data collection techniques through bibliographic (library) studies. The approach used is the statute approach, the case approach to Decision Number 44/Pid.Sus/2024/PN Lsm, and the legal concept analysis approach. Sources of legal materials include primary, secondary, and tertiary materials that are analyzed descriptively using qualitative methods.

TPPO regulations implement the expansion of criminal liability through Article 10 of the PTPPO Law jo. Article 55 of the Criminal Code, which removes the reduction of a third of the penalty for assistance and probation so that the perpetrators of the field (such as the driver) are still fully charged if there is a common intention (wilsbestemming) and role division (taakverdeling). Through the Supreme Court Decision Number 7208 K/PID.SUS/2024, the judge confirmed that the act of mobilizing refugees to the highway is legitimately the "beginning of the implementation" of the TPPO trial, and first-level judges are strictly prohibited from handing judgments below the special minimum limit (klandestin minimum).

Based on the results of this study, it is recommended that the Legislature formulate explicit guidelines regarding the limits of sanctions for small-scale perpetrators to align with the principle of proportional justice and not be equated with intellectual actors. Second, the Panel of Judges of the first instance is advised to increase accuracy in distinguishing the role of medepleger from medeplichtige, and must comply with the minimum criminal limit specifically stipulated in the law to avoid errors in the application of the law (error in iudicando).

Keywords : Criminal Accountability, Deelneming, Human Trafficking Crime.