



Legal review on termination of employment due to urgent misconduct

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Abstract: The research problems formulated in this study are: 1) How does Indonesian law regulate employment termination due to urgent violations and what are the criteria for violations that can be considered urgent and serve as grounds for employment termination? 2) Does Decision No. 9/Pdt.Sus-PHI/2023/PN.Pal issued by the Industrial Relations Court of Palu District Court aligns with the applicable legal provisions? This study aims to analyze and understand the legal implications of employment termination due to urgent violations. This research employs normative legal methods using statutory, case, and comparative approaches. The norms under Article 52 paragraphs (2) and (3) of Government Regulation No. 35 of 2021 provide that employers may terminate employment contracts without prior notice based on Employment Agreements, Company Regulations, and Collective Labor Agreements. However, there is no clear definition or criteria regarding what constitutes an urgent violation as stipulated in the explanatory provisions of Article 52 paragraph (2) of Government Regulation No. 35 of 2021. This research not only makes theoretical contributions to the development of legal science, but also practical contributions to the world of labor. By clarifying the definition of "urgent violations," proposing regulatory improvements, as well as providing recommendations for employers, workers, and the government, this research can be the basis for a more just and sustainable labor policy.

Keywords: Employment Termination; Urgent Violations; Legal Implications.

1. Introduction

In terms of the progress of a country, the role of labor or workers is very important (Alvaro, 2021). This is because workers are the main factor that ensures the existence of Indonesia and the sustainability of economic growth (Panjaitan et al., 2024). Therefore, it is important for workers to be able to carry out their role optimally, which can be achieved through providing fair employment opportunities, protection of their rights in carrying out work, welfare guarantees, and attention to occupational health and safety, as well as various other aspects of employment.

There are a number of important laws that the government has enacted and are still in force to regulate employment in order to maximize industrial relations. First, there is "Law No. 13 of 2003 on Manpower (hereinafter referred to as the Manpower Law (Law, 2003)). Next, there is Law Number 2 of 2004 concerning Industrial Relations Dispute Resolution (hereinafter referred to as UUPPHI (Law no 2 of 2004, 2004)). The most recent is Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation (hereinafter referred to as the Job Creation Law (Indonesia, 2023)). This Job Creation Law covers the labor cluster that has made changes, deletions, and additions to several articles from the Manpower Law, as well as several government regulations as implementers of the Job Creation Law. This regulation reflects the role of the state in protecting and legitimizing the rights of workers" (Zulhartati, 2010).

The Employment Law establishes an important framework for the regulation of employment relations, including employment agreements and termination policies. Revisions to the provisions in the Employment Law brought about by the Job Creation Law have changed the regulations governing employment relations, particularly with regard to layoffs. PHK specifically is now regulated in "Government Regulation No. 35

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of 2021 which discusses Specific Time Work Agreements, Outsourcing, Working Time and Rest Time, and Termination of Employment (PP no 35 of 2021, 2021) " (Cahyaningtyas, 2022)

Employment termination can occur when a fixed-term employment agreement has reached the end of its validity period. In addition, the employment relationship can also be terminated for certain reasons, such as when a worker commits an offense and has received several warnings before finally the employment relationship is terminated (Vijayantera et al., 2022).

For workers or laborers, termination of employment (PHK) is not just the loss of a job, but also means the loss of a source of livelihood that leads to a loss of income. Therefore, layoffs often become a frightening specter, the impact of which not only threatens their lives, but also has the potential to torment their families, causing deep suffering. In addition, the reality on the ground reveals that finding a new job is not as easy as many people think. According to Abdul Khakim, there are several reasons that cause termination of employment (PHK) by employers, including: (Amilia & Yusa, 2019) Violation of applicable discipline or discipline; Involved in criminal matters not related to the company; The company where he works undergoes a merger or is acquired by another company; Business conditions that have continuously lost money for two years or have declared bankruptcy; Voluntary resignation by the employee.

Termination of employment caused by urgent violations committed by workers is regulated in "Article 52 paragraphs (2) and (3) of Government Regulation Number 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Time, and Rest Time". This regulation provides an understanding that employers have the right to terminate employment unilaterally without the need to give prior notice.

The existing rules in the Indonesian Labor Law only provide general guidelines without explaining in detail the types of violations that are considered urgent. This lack of clarity often triggers subjective interpretations on the part of the employer in determining whether a violation falls into that category. As a result, this issue can lead to conflict between workers and employers, especially when the termination decision is deemed unfair or violates applicable legal procedures.

Based on the background described above, the researcher is interested in analyzing through a thesis entitled: "Legal Study on Termination of Employment Relations due to Urgent Violations.

2. Materials and Methods

2.1 Research Type

This type of research is normative juridical research, which focuses on the study of norms, both in the form of laws and court decisions. This study covers various aspects, both in terms of concepts and comparisons.

This normative legal research aims to examine legal principles contained in laws and regulations. Thus, this research emphasizes the analysis of legal norms in the context of legal concepts and theories. In this normative research, the aspects studied include legal vagueness, legal vacuum, and legal conflict. The methods used in this study include analogy, interpretation, and legal construction.

Efforts to test existing rules or provisions are the mainstay of normative legal studies. This research is usually carried out by collecting and analyzing library materials or relevant secondary data (Marzuki & Sh, 2021) .

2.2 Approach Method

In this research, the approaches used include the statute approach, the case approach, and the comparative approach. The following is a further explanation of each of these approaches:

2.3 Statute Approach

This approach is inseparable from legal research, both at the dogmatic and theoretical levels. In this approach, we try to understand the laws and regulations that regulate the problem being studied, by looking at them in the context of hierarchy.

The statutory approach is a method used to analyze legal regulations that are relevant to the issues studied in this research, dogmatic in nature. This approach is very important and must be applied in every legal research. In this context, the laws and regulations studied are arranged based on the applicable order or hierarchy.

a. Case Approach

Researchers who use the case method must analyze the ratio decidendi, or the legal reasons for the judge in making a decision. The case approach is carried out by analyzing Industrial Relations Court decisions that have permanent legal force (Marzuki & Sh, 2021).

b. Comparative Approach

The study of comparative law is comparative. The aim is to compare and contrast the legal systems of different countries and look at laws from different time periods. Comparison of previous court decisions dealing with the same issue is also part of this study (Marzuki & Sh, 2021). This research will focus on cases of termination of employment caused by urgent violations". To identify important aspects in this study, some of the parameters used include: The legal basis used in layoffs due to urgent violations (for example, PP No. 35 of 2021 and Law No. 13 of 2003 on Manpower); Clarity of definitions in related regulations; Harmonization of rules in various national and international legal instruments; The impact of layoffs on workers affected by termination of employment; Perception of workers and trade unions on the unclear definition of "urgent violations".

2.4 Source of Legal Materials

The legal materials in this research are primary legal materials (primary sources) and secondary legal materials (secondary sources) with the following description:

a. Primary Legal Materials

Regulations and laws relating to the topic under study form a major part of the legal literature. These regulations are the main source of law in normative research.

b. Secondary Legal Materials

Secondary legal materials include scientific publications such as books, journals, articles, news, and other sources of scientific publications. This material serves as a complement to primary legal materials. Secondary is a legal source that does not come from legislation, which has previously been identified as the primary source. Secondary legal materials provide additional information in the form of opinions or interpretations obtained from various sources, including books, journals, newspapers, news, credible websites, and other literature. In addition to strengthening arguments with primary legal materials, secondary legal materials also serve to complement arguments, especially when the issues discussed have not been regulated in existing laws and regulations.

c. Legal Material Collection and Processing Techniques

The procedure for collecting legal materials in this research is carried out through a literature study approach. In this case, all types of legal materials, whether primary, secondary, or tertiary, will be traced and collected comprehensively (Rahmatia et al., 2024).

The collection of legal materials is carried out by paying attention to the form, type and level of each legal material. Both primary and secondary sources were collected through library research, where the materials were grouped and differentiated based on

their type, form and order. Furthermore, the processing of legal materials is carried out by clarifying all the materials that have been collected.

The legal sources used are official documents and empirical data (empirical validity). The data sources used come from official regulations, court decisions, and international agency reports. So with this benchmarking method is able to analyze the effectiveness of regulations in various countries related to layoffs due to urgent violations. The time limit used in the literature review aims to obtain a comprehensive perspective while remaining relevant to the latest legal developments. Some of the limitations applied are: Primary legal literature (laws, government regulations, and court decisions) applicable in at least the last 20 years (2003-2024), with a particular focus on recent regulations such as PP No. 35 of 2021. Secondary literature (books, scientific journals, and research reports) published in the last 10 years (2014-2024), unless there are fundamental theories that need to be reviewed from older sources.

d. Analysis of Legal Materials

After the clarification process is completed, all legal materials are analyzed prescriptively using the deductive method. In other words, all legal materials that have been collected and processed will be discussed and linked to existing legal issues. This analysis aims to produce a prescription, which is the result of exposure related to the issues discussed, based on the available legal materials.

The processing of legal materials in this research is carried out by classifying all legal materials based on their form, type, and hierarchy. After the processing is complete, the legal material is then analyzed using the prescriptive method, in which a review of the legal issues raised is carried out, based on the legal material that has been previously grouped (Marzuki & Sh, 2021). The analysis ultimately produces a prescription based on the arguments that have been built.

3. Results and Discussion

3.1 *How does Indonesian law regulate termination of employment (PHK) caused by urgent violations and what are the criteria for violations?*

a. Termination of Employment

One of the most crucial issues in the world of employment is Termination of Employment (PHK). For workers, the end of employment means losing a source of income that can trigger various life difficulties. Workers do have the right to stop working, but in practice, it is usually the employer who exercises this right. That is why people often think of dismissal as something done by the employer (Ramli, 2020).

"Law Number 6 of 2023 has been passed as a replacement for Law Number 2 of 2022 on Job Creation (Job Creation Law). This law covers various aspects of employment, including regulations related to termination of employment (PHK)". The Job Creation Law aims to improve the provisions contained in "Law No. 13 Year 2003 on Manpower, with a focus on increasing labor market flexibility and providing legal certainty. As a follow-up, Government Regulation (PP) No. 35 of 2021 which regulates Specific Time Work Agreements, Outsourcing, Working Time and Rest Time, as well as Termination of Employment, is the legal basis that specifically regulates mechanisms related to layoffs".

"The Job Creation Law brings significant changes in the aspect of Termination of Employment (PHK), including the reasons, procedures, and rights of affected workers. Government Regulation No. 35 of 2021 explains that termination of employment is only allowed if it meets certain reasons, such as efficiency, force majeure conditions, serious violations, or based on collective agreements."

In "Article 1 paragraph (25) of the Manpower Law, it is stated that Termination of Employment is the termination of employment due to a certain matter which results in rights and obligations between workers/laborers and employers."

Referring to "Article 1 point 15 of Government Regulation Number 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Time, and Rest Time, it is stipulated that Termination of Employment is the termination of employment relations caused by a certain matter, thus ending the rights and obligations between Workers/Laborers and Employers".

This regulation aims to create a balance between the interests of workers and employers. Article 36 of Government Regulation No. 35 of 2021 explains that employers can terminate employment for reasons of efficiency, both with company closure and without closure.

"Article 36 of PP No. 35 of 2021, regulates as follows:

Termination of Employment Relations may occur for the following reasons: The Company conducts a merger, consolidation, takeover, or separation of the Company and the Worker/Laborer is not willing to continue the Employment Relationship or the Employer is not willing to accept the Worker/Laborer; The Company conducts efficiency followed by the closure of the Company or not followed by the closure of the Company due to the Company experiencing losses; The Company closes due to the Company experiencing losses continuously for 2 (two) years; The Company closes due to force majeure; The Company is in a state of suspension of debt payment obligations; The Company is bankrupt; There is a request for termination of employment submitted by the Worker/Laborer on the grounds that the Employer has committed the following acts: mistreating, violently insulting, or threatening Workers/Laborers; (inducing and or ordering Workers/Laborers to perform acts that are contrary to laws and regulations; not paying Wages at the predetermined time for 3 (three) consecutive months or more, even though the Employer pays Wages on time thereafter; not performing obligations that have been promised to Workers/Laborers; ordering Workers/Laborers to carry out work other than that agreed upon; or provide work that endangers the life, safety, health, and morals of the Worker/Laborer while such work is not included in the Work Agreement); there is a decision of an industrial relations dispute settlement institution stating that the Employer has not committed the act as referred to in letter g against the application submitted by the Worker/Laborer and the Employer decides to terminate the employment relationship; the Worker/Laborer resigns of his/her own accord and must meet the conditions: (submitting a written resignation application at the latest 30 (thirty) days prior to the resignation start date; not being bound by service bonds; and continuing to carry out his/her obligations until the resignation start date); The Worker/Labor is absent for 5 (five) or more consecutive working days without a written explanation accompanied by valid evidence and has been summoned by the Employer 2 (two) times properly and in writing; The Worker/Labor violates the provisions stipulated in the Work Agreement, Company Regulation, or Collective Labor Agreement and has previously been given the first, second, and third warning letters consecutively each valid for a maximum of 6 (six) months unless otherwise stipulated in the Work Agreement, Company Regulation, or Collective Labor Agreement; The Worker/Labor is unable to perform work for 6 (six) months as a result of being detained by the authorities due to suspicion of committing a criminal offense; The Worker/Labor experiences prolonged illness or disability due to a work accident and is unable to perform his/her work after exceeding the 12 (twelve) month limit; The Worker/Labor enters retirement age; or The Worker/Labor dies".

This policy provides companies with flexibility in dealing with changing economic dynamics. However, this policy is also often criticized because it risks being used to carry out mass and unilateral termination of employment, without paying attention to the welfare of workers (Chess et al., 2020) .

According to the provisions contained in Article 52 of Government Regulation No. 35 of 2021, termination of employment (PHK) can be carried out if there are serious violations, which include acts such as fraud, theft, or persecution.

Article 52 paragraphs (2) and (3) of GR 35/2021 state as follows:

(2) "Employers may terminate the employment of Workers/Laborers due to the reason that the Worker/Laborer commits an urgent violation as stipulated in the Work Agreement, Company Regulation, or Collective Bargaining Agreement, the Worker/Laborer shall be entitled to: compensation pay in accordance with the provisions of Article 40 paragraph (4); and separation pay whose amount is stipulated in the Work Agreement, Company Regulation, or Collective Labor Agreement.

(3) Employers may terminate employment as referred to in paragraph (2), without notice as referred to in Article 37 paragraph (2)".

While this provision provides a clear legal basis, there are still concerns regarding its implementation. In particular, issues arise regarding proving violations and possible violations of workers' rights during the company's internal investigation process, especially if the presumption of innocence is ignored (Pramana et al., 2024).

"Government Regulation No. 35 of 2021 emphasizes the importance of resolving Termination of Employment (PHK) through legal procedures". Before conducting layoffs, employers are required to try to resolve disputes by deliberation. If an agreement cannot be reached, then the case must be brought to the Industrial Relations Court. The purpose of this procedure is to ensure fairness, although in practice, the legal process is often time-consuming and costly.

The Job Creation Law and Government Regulation No. 35 of 2021 also pay special attention to the rights of workers who experience layoffs. The norm in Article 40 paragraph (1) of Government Regulation No. 35/2021 stipulates a compensation formula consisting of severance pay, long service awards, and compensation pay. However, some criticism has emerged regarding the amount of compensation provided, which is considered lower than the previous regulation, causing dissatisfaction among workers (Otang, 2020).

The rules surrounding sudden and unexpected termination of employment have recently been strengthened. Employers must now provide strong evidence of their legal standing, such as terms of employment, company policies, or agreements reached through collective bargaining. However, despite these provisions, cases of unilateral termination still occur frequently, especially in the informal sector, due to weak labor inspections.

The law sets out a number of reasons for employers to terminate an employee's employment. "Article 154A of Law No. 06 of 2023, which deals with Job Creation, mentions the following reasons (Rahayu & Munir, 2021): The Company conducts merger, consolidation, takeover, or separation of the Company and the Worker/Laborer is not willing to continue the Employment Relationship or the Employer is not willing to accept the Worker/Laborer; the Company conducts efficiency followed by the closure of the Company or not followed by the closure of the Company due to the Company experiencing losses; the Company closes due to the Company experiencing losses continuously for 2 (two) years; the Company closes due to force majeure; the Company is in a state of suspension of debt payment obligations; the Company is bankrupt; there is a request for termination of employment submitted by the Worker/Laborer on the grounds that the Employer has committed the following acts: (1) mistreating, abusively insulting, or threatening a Worker/Laborer; (2) persuading and/or ordering a Worker/Laborer to commit an act contrary to the laws and regulations; (3) not paying wages at the specified time for 3 (three) consecutive months or more, although the Employer pays wages on time thereafter; (4) not performing an obligation promised to a Worker/Laborer; (5) ordering a Worker/Laborer to perform work other than that agreed upon; or provide work that endangers the life, safety, health, and morals of the Worker/Laborer while the work is not included in the Work Agreement); there is a decision of an industrial relations dispute settlement institution stating that the Employer has not committed the act as referred to in letter g against the application submitted by the

Worker/Laborer and the Employer decides to terminate the employment relationship; the Worker/Laborer resigns of his/her own accord and must meet the conditions: (submitting a written resignation application no later than 30 (thirty) days before the resignation start date; not being bound by a service bond; and continuing to carry out his/her obligations until the resignation start date); The Worker/Labor is absent for 5 (five) or more consecutive working days without a written explanation accompanied by valid evidence and has been summoned by the Employer 2 (two) times properly and in writing; The Worker/Labor violates the provisions stipulated in the Work Agreement, Company Regulation, or Collective Bargaining Agreement and has previously been given the first, second, and third warning letters consecutively each valid for a maximum of 6 (six) months unless otherwise stipulated in the Work Agreement, Company Regulation, or Collective Bargaining Agreement; The Worker/Labor is unable to perform work for 6 (six) months due to detention by the authorities due to suspicion of committing a criminal offense; The Worker/Labor experiences prolonged illness or disability due to a work accident and is unable to perform his/her work after exceeding the 12 (twelve) month limit; The Worker/Labor enters retirement age; or The Worker/Labor dies".

Legal arrangements related to termination of employment are crucial in protecting workers' rights and providing legal certainty for both employers and workers. The norms listed in "Article 151 of Law No. 6 of 2023 on Job Creation in Indonesia regulates various efforts to prevent termination of employment between employers and workers".

The Normative Provisions of Article 151 of the Job Creation Law, stipulates as follows: "Employers, Workers/Laborers, Trade Unions/Labor Unions, and the Government shall strive to avoid termination of employment; In the event that termination of employment cannot be avoided, the intention and reasons for termination of employment shall be notified by the Employer to Workers/Laborers and/or Trade Unions/Labor Unions; In the event that the Worker/Labor has been notified and rejects the termination of employment, the settlement of the termination of employment shall be carried out through bipartite negotiations between the Employer and the Worker/Labor and/or the Worker/Labor Union; In the event that the bipartite negotiations as referred to in paragraph (3) do not reach an agreement, the termination of employment shall be carried out through the next stage in accordance with the mechanism for resolving Industrial Relations Disputes".

If we compare it with Law No. 13 Year 2003, the Job Creation Law and PP No. 35 Year 2021 provide more room for efficiency-based termination. However, this has the effect of reducing the bargaining position of workers in dealing with employers. While Law No. 13 Year 2003 is more protective for workers, the Job Creation Law tends to prioritize investment interests and economic efficiency (Wijaya et al., 2022).

"Law No. 6 of 2023 on Job Creation as well as Government Regulation No. 35 of 2021 have brought significant changes in the regulation of Termination of Employment in Indonesia". While these regulations provide flexibility for employers, it is important to remember that stricter oversight and effective protection mechanisms for workers are also needed. Therefore, the government must ensure that the implementation of this regulation does not only focus on efficiency, but also considers aspects of justice and welfare for workers (Ayu & Dalimunthe, 2023).

Termination of Employment (PHK) is a very important issue in industrial relations, where its impact is felt in social, economic and legal aspects. In the context of layoffs, there are three main theories that can be used as analytical tools, namely Justice Theory, Legal Protection Theory, and Legal Certainty Theory. These three theories play a role in assessing policies and practices related to layoffs, and help us understand whether the decision is taken fairly, whether it protects the parties involved, and whether it provides legal certainty for workers and employers. Justice Theory, for example, highlights the importance of equal distribution of rights and obligations between all parties. In the layoff process, justice must be considered from both procedural and

substantial aspects. The dismissal procedure should provide an opportunity for workers to defend themselves, while the substance of the dismissal decision should be based on objective and proportional reasons. Thus, in order to ensure that the dismissal of an individual is an open and fair procedure, these theories should be utilized. The need for a balance between the rights and responsibilities of employers and employees is emphasized by Teguh Prasetyo's work on the Dignified Justice Theory when applied to the context of termination of employment resulting from gross misconduct. This theory recognizes that every individual has dignity that must be respected, including in the realm of employment relations. In urgent layoff situations, the emphasis of this theory lies on the need for fair and transparent procedures. Workers must be given the opportunity to defend themselves, while employers must have strong evidence before taking the step of termination.

On the other hand, John Rawls in his book "A Theory of Justice" published in 1971 emphasized that justice can only be achieved if the policies implemented provide equal treatment to more vulnerable parties, including workers who experience unilateral layoffs. Thus, these two perspectives complement each other in building a framework of justice in employment relations. (Rawls, 1971) Legal protection theory emphasizes the importance of providing legal guarantees for all parties involved. In "Pure Theory of Law," Hans Kelsen underlines that legal protection must come from clear and firm legal norms. In the context of Termination of Employment (PHK), workers really need legal protection to avoid potential abuse of authority by employers (Alkholy, 2024).

Meanwhile, legal certainty theory emphasizes the importance of clear, consistent, and predictable norms. According to Gustav Radbruch, legal certainty is one of the basic values in law, along with justice and utility. In terms of layoffs, legal certainty requires explicit rules regarding the procedures, reasons, and consequences of termination of employment, so that both parties can understand their rights and obligations properly (Macdonald & Johnston, 2024).

b. Legal Basis for Termination of Employment Due to Urgent Offenses in Indonesia

Termination of Employment (PHK) based on urgent violations in Indonesia is regulated in "Article 52 paragraph (2) of Government Regulation Number 35 of 2021. In the article, it is stated that the offense in question must be stated in a work agreement, company regulation, or collective labor agreement".

"Article 52 paragraph (2) of GR 35/2021 states as follows:

(2) Employers may terminate the employment of a worker/laborer on the grounds that the worker/laborer has committed an urgent violation as stipulated in the work agreement, company regulation, or collective bargaining agreement: compensation pay in accordance with the provisions of Article 40 paragraph (4); and separation pay, the amount of which is stipulated in the Work Agreement, Company Regulation, or Collective Labor Agreement".

It is important to understand the meaning of "urgent violations" although this definition is not directly explained in the law, we can interpret the term as an act that violates the terms agreed upon in the legal documents governing the employment relationship, such as employment agreements, company regulations, or collective labor agreements. Examples of urgent violations are criminal activities that have a direct negative impact on the company. If such violations are mentioned in the employment contract, business policy, or union contract, the employer can terminate the employment relationship.

The mechanism of "Termination of employment due to urgent violations is regulated in Article 52 paragraph (3) of Government Regulation No. 35 of 2021". The article states that employers are not required to give advance notice to workers before terminating employment.

"Article 52 paragraph (3) of GR 35/2021 states as follows: (3) Employers may terminate employment as referred to in paragraph (2), without notice as referred to in Article 37 paragraph (2)".

In contrast to the usual termination of employment (PHK) procedure which requires prior notification in accordance with the provisions of Article 37 of Government Regulation No. 35 of 2021, based on the norms of Article 52 paragraphs (2) and (3) of Government Regulation No. 35 of 2021, employers can unilaterally terminate employment without waiting for a decision from the court.

Article 37 of PP 35/2021 states as follows: "Employers, Workers/Laborers, Trade Unions/Labor Unions, and the Government must strive to avoid termination of employment; In the event that termination of employment cannot be avoided, the intention and reasons for termination of employment shall be notified by the Employer to Workers/Laborers and/or Trade Unions/Labor Unions in the Company if the Worker/Laborer concerned is a member of a Trade Union/Labor Union; Notification of termination of employment shall be made in the form of a notification letter and shall be delivered legally and properly by the Employer to the Worker/Laborer and/or Labor Union at the latest 14 (fourteen) working days prior to termination of employment; In the event that termination of employment is carried out during the probationary period, the notification letter shall be delivered at the latest 7 (seven) working days prior to termination of employment".

Although employers have the right to conduct direct and unilateral termination of employment (PHK), the law still provides protection to workers. Workers who are dismissed for urgent violations are entitled to an explanation of the reasons behind the dismissal. In addition, employees still have the option to sue if they feel their dismissal was arbitrary, although the criminal justice system and a final criminal court verdict are not required for termination, as per the provisions listed in Article 39 of Government Regulation No. 35 of 2021.

Article 39 of PP 35/2021 states as follows: "Workers/Laborers who have received a letter of notification of termination of employment and state that they refuse, must make a letter of refusal accompanied by reasons no later than 7 (seven) working days after receipt of the notification letter; In the event of a difference of opinion regarding termination of employment, settlement of termination of employment must be carried out through bipartite negotiations between the Employer and Workers/Laborers and/or Trade Unions/Labor Unions; In the event that the bipartite negotiations as referred to in paragraph (2) do not reach an agreement, the next stage of settlement of termination of employment is carried out through a mechanism for resolving industrial relations disputes in accordance with the provisions of laws and regulations".

Employers who terminate employment for misconduct deemed urgent must ensure that all procedures and legal provisions have been properly followed. Otherwise, they risk facing lawsuits from aggrieved employees. Therefore, it is imperative for employers to have proper documentation and strong evidence of the employee's misconduct.

In practice, there are several cases where termination of employment is carried out based on urgent reasons for violations. For example, the cases of PT Midi Utama Indonesia (Alfamidi) and PT Mandala Multifinance Tbk. Such cases are often in the public spotlight and can affect the company's reputation. Trade unions also play an important role in protecting workers' rights in relation to Termination of Employment due to Urgent Violations. They can assist workers in the mediation and negotiation process in the event of a dispute over dismissal. In this case, union involvement can help create a balance between the rights of employers and protections for workers.

In conclusion, termination of employment due to urgent violations is an important aspect of Indonesian labor law. Although it gives employers the right to terminate employment directly and unilaterally, the law still provides protection for workers to prevent abuse of authority. Therefore, both employers and workers need to understand

their rights and obligations in this regard so that employment relations can run fairly and in accordance with applicable legal provisions.

c. Definition and Urgency of Urgent Offenses

Urgent violations in Indonesian labor law refer to acts committed by workers that are considered very serious, requiring immediate termination of employment (PHK) by the employer. This is regulated in "Article 52 paragraph (2) of Government Regulation No. 35 of 2021, which explains that such violations must be regulated in a work agreement, company regulation, or collective labor agreement. Therefore, it is important to understand the definition, limitations, and qualifications of violations that can be the basis for terminating employment without the need to go through further legal proceedings".

In the explanation of Article 52 paragraph (2) of PP No. 35 of 2021, there are several examples of offenses that can be considered as urgent, such as theft, fraud, or other criminal acts that harm the company. These criteria include acts that are punishable by imprisonment of five years or more. With these criteria in place, employers have a legal basis to carry out termination of employment (PHK) without having to wait for a court decision. However, the lack of a clear definition of "urgent offense" has the potential to cause confusion and abuse on the part of employers.

The mechanism for termination of employment (PHK) due to urgent violations has significant differences compared to ordinary violations. In the case of ordinary violations, workers are required to go through a gradual warning process before termination can be implemented. However, for urgent violations, employers have the right to immediately terminate employment without prior notice. This provides flexibility for employers to take swift action in situations deemed critical.

Although the law gives employers the right to dismiss workers directly, workers are still entitled to an explanation of the reasons for their dismissal. This aspect is very important to prevent arbitrary dismissal. This protection also reflects the principle of fairness in industrial relations, where workers must be protected from unfair actions.

Employers carrying out terminations based on serious misconduct must ensure that all legal procedures are properly followed (Marbun et al., 2024). Otherwise, they risk facing lawsuits from aggrieved workers. Therefore, it is very important for employers to have strong documentation and evidence of violations committed by employees. Failure to fulfill this requirement can result in serious legal consequences for the company.

In practice, there are various situations where termination of employment is carried out due to violations that are considered urgent. An example that often attracts public attention is when workers are involved in criminal acts in the work environment. Such cases not only affect the company's decision, but can also have a significant impact on the company's reputation as well as relationships with other employees. Trade unions play a crucial role in protecting workers' rights in relation to termination of employment. They can contribute to the mediation and negotiation process when disputes arise regarding dismissals. The involvement of trade unions helps to create a balance between the rights of employers and appropriate protection for workers. In this context, unions serve as a bridge that connects workers and company management.

One of the main challenges in implementing the urgent violation provisions is the potential for abuse by employers. Without a clear definition and strict criteria, there is a risk that employers may use this reason to dismiss workers without a legitimate reason. Therefore, it is important to have clearer and more transparent regulations to protect workers' rights.

Finally, it is important to understand the pressing violations in Indonesia's labor law framework. While the law gives employers the authority to terminate employment directly, it also protects workers from abuse of authority. Therefore, it is crucial for both

employers and employees to understand their respective rights and responsibilities in order for the employment relationship to be fair and in accordance with the relevant legal provisions.

Criteria Violations that qualify as urgent in nature

Violations that are considered urgent in the context of labor law in Indonesia are regulated in "Article 52 paragraph (2) of Government Regulation No. 35 of 2021, relating to Fixed-Term Employment Agreements, Outsourcing, Working Time and Rest Time, and Termination of Employment". According to this provision, urgent violations must be included in work agreements, company regulations, or collective labor agreements. The explanation of the article also lists at least ten criteria that classify certain actions as urgent violations committed by workers.

Examples of when employers can quickly terminate the employment relationship with workers/laborers for violations that can be regulated in work agreements, company regulations, or collective labor agreements, include: Stealing or misusing funds or property belonging to the Company; Harming the Company by providing inaccurate or misleading information; Engaging in drunken behavior while at work, including consuming alcoholic beverages, using or supplying illegal drugs, psychiatric substances and narcotics; Engaging in unethical behavior or gambling while at work; Harassing, threatening or intimidating fellow employees or employers while at work; Persuading an employer or co-worker to violate laws or regulations; Taking Company property by deliberately damaging it or leaving it in a dangerous state, resulting in loss to the Company; Intentionally or through negligence endangering the safety of workers or their supervisors in the course of work; disclosing company secrets that should be kept secret unless it will benefit the state; or Engaging in other acts within the Company that are punishable by imprisonment of five years or more.

The first criterion included in urgent violations is fraud or theft of goods and/or money belonging to the company. These acts are considered very serious because they can cause both material and non-material losses to the company. Fraud can be defined as the submission of false information to the detriment of the company, while theft involves the illegal taking of goods or money. These two acts are enough for employers to terminate employment without the need to go through additional legal proceedings.

Providing misleading or inaccurate information that causes damage to the business is also considered an urgent offense. False information has the potential to damage the company's reputation and disrupt the smooth operation of the business. In many cases, providing false information can be viewed as a form of fraud, entitling employers to immediate termination of employment.

Urgent violations include matters such as operating a motor vehicle while under the influence of alcohol, or being under the influence of drugs, psychotropic or other addictive substances while at work. Such activities are not only against professional ethics, but also potentially jeopardize the safety and productivity of workers. Therefore, employers have a responsibility to ensure that the work environment remains safe and comfortable for all employees.

In addition, immoral conduct and gambling in the workplace are also considered urgent offenses. Immoral acts can undermine a positive work culture and increase the risk of sexual crimes. Meanwhile, gambling can disrupt workers' concentration and productivity. Both acts can create an unstable work atmosphere, hindering the achievement of maximum production results.

Attacks, mistreatment, threats or intimidation of coworkers or employers in the work environment is one of the most extreme forms of disruption to team harmony. Acts of violence, both physical and verbal, can create fear in individuals to return to the workplace. In addition, bullying can also hinder effective communication and coordination between team members. All of these actions are clearly against the main goal of the organization, which is to achieve progress together.

Persuading a co-worker or business person to commit an unlawful act is a serious offense. Seducing someone can mean encouraging them to engage in illegal acts, such as corruption or fraud. Not only does this violate the professional code of ethics, but it can also have a huge detrimental impact on the company.

In addition, damaging or leaving company property in a dangerous condition that could result in losses is also considered a serious offense. Damage to company assets not only incurs costs for repairs, but also disrupts the smooth running of daily operations. Leaving a coworker or business partner in a dangerous situation at work is a serious form of misconduct. It reflects an inability to maintain a safe work environment, which could potentially result in injury or even death.

Unless it is in the national interest, destroying or disclosing company secrets is a very bad idea, considered an urgent offense. Company secrets, such as business strategies and patented technologies, should always be protected from falling into the hands of competitors or irresponsible parties.

Thus, it can be concluded that the criteria for violations categorized as urgent are very broad and complex. Any action that violates legal rules in the workplace can be considered an urgent offense, if it is regulated in an employment agreement, company regulation, or cooperation agreement.

4. Conclusions

Termination of Employment (PHK) caused by urgent violations is regulated in "Article 52 paragraphs (2) and (3) of Government Regulation Number 35 of 2021 concerning Specified Time Work Agreements, Outsourcing, Working Time and Rest Time, and Termination of Employment. This regulation is the implementation of Law Number 11 of 2020 on Job Creation, which has been revoked. The latest is Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation (hereinafter referred to as the Job Creation Law) which covers the labor cluster. This Job Creation Law has amended, deleted, and added several articles from the Labor Law. In Article 184 letter b of the Job Creation Law, it is stated that all implementing regulations of Law 11/2020 will remain in effect as long as they do not conflict with the Job Creation Law. Based on the norm provisions of Article 52 paragraph (2) and (3) of Government Regulation No. 35 of 2021, termination of employment due to urgent violations can be carried out by employers without notice as long as it has been regulated in a work agreement, company regulation or collective labor agreement". The criteria for urgent violations, according to the explanation of the norm of Article 52 Paragraph (2), refers to the phrase "for example in the event of," which includes various acts of violation that can be qualified as criminal acts. The lack of clarity regarding the definition of "Urgent Violations" in the norm of "Article 52 Paragraph (2) of Government Regulation No. 35 of 2021, as well as the criteria for urgent violations in the explanation of the norm, have caused legal uncertainty and vague norms". Therefore, in order to avoid abuse of authority in layoffs due to urgent violations, the government needs to: Establish more specific and explicit definitions in regulations. Issue technical guidelines for employers and workers to make the rules easier to understand and apply. Strengthen the supervision and approval mechanism of layoffs by the government to prevent unilateral decisions. Enforce stricter sanctions for employers who abuse the layoff rules. Adapt regulations to international labor standards to improve protection for workers.

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