

Legal Certainty of Payment of Workers Rights Due to Termination of Employment in Post Job Creation Law

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Abstract. Termination of employment are crucial for workers, especially during the Covid-19 pandemic, many workers were laid off. The Manpower Law has provided protection to workers who have been laid off in the form of severance pay, service pay and compensation for rights that must be paid by employers. So far there has been no legal certainty regarding the fulfillment of workers' rights, even though it has permanent legal force from the Industrial Relations Court Decision. The Employment Cluster Job Creation Law adds to the provisions for criminal sanctions against employers who do not carry out these obligations. It is interesting to describe the legal certainty of paying workers' rights due to layoffs after the Job Creation Law, which in fact requires the attention of all stakeholders and the court in its enforcement.

Keywords: Criminal Sanctions; Legal Certainty; Worker Rights.

1 Introduction

Mandate of Article 151 paragraph (1) of Law no. 13 of 2003 concerning Manpower (Labour Law) is: "Entrepreneurs, workers / laborers, and the Government must make every effort to prevent termination of employment". Termination of employment (PHK) that occurs due to the termination of the work agreement in fact does not cause problems for both parties, because it has passed and can prepare themselves before the end of the employment relationship. The things that happen to layoffs due to industrial relations disputes will have an impact on both parties, especially workers / laborers who are weak in terms of the economy when compared to the employer [1].

Layoff disputes are conflicts in the interactions between workers / laborers and employers / employers. Employers try to reduce severance pay, period of service pay, compensation for rights and other costs as compensation for layoffs. On the other hand, workers always demand greater compensation for layoffs, even though these demands do not necessarily comply with the requirements stipulated by law. [2] Layoffs for workers / laborers are the beginning of misery because since then suffering will befall the worker / labourer himself and his family with loss of income. [3] For companies, layoffs are a risk because the company has to provide a certain amount of money for the workers / laborers who have been laid off and have to let go of their workers. Thus, layoffs not only cause difficulties and unrest for workers but also for employers. [4] So the parties have to work on each other so that layoffs do not occur.

The concept of labour law working must be rooted in the legal culture and legal system of Indonesia which emphasizes the principle of deliberation to reach consensus. Settlement of

industrial relations disputes by deliberation to reach a consensus will produce a win-win solution for all parties and can create a balance of relations between workers and employers. The social system that runs can take place in harmony so that the harmonization of industrial relations can be maintained.

Efforts have been made but layoffs cannot be avoided, so the Manpower Law has provided dismissal procedures and protection for workers / laborers as economically weak compared to employers. UU no. 2 of 2004 concerning the Settlement of Industrial Relations Disputes (PPHI Law) has regulated the procedure for settling industrial relations disputes including dismissal disputes, namely through bipartite negotiations between workers and employers in deliberation to reach consensus. If it does not work, it can be upgraded to mediation / conciliation negotiations, which is a tripartite concept where there is a third party involved, namely the mediator / conciliator. If it does not reach a new agreement, it can be proceeded to the Industrial Relations Court.

Conversely, if there is an agreement both in bipartite negotiations and in mediation negotiations, the dispute is resolved with a "win-win solution", which is set forth in the form of a Joint Agreement. In order to provide legal certainty for the contents of the Collective Agreement to be implemented by the parties, it must be registered with the Industrial Relations Court to have an executorial title. When the employer does not pay for the rights of the laid-off worker, he can request the execution of the Collective Agreement at the Industrial Relations Court at the District Court where the Collective Agreement is registered. The problem that occurs in practice is that the execution is not easy.

Protection for workers is expressly stated in Article 156 paragraph (1) of the Manpower Law jo. Law No.11 of 2020 concerning Job Creation reads: "In the event of termination of employment, employers are required to pay severance pay and / or service pay and compensation for rights that should be received". The legis ratio of this provision is so that workers / laborers can fulfil their daily needs as well as their families (safety net) when they no longer have a source of income due to layoffs, at least until the worker gets another job.

So far, the payment of workers / laborers' rights due to layoffs has no legal certainty, even though it is an Industrial Relations Court Decision which has permanent legal force. This is due to Law no. 2 of 2004 concerning the Settlement of Industrial Relations Disputes does not specifically regulate the execution process, what is enforced is execution according to civil law that applies to the general court environment as stipulated in Article 57 which reads: "The procedural law applicable to the Industrial Relations Court is the Civil Procedure Law which applies to Courts within the General Court, except as specifically regulated in this law". Enforcement of general civil procedural law in the process of executing the decisions of the Industrial Relations Court has been slow and convoluted, especially with the opening up of opportunities for reconsideration (PK) for entrepreneurs so as to prolong the process of finding justice [5].

Protection for workers / laborers regarding the payment of workers / laborers' rights due to layoffs is further enhanced by Law no. 11 of 2020 concerning Job Creation (Job Creation Law) by including the provisions of Article 156 paragraph (1) of the Manpower Law into Article 185 paragraph (1), namely the provision of criminal sanctions in the form of imprisonment for a minimum of 1 (one) year and a maximum of 4 (four) years and / or a fine of at least Rp. 100,000,000, - (one hundred million rupiah) and a maximum of Rp.400,000,000, - (four hundred million rupiah). Article 185 paragraph (2) further confirms that the criminal act in paragraph (1) is a criminal offense. The imposition of this criminal sanction can be considered as an answer to the weakness in the execution of the Industrial Relations Court Decision which has permanent legal force prior to the enactment of the Job Creation Law.

An urgent issue to examine is whether the imposition of criminal sanctions in the Job Creation Law provides legal certainty for the payment of workers' rights due to layoffs by employers?

2 Research Methods

This research is normative legal research, which is commonly referred to as doctrinal legal research or library research. This research is only aimed at written regulations, so it requires secondary data, in the form of primary legal materials as well as secondary and tertiary legal materials, the source is obtained from the library.

Primary legal materials are legal materials that are binding in nature consisting of statutory regulations, namely: the 1945 Constitution of the Republic of Indonesia, Law no. 13 of 2003 concerning Manpower, Law no. 2 of 2004 concerning the Settlement of Industrial Relations Disputes, Law no. 11 of 2020 concerning Employment Cluster Job Creation, Government Regulation No. 35 of 2021 concerning fixed time work agreements, outsourcing, working time and rest time, and layoffs and PP No.37 regarding job loss security. Secondary legal materials are legal materials which are non-binding in nature and function to complement primary legal materials, namely scientific books, writings of experts, theses, and law journal. Tertiary legal materials include abstracts, official government publications, dictionaries, websites, legal encyclopaedias, and other materials that can be accessed in online databases.

In this research, written law is studied from various aspects such as aspects of theory, philosophy, comparison, and the binding strength of a law, so that normative legal research is subject to legal doctrine, principles, and principles. The approach used is a statutory approach and a conceptual approach.

3 Results and Discussion

Legal certainty

One of the objectives of law is legal certainty which can be categorized as part of the effort to realize justice. The real form of legal certainty is the implementation of law enforcement against an act without judging it subjectively. Laws are formed to be enforceable and enforced, then the operation of the law can be interpreted as law enforcement activities. Law enforcement is essentially a process to bring legal objectives into reality.

Philosophically, material, and formal Labour Laws are made and implemented to provide protection to weak parties, namely workers from arbitrary actions by economically strong parties, namely owners of capital to obtain justice. The aim of protecting workers as the weak party is to achieve or at least approach the balance point of interest between the entrepreneur or employer on the one hand, and the workforce and the trade / labour union on the other.

Through the Manpower Law, it is hoped that a protection of labour rights will be created, both constitutional rights and basic rights provided by laws or international conventions, and protection for business continuity. The principle of justice here is that it must be able to protect stakeholders in industrial relations, namely workers, employers and the government. To create certainty that realizes this justice, labour law must act as social control or social control. If the law does not carry out its function, the aspects of order, tranquillity and stability of social dynamics in industrial relations will not be created and fulfilled.

The existence of legal certainty allows everyone to measure the legal consequences that can arise from a certain action. Likewise, in labour law enforcement, the rights of workers who are laid off must be paid by employers because they are a legal consequence of layoffs. Legal certainty is also an effort to realize justice for human rights for workers and their families (safety net) which is a constitutional right, as stipulated in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia that "Every citizen has the right to work and a decent living for humanity ", and Article 28D paragraph (2) that " Every person has the right to work and to receive fair and proper compensation and treatment in a work relationship ".

Certainty has a strong relationship with the principle of truth, which is something that can be formally syllogized. Through deductive logic, every positive legal arrangement is positioned as a major premise, while concrete events are directed as minor premises. By using a closed logic system, automatic conclusions can be obtained. The conclusion must be something that can be predicted, so that everyone is obliged to stick to the conclusion. This grip is what in turn makes everyone more orderly. Legal certainty will help people become orderly. [5] The provisions of Article 156 paragraph (1) jo. Article 185 paragraph (1) of the Manpower Law after the Job Creation Law is a major premise, namely that employers are obliged to pay for workers' rights due to layoffs, if they are not subject to imprisonment and / or fines, while the minor premise is a concrete event the employer does not pay rights. workers due to layoffs, so the conclusion is that employers must be subject to criminal sanctions and / or fines.

The existence of legal certainty makes everyone act in accordance with applicable regulations. On the other hand, if there is no legal certainty, then there is no standard provision that guarantees everyone in taking an action. Therefore, it is true that Gustav Radbruch stated that certainty is part of the goal of law. A social life is closely related to legal certainty because legal certainty is something that has a normative nature in terms of regulating as well as judges' decisions. Legal certainty is aimed at synonymous with social life where the order is clear, orderly, consistent, and not affected by subjective situations. [6]

The Job Creation Law was formed for the purpose of expanding employment opportunities and improving the quality of work. The strategic policies in the Job Creation Law are: Increasing the investment ecosystem and business activities; Increasing the protection and welfare of workers; Convenience, empowerment, and protection of Cooperatives and UMK-M; and Increasing government investment and accelerating national strategic projects. The materials for increasing the protection and welfare of workers are: Protection of non-permanent contracts workers; Outsourcing worker protection; Protection of wages; Protection of workers who have experienced layoffs; and Protection of Indonesian Workers against the use of Foreign Workers. The entire protection must have legal certainty that comes from the Job Creation Law and its implementing regulations, including for the protection of workers who have experienced layoffs. Elucidation of Article 2 paragraph (1) letter b of the Job Creation Law explains that what is meant by "legal certainty" is that job creation is carried out in line with the creation of a conducive business climate established through a legal system that ensures consistency between laws and regulations and their implementation.

Worker rights due to layoffs after the Job Creation Law

Layoffs are very crucial for workers, especially during the Covid-19 pandemic, many workers were laid off by companies where workers no longer have a source of income to support themselves and their families. The Manpower Law has provided protection for workers who have been laid off, namely in the provisions of Article 156 paragraph (1) which reads "In the event of termination of employment, employers are required to pay severance pay and / or retirement pay and compensation for rights that should be received". The essence of severance

pay is a penalty for workers after they no longer work at the company, while the work period award pay is an award from employers to workers for their service to the company according to their tenure.

Article 156 paragraph (2) of the Manpower Law reads: "The calculation of severance pay as referred to in paragraph (1) is at least as follows: a. work period of less than 1 (one) year, 1 (one) month of wages; b. work period of 1 (one) year or more but less than 2 (two) years, 2 (two) months of wages; c. work period of 2 (two) years or more but less than 3 (three) years, 3 (three) months of wages; d. work period of 3 (three) years or more but less than 4 (four) years, 4 (four) months of wages; e. work period of 4 (four) years or more but less than 5 (five) years, 5 (five) months of wages; f. work period of 5 (five) years or more, but less than 6 (six) years, 6 (six) months of wages; g. work period of 6 (six) years or more but less than 7 (seven) years, 7 (seven) months of wages; h. work period of 7 (seven) years or more but less than 8 (eight) years, 8 (eight) months of wages; i. work period of 8 (eight) years or more, 9 (nine) months of wages.

The calculation of the work period award money as referred to in paragraph (1) is determined as follows: work period of 3 (three) years or more but less than 6 (six) years, 2 (two) months of wages; b. work period of 6 (six) years or more but less than 9 (nine) years, 3 (three) months of wages; c. work period of 9 (nine) years or more but less than 12 (twelve) years, 4 (four) months of wages; d. work period of 12 (twelve) years or more but less than 15 (fifteen) years, 5 (five) months of wages; e. work period of 15 (fifteen) years or more but less than 18 (eighteen) years, 6 (six) months of wages; f. work period of 18 (eighteen) years or more but less than 21 (twenty one) years, 7 (seven) months of wages; g. work period of 21 (twenty one) years or more but less than 24 (twenty four) years, 8 (eight) months of wages; h. work period of 24 (twenty four) years or more, 10 (ten) months of wages.

If we trace the provisions in the Manpower Law regarding the reasons for layoffs and the amount of severance pay as well as the reward pay for years of service in accordance with the provisions of Article 156 paragraph (2) and paragraph (3) above, the maximum severance pay is 2 (two) times 9. (nine) months of wages or 18 months of wages, if the work period of the worker is 8 (eight) years or more. The work period reward money is given a maximum of 10 (ten) months of wages if the worker has worked for 24 (twenty-four) years or more. If you add up the severance pay and reward pay for the service period, the maximum is 28 months of wages.

The compensation money for rights regulated by Article 156 paragraph (4) is in the form of: a. annual leave that has not been taken; b. costs or fees for workers and their families to return to the place where workers are accepted to work; c. housing compensation as well as medication and care is set at 15% (15 percent) of severance pay and / or service pay (15% x 28 months of wages = 4.2 months of wages). So, the amount of severance pays, long service pay and compensation pay, a maximum of 28 months of wages plus 4.2 months of wages is 32.2 months of wages.

The Job Creation Law revises the provisions of Article 156 paragraph (1) to read: "In the event of termination of employment, employers are obliged to pay severance pay and / or service pay and compensation fees that should be received". Then the word "at least" for the payment of severance pay in Article 156 paragraph (2) is abolished, likewise the provisions of Article 156 paragraph (4) letter c regarding housing compensation as well as medical and treatment are also abolished. After examining the revisions made by the Job Creation Law regarding the reasons for layoffs related to the calculation of the number of rights of workers who experienced layoffs, the number has greatly reduced. The amount of severance pay is calculated between 0.5 and 2 times the provisions of Article 156 paragraph (2). The calculation of severance pays for 2 (two) times the stipulation is for layoffs because workers who die and are unable to work for 12 consecutive months due to work accidents, while the work period award money does not change.

So, the maximum amount of severance pay, and service pay apart from the two reasons for dismissal is 19 (nineteen) months of wages, namely severance pay for a maximum of 9 (nine) months of wages, plus 10 (ten) months of wages. The decrease in the quantity of workers' rights due to layoffs is one of the protests by workers and trade unions against the Job Creation Law. After the Job Creation Law, for workers whose work relationship is based on a fixed-time employment agreement (PKWT), they are given compensation when the PKWT ends.

This compensation is not regulated in the Job Creation Law but is regulated in PP No. 35 of 2021 concerning non-permanent contracts, outsourcing, working and rest time, and layoffs. In Article 15 paragraph (1) and paragraph (2) PP. 35/2021 stipulates that "Employers are required to provide compensation money to Workers / Laborers whose work relationship is based on PKWT, given when the PKWT ends". Article 16 PP No. 35 of 2021 stipulates the amount of compensation money to be given in accordance with the following conditions:

1. PKWT for 12 (twelve) months continuously, is given as much as 1 (one) month of Wages.
2. Non-permanent contracts for 1 (one) month or more but less than 12 (twelve) months, are calculated proportionally with the calculation: working period divided by 12 x 1 (one) month of Wages.
3. Non-permanent contracts for more than 12 (twelve) months, are calculated proportionally by the calculation: the working period is divided by 12 x 1 (one) month of wages.

This provision of compensation is a new thing in the Manpower Law, because before the Job Creation Law, workers whose work relationships were based on non-permanent contracts did not get any rights when the PKWT ended. The deadline for non-permanent contracts after the work creation law is a maximum of 5 (five) years in accordance with Article 8 PP No. 35 of 2021, whereas previously it was a maximum of 3 (three) years in accordance with Article 59 of Law no. 13 of 2003. Regarding this, there are workers / labour unions who argue that increasing the term of the PKWT opens the opportunity for employers to use more workers with PKWT and narrow the opportunities for workers with PKWTT.

It can be said that the existence of PKWT compensation after the Job Creation Law, is to provide a balance to the additional term of the PKWT. Search results for PP No. 35 of 2021, apparently there is no legal sanction against entrepreneurs who do not carry out their obligation to pay compensation, in other words the word "obligatory" in Article 15 paragraph (1) is not followed by sanctions for violations. This shows that there is no guarantee of protection or legal certainty for workers regarding the payment of the compensation if the employer is not willing to pay it voluntarily.

PP No. 37 of 2021 concerning Job Loss Guarantee as the implementing regulation of the Job Creation Law also regulates another form of protection for workers who have experienced layoffs, namely the provision of Job Loss Security (JKP), as has been implemented by various countries known as Unemployment Benefit. Article 1 number 1 PP No. 37 of 2021 gives the meaning of JKP as social security provided to Workers / Laborers who have experienced termination of employment in the form of cash benefits, access to labour market information, and job training. The implementation is carried out by BJPS Ketenagakerjaan and the Central Government.

Article 11 PP No. 37 regulates the job loss insurance contribution paid every month, with details: 0.46% of a month's wages, sourced from contributions paid by the Central Government and JKP funding sources. The contribution paid by the Central Government is 0.22% of the monthly wages. The source of JKP funding is a recompositing of the Work Accident Security Program (JKK) contribution of 0.14% of a month's wages, and the death benefit (JKM) is recomposed at 0.10% of a month's wages, so that the JKM contribution becomes 0.20% of the monthly wages. Articles 18 and 19 of the Government Regulation stipulate JKP benefits to

participants for a specified time working relationship (PKWT) and an indefinite work agreement (PKWTT), namely cash benefits, access to employment information and job training. Article 21 of the PP, cash benefits are provided for 6 (six) months of wages with the following conditions: a. 45% of wages for the first 3 (three) months; and 25% of wages for the following three months. For the first time, the upper limit of wages is set at Rp. 5,000,000. If the provisions concerning JKP are examined, for the first 3 (three) months $45\% \times \text{Rp. } 5,000,000 = \text{Rp. } 2,250,000$, - per month, and the next 3 (three) months $25\% \times \text{Rp. } 5,000,000 = \text{Rp. } 1,250,000$, - / per month so the cash benefits from this JKP are very small, and the source is also part of it. recomposition of JKK and JKM so that there is no added burden for entrepreneurs to pay the JKP.

Manpower Law (post Job Creation Law) in conjunction with PP No. 35 of 2021 in conjunction with PP No. 37 of 2021 stipulates that the number of payments for the rights of workers who experience layoffs has greatly reduced, compared to what was regulated in the previous provisions of the Manpower Law, it can be said that the Job Creation Law has provided more protection to employers by reducing their obligation to pay for workers' rights. experienced layoffs.

Therefore, it can no longer be accepted that there are reasons that the calculation of severance pays, long service pay and compensation pay is too high, as has often been stated by employers so far. Employers should pay for workers' rights due to voluntary layoffs, at least there is a need for guarantees for payment of severance pay, service pay and compensation money, which is the safety net for workers and their families who experience layoffs.

Criminal sanctions for violation of article 156 paragraph (1) after the Job Creation Law

Based on the author's experience when serving as one of the Ad Hoc Judges at the Industrial Relations Court (PHI) at the Medan District Court, from 4 (four types of disputes, namely disputes over rights, disputes over interests, disputes over layoffs and disputes between trade unions / labour unions in one company, Disputes over dismissal were the largest number of disputes. From April 1, 2006 to March 20, 2018, the number of cases was 1,835. Of 1,835 cases, 92% of the plaintiffs were workers / laborers, rights disputes were around 5% or 92 cases, and dismissal disputes Around 95% or 1,743 cases, disputes over interests and disputes between trade unions / labour unions independently have never been submitted to the Industrial Relations Court at the Medan District Court. [7] The issue raised was the legality of layoffs followed by the problem of calculating the number and payment of workers' rights due to layoffs that were not paid by employers voluntarily.

Even though there has been an IRC decision that has permanent legal force, there are still many employers who are not willing to voluntarily pay for the rights of workers who have experienced layoffs. Even if they want to make an effort through confiscation of execution, it is still difficult to implement because it is not easy for workers to gain access or information about company property that can be requested for execution. In addition, there are no sanctions to employers if the execution of workers' rights payments due to layoffs is not paid to workers. Not to mention that there are still extraordinary legal remedies by employers, namely a Reconsideration which can delay the execution of workers' rights payments in accordance with the PHI Ruling which has permanent legal force. These things that happen in the field, so there is no legal certainty when workers get the safety net due to layoffs, of course this is not fair to workers.

The concept of labour law working must be rooted in the legal culture and legal system of Indonesia which emphasizes the principle of deliberation to reach consensus. Settlement of industrial relations disputes by deliberation to reach a consensus will produce a win-win solution for all parties and can create a balance of relations between workers and employers. The social

system that runs can take place in harmony so that the harmonization of industrial relations can be maintained.

The Job Creation Law has provided criminal sanctions in the form of imprisonment and / or fines against employers who violate the provisions of Article 156 paragraph (1) of the Manpower Law by revising Article 185 paragraph (1) of the Manpower Law, so that it is new for the protection of workers whose rights are due to Layoffs are not paid by employers. Meanwhile, the imposition of criminal sanctions is an answer to the weakness in the execution of the Industrial Relations Court Decision prior to the Job Creation Law. Article 185 paragraph (2) of the Manpower Law confirms that an entrepreneur's act of violating his obligations in Article 156 paragraph (1) is a criminal act. The establishment of norms for criminalization of criminal acts by the Job Creation Law is in accordance with the legality principle in criminal law.

Legal principles that apply to all criminal law fields, both those contained in the Criminal Code and those outside the Criminal Code. The principle of legality is further explained by the amendment to the 1945 NRI Constitution, namely Article 28 letter D paragraph (1) of the 1945 NRI Constitution which emphasizes "fair legal certainty". Article 28D paragraph (1) reads "Everyone has the right to recognition, guarantee, protection and legal certainty that is just and equal treatment before the law". A clearer description of just legal certainty is included in Law no. 48 of 2009 concerning Judicial Power, where "judges are obliged to explore legal values and a sense of justice that lives in society" [8]

Criminal law as a means of "social defence" in the sense of protecting society against crime by repairing or restoring the perpetrator without reducing the balance of the interests of individuals (perpetrators) and society. The principles of criminal law are used as the basis for determining a criminal act, criminal and criminal liability and punishment, through the formation of criminal law. Criminal or punishment is always felt as a special sanction by the convicted person. These sanctions can be in the form of deprivation of the right to life, deprivation of freedom of movement and confiscation of the convict's property, and so on. In other words, the criminal law with its sanctions has placed special suffering (punishment / *bijzondere leed*). [9] The imposition of criminal sanctions for criminal acts of entrepreneurs who are not willing to voluntarily pay normative rights to workers / laborers who experience dismissal is a humanitarian protection for workers / laborers, so they must obtain legal certainty for their enforcement.

Determination of imprisonment penalties and / or fines that are regulated after the Job Creation Law for violations of Article 156 paragraph (1), must go through a Criminal Court Decision which has permanent legal force, thereby extending the law enforcement process for workers. In addition, imprisonment for employers does not guarantee that the rights of workers who have been dismissed are paid. In fact, the criminal sanctions stipulated in the Job Creation Law do not guarantee the payment of workers' rights. According to Wiryono's opinion, all income obtained from the current criminal sanctions, both those regulated in the Criminal Code and special laws outside the Criminal Code are deposited into the state treasury and belong to the state [10].

In principle, unpaid fines are replaced by imprisonment. In the decision of the Short Examination Procedure (APS and Ordinary Examination Procedure (APB), the convict is given a period of 1 (one) month to pay the fine and if there is a strong reason, that period can be extended for a maximum of 1 (one) month) (Article 273 paragraph 91) and (2) KUHAP). [11] Thus, the fines regulated in Article 185 paragraph (1) of the Job Creation Law also do not provide fair legal certainty for workers because fines are not given to workers as the victim who is injured, even fines can be replaced by imprisonment, or still be given a term. time extended.

This provision is contrary to the sense of justice because the victim of a criminal act should be the most competent party to pay the fine paid by the criminal offender. This is because the party most disadvantaged by the perpetrator of the crime is the victim who has suffered material and immaterial losses as a result of the perpetrator's actions. [12]

All of the studies above show that the regulation of the imposition of criminal sanctions against employers who do not pay for the rights of workers who experience layoffs after the Copyright Law does not provide fair legal certainty for workers.

4 Conclusion

Criminalization of the actions of employers who do not carry out their obligations to pay workers' rights, severance pay, service pay and compensation for workers who experience layoffs is a criminal offense, stipulated by Article 185 paragraph (2) of Law no. 13 of 2003 concerning Manpower after the Job Creation Law. The ratio legis of the new legal provisions is aimed at ensuring that workers' rights are paid.

Imposition of imprisonment and / or fines in Article 185 paragraph (1) of the Manpower Law after the Job Creation Law has not provided legal certainty, namely guarantees for payment of severance pay, work period awards and compensation pay for workers who experience layoffs, but instead prolongs the process law enforcement because it has to go through a General Criminal Court Decision which has permanent legal force, even though the calculation of workers' rights has decreased considerably after the Job Creation Law. The criminal sanction of fines after the Job Creation Law apparently also does not provide fair legal certainty for workers to obtain workers' rights due to layoffs, because the fines are deposited into the state treasury and become state property, not given to workers who are victims of criminal crimes.

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