

ABSTRAK

Penelitian ini membahas konstitusionalitas Pasal 27A Undang-Undang Informasi dan Transaksi Elektronik (UU ITE) pasca Putusan Mahkamah Konstitusi Nomor 105/PUU-XXII/2024, khususnya terhadap prinsip kepastian hukum (*legal certainty*) dan kebebasan berekspresi. Pasal 27A UU ITE hasil revisi 2024 menjadi sorotan karena dianggap berpotensi membatasi hak warga negara dalam menyampaikan kritik dan aspirasi. Putusan Mahkamah Konstitusi tersebut menegaskan pembatasan subjek hukum Pasal 27A hanya kepada individu, sehingga korporasi, lembaga pemerintah, dan pejabat publik tidak lagi termasuk di dalamnya. Penelitian ini menggunakan metode penelitian hukum yuridis normatif dengan pendekatan perundang-undangan (*statute approach*) dan pendekatan konseptual (*conceptual approach*), serta dianalisis secara deskriptif kualitatif. Hasil penelitian menunjukkan bahwa putusan Mahkamah Konstitusi Nomor 105/PUU-XXII/2024 memberikan kejelasan norma dan memperkuat perlindungan hak konstitusional warga negara, khususnya dalam kebebasan berekspresi di ruang digital. Namun, pembatasan subjek hukum hanya pada individu berpotensi menimbulkan ketidakseimbangan terhadap prinsip *equality before the law*, karena membuka celah bagi korporasi dan institusi publik untuk lepas dari pertanggungjawaban pidana. Dengan demikian, diperlukan harmonisasi dan reformulasi kebijakan hukum agar prinsip negara hukum, kepastian hukum, dan kebebasan berekspresi dapat terjamin secara proporsional.

Kata Kunci: Konstitusionalitas Pasal 27A UU ITE, Kepastian Hukum, Kebebasan Berekspresi

ABSTRACT

This study discusses the constitutionality of Article 27A of the Electronic Information and Transactions Law (EIT Law) following Constitutional Court Decision Number 105/PUU-XXII/2024, particularly in relation to the principles of legal certainty and freedom of expression. Article 27A of the revised 2024 ITE Law has come under scrutiny because it is considered to have the potential to limit the rights of citizens to express criticism and aspirations. The Constitutional Court's decision confirms that the legal subjects of Article 27A are limited to individuals, so that corporations, government agencies, and public officials are no longer included. This study uses a normative legal research method with a statute approach and a conceptual approach, and is analyzed descriptively and qualitatively. The results of the study show that Constitutional Court Decision Number 105/PUU-XXII/2024 provides clarity on norms and strengthens the protection of citizens' constitutional rights, particularly in terms of freedom of expression in the digital space. However, limiting legal subjects to individuals has the potential to create an imbalance in the principle of equality before the law, as it opens the door for corporations and public institutions to escape criminal liability. Thus, harmonization and reformulation of legal policies are necessary to ensure that the principles of the rule of law, legal certainty, and freedom of expression are guaranteed in a proportional manner.

Keywords: *Constitutionality of Article 27A of the ITE Law, Legal Certainty, Freedom of Expression*