

ABSTRAK

Perkembangan platform e-commerce sebagai sarana transaksi digital membawa dampak positif bagi aktivitas perdagangan, namun juga membuka peluang terjadinya penyalahgunaan sistem elektronik sebagai sarana transaksi ilegal, termasuk peredaran narkoba. Fenomena ini menimbulkan permasalahan hukum terkait kualifikasi tindak pidana serta batas pertanggungjawaban pidana atas perbuatan yang dilakukan melalui platform e-commerce. Permasalahan yang dikaji dalam penelitian ini adalah apakah perbuatan di platform e-commerce yang menjadi wadah transaksi narkoba dapat dikualifikasikan sebagai tindak pidana menurut hukum pidana Indonesia.

Penelitian ini menggunakan jenis penelitian hukum normatif dengan pendekatan perundang-undangan dan pendekatan kasus. Pendekatan perundang-undangan dilakukan dengan menelaah ketentuan hukum positif, antara lain Undang-Undang Nomor 35 Tahun 2009 tentang Narkoba, Undang-Undang Nomor 11 Tahun 2008 jo. Undang-Undang Nomor 19 Tahun 2016 tentang Informasi dan Transaksi Elektronik, Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana, serta Peraturan Mahkamah Agung Nomor 13 Tahun 2016 tentang Tata Cara Penanganan Perkara Tindak Pidana oleh Korporasi. Pendekatan kasus dilakukan melalui analisis Putusan Nomor 93/Pid.Sus/2020/PN.Bjr dan Putusan Nomor 244/Pid.Sus/2021/PN.Kpn.

Hasil penelitian menunjukkan bahwa transaksi narkoba yang dilakukan melalui platform e-commerce memenuhi unsur tindak pidana narkoba sebagaimana diatur dalam Undang-Undang Nomor 35 Tahun 2009. Selain itu, platform e-commerce yang terbukti lalai dalam melakukan pengawasan dan pencegahan dapat dikualifikasikan telah melakukan perbuatan pidana korporasi berdasarkan doktrin pertanggungjawaban pidana korporasi. Kelalaian tersebut, apabila memenuhi unsur kesalahan sebagaimana diatur dalam PERMA Nomor 13 Tahun 2016 dan KUHP Baru, membuka ruang bagi pengenaan pertanggungjawaban pidana terhadap penyelenggara platform e-commerce dalam sistem hukum pidana Indonesia.

Kata Kunci: Kualifikasi Tindak Pidana, Pertanggungjawaban Pidana Korporasi, E-Commerce, Narkoba

ABSTRACT

The rapid development of e-commerce platforms as instruments of digital transactions has generated significant benefits for commercial activities. However, this advancement has also created opportunities for the misuse of electronic systems as means of facilitating unlawful transactions, including the distribution of narcotics. This phenomenon raises complex legal issues concerning the classification of criminal conduct and the limits of criminal liability for acts committed through e-commerce platforms. Accordingly, this research examines whether activities conducted on e-commerce platforms that facilitate narcotics transactions may be legally classified as criminal offenses under Indonesian criminal law.

This study employs normative legal research using statutory and case-based approaches. The statutory approach is conducted through an analysis of relevant positive law, including Law Number 35 of 2009 on Narcotics, Law Number 11 of 2008 as amended by Law Number 19 of 2016 on Electronic Information and Transactions, Law Number 1 of 2023 on the Criminal Code, and Supreme Court Regulation Number 13 of 2016 concerning Procedures for Handling Criminal Cases Involving Corporations. The case approach is carried out through an examination of Decision Number 93/Pid.Sus/2020/PN.Bjr and Decision Number 244/Pid.Sus/2021/PN.Kpn.

The findings of this research indicate that narcotics transactions conducted through e-commerce platforms fulfill the constituent elements of narcotics-related criminal offenses as stipulated in Law Number 35 of 2009. Furthermore, e-commerce platforms that are proven to have failed in exercising adequate supervision and preventive measures may be classified as corporate criminal offenders under the doctrine of corporate criminal liability. Such negligence, when satisfying the element of fault as regulated in Supreme Court Regulation Number 13 of 2016 and the newly enacted Criminal Code, provides a legal basis for imposing criminal liability on e-commerce platform operators within the Indonesian criminal justice system.

Keywords: Criminal Offense Classification, Corporate Criminal Liability, E-Commerce, Narcotics.