



ANALYSIS OF THE CIVIL DECISION EXECUTION MECHANISM IN THE INDONESIAN JUDICIAL SYSTEM

ANALISIS MEKANISME EKSEKUSI PUTUSAN PERDATA DALAM SISTEM PERADILAN INDONESIA

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Abstract

The last phase that assesses the efficiency of law enforcement in the Indonesian legal system is the execution of civil decisions. Despite having a solid legal foundation thanks to the Reglement Buitengewesten (RBg) and the Herzien Inlandsch Reglement (HIR), its execution frequently encounters a number of challenges. The purpose of this study is to examine how civil judgments are carried out, including the legal foundation, several forms of execution (such as real, payment of money, and vacating), stages of implementation (such as aanmaning, execution seizure, and forceful execution), and practical challenges. Normative juridical study using a conceptual and statutory approach is the methodology employed. The study's findings show that the primary causes of execution failure are non-legal barriers like social opposition and a lack of official backing, as well as legal barriers like verzet, derden verzet, and ambiguous verdicts. Effective, efficient, and equitable execution of civil judgments requires systemic change and interagency cooperation.

Keywords : civil judgment execution, HIR, legal obstacles, execution mechanisms, legal certainty.

Abstrak

Fase terakhir yang menilai efisiensi penegakan hukum dalam sistem hukum Indonesia adalah pelaksanaan putusan perdata. Meskipun memiliki landasan hukum yang kuat berkat Reglement Buitengewesten (RBg) dan Herzien Inlandsch Reglement (HIR), pelaksanaannya sering kali menghadapi sejumlah tantangan. Tujuan dari penelitian ini adalah untuk mengkaji bagaimana putusan perdata dilaksanakan, termasuk landasannya, berbagai bentuk pelaksanaan (seperti eksekusi fisik, pembayaran uang, dan pengosongan), tahapan pelaksanaan (seperti aanmaning, sita eksekusi, dan eksekusi paksa), serta tantangan praktis yang dihadapi. Penelitian ini menggunakan pendekatan studi yuridis normatif dengan pendekatan konseptual dan undang-undang. Temuan penelitian menunjukkan



bahwa penyebab utama kegagalan eksekusi adalah hambatan non-hukum seperti penolakan sosial dan kurangnya dukungan resmi, serta hambatan hukum seperti verzet, derden verzet, dan putusan yang ambigu. Pelaksanaan putusan perdata yang efektif, efisien, dan adil memerlukan perubahan sistemik dan kerjasama antar lembaga.

Kata Kunci : pelaksanaan putusan perdata, HIR, hambatan hukum, mekanisme eksekusi, kepastian hukum.

1. INTRODUCTION

Civil law plays an important role in regulating legal relationships that are private in nature between individuals and legal entities (Taluke, 2013). The court is the institution authorized to examine, adjudicate, and decide cases in the process of resolving civil disputes to deliver justice to the parties involved (Herlambang et al., 2017). However, if a court ruling cannot be enforced or executed, it is meaningless. Therefore, the final step in the enforcement of civil law is the execution of the civil judgment; this demonstrates how effective the enforcement of civil law is and shows the strength of the judicial institution (Phireri et al., 2022; Mauboy et al., 2023).

Until now, the Herzien Inlandsch Reglement (HIR) and Reglement Buitengewesten (RBg) serve as the legal basis for civil procedures in Indonesia and regulate how civil judgments are executed (Hatta et al., 2024; Sintara & Marzuki, 2021). In practice, the execution mechanism takes various forms, such as real execution, payment of money, and execution of decisions that require actions. However, the implementation of execution often faces various challenges, both from a legal and non-legal perspective (Ralang Hartati, 2021). These obstacles include resistance from the executed party, the court's unpreparedness, third-party intervention, and social and political issues on the ground (Marwing & Mustaming, 2024).

The Indonesian judicial system faces many problems due to the difficulty of executing civil judgments (Firzatullah et al., 2024). Bureaucratic factors and disagreements between agencies often cause judgments that have permanent legal force (*inkracht van gewijsde*) to be not executed. This situation leads to legal uncertainty and the erosion of public trust in the judiciary as the enforcer of the rule of law (Gaol et al., 2024).

Based on this background, the aim of this research is to study the methods used within the Indonesian judicial system to implement civil judgments. This study will place special emphasis on the legal foundations, types of execution, the stages required to carry out the execution, and the various obstacles that arise in practice. It is expected that this research will contribute to the development of civil procedural law, particularly by discovering a more efficient model of execution and providing legal certainty for the parties involved.

2. RESEARCH METHOD

This research uses a normative juridical approach, which is a legal research method focused on applicable legal standards, both written and unwritten. This method is used to examine the legal rules that govern the execution of civil judgments in the Indonesian judicial



system, as regulated in the Herzien Inlandsch Reglement (HIR), Reglement Buitengewesten (RBg), as well as various implementing regulations and relevant court rulings. Two approaches are used: the statutory approach and the conceptual approach. The statutory approach looks at the positive legal provisions that regulate the execution mechanism, such as Articles 196–208 HIR and Article 225 HIR, while the conceptual approach examines the legal principles underlying the execution process and the issues that arise in practice.

3. RESULT AND DISCUSSION

One of the important stages in the Indonesian judicial system is the execution of civil judgments, as it is a tangible measure of how effective law enforcement is and the authority of the courts. In order for the winning party to receive their rightful entitlement, the court decision that has permanent legal force (inkracht van gewijsde) must be executed. A court decision will only remain a formal ruling that does not help the disputing parties if the execution is not carried out. Therefore, the execution system is crucial for maintaining substantive justice and providing legal certainty to the public seeking justice.

a. Types of Civil Judgment Execution

In Indonesian civil procedural law, there are three types of execution: real execution, monetary execution, and eviction execution. Depending on the content of the judgment and the dispute to be executed, these three types of execution have different legal foundations and procedures.

Real execution is a type of execution aimed at fulfilling the orders stated in the judgment's decision. This can include the delivery of goods, the return of the disputed object, or the performance of certain actions. This execution is carried out by an enforcement officer under the strict supervision of the Chief of the District Court, in accordance with the provisions set out in Article 225 of the HIR. In practice, real execution often involves physical actions on the ground, such as delivering movable or immovable property, or even transferring ownership rights from the losing party to the winning party. This type of execution emphasizes that the court's role is not only to decide the case but also to enforce the judgment.

In addition, monetary execution is the most common type of execution in civil judicial practice. If the executed party does not voluntarily pay the amount specified in the judgment, the court may carry out the execution by seizing and auctioning the executed party's assets, according to Article 197 of the HIR. The enforcement officer will seize the assets of the executed party, both movable and immovable. These assets are then auctioned through the State Auction Office. The proceeds from the auction are used to pay the party entitled to the executed party's responsibility. Monetary execution usually faces administrative obstacles and resistance, especially when the executed party tries to hide or transfer their assets to prevent seizure.

Meanwhile, eviction execution is the implementation of a ruling that requires the executed party to vacate and hand over a building, land, or premises to the rightful party. Disputes over ownership, lease agreements, or failures in land and building sale agreements



typically involve eviction execution. To ensure security and order during the execution process, this is carried out by an enforcement officer with the supervision of law enforcement officers. Eviction execution often faces physical resistance from the executed party or third parties occupying the disputed object. As a result, social conflicts may arise. Therefore, eviction execution must be carried out carefully, considering security, humanitarian aspects, and public interest.

b. Stages of Execution Implementation

The execution of civil judgments in Indonesia is carried out through several systematic and hierarchical legal stages, in accordance with the HIR and judicial practices. Aanmaning (warning), the determination of execution seizure, and forceful execution are these stages. Each stage plays a role and serves the purpose of ensuring that the judgment is executed legally, orderly, and in accordance with the law.

According to Article 196 of the HIR, the first stage is aanmaning or warning. The Chief of the District Court summons the executed party to issue a warning, urging them to voluntarily comply with the judgment within a certain period, usually eight days from the warning. The court uses this warning to encourage the execution of the judgment without the use of force. However, if the executed party still fails to comply within the specified period, the court may proceed to the next stage.

The second stage is the determination of the execution seizure, which is issued by the Chief of the District Court to ensure that execution is carried out against the disputed goods or assets of the executed party. This determination gives the enforcement officer the legal basis to seize the executed party's property. The execution seizure is made to prevent the executed party from transferring, selling, or removing the property that is the object of the execution. When carrying out the monetary execution, the execution seizure is a crucial step before the seized goods can be auctioned.

The final stage is forceful execution, which means that the court carries out the judgment through the enforcement officer and security personnel. At this stage, the court may perform actions such as evicting from land and buildings, selling property, or handing over the disputed object to the rightful party. The Chief of the District Court is fully responsible for ensuring that the entire procedure is carried out orderly and in accordance with the legal provisions. In practice, forceful execution requires close cooperation between the court, the police, and other organizations to prevent conflicts on the ground.

c. Obstacles in the Execution of Civil Judgments

The execution process in the field often faces various complex challenges, both from a legal and non-legal perspective, even though the implementation procedure is regulated under civil procedural law. One of the main causes of ineffective court judgment enforcement in Indonesia is these obstacles.

Legal resistance from the executed party or third parties is typically a source of legal barriers. For example, the filing of *verzet* (objection) against the execution order or *derden verzet* from third parties claiming ownership of the property being executed. In addition,



extraordinary legal remedies such as *peninjauan kembali* (judicial review) can delay the execution process because the court must wait for a decision regarding the application. The lack of clarity in the judgment's wording, making it difficult to execute directly, is also an issue. This occurs when the judgment does not specifically mention the disputed object or the actions the executed party must take. Furthermore, differing opinions between the enforcer and the interested parties can create new issues that complicate the execution process.

However, non-legal challenges are usually related to social, psychological, and security factors. It is not uncommon for the executed party to resist physically, refuse to vacate, or even mobilize the surrounding community to prevent the execution. Such situations can lead to conflicts between the court and the public. Therefore, the court must be cautious in carrying out its duties. Additionally, execution is often not secure due to limited court resources and insufficient police assistance. The situation in the field is also complicated by external factors such as third-party interference, political pressure, or the indecisiveness of local officials in supporting the court's decision.

Although the civil judgment execution mechanism in Indonesia has a strong normative legal basis, these obstacles show that its implementation still faces significant issues in practice. Such conditions can create legal uncertainty and undermine public trust in the judicial system as a fair and powerful law enforcer. Consequently, the execution system must be updated by enhancing coordination among law enforcement agencies, increasing the capacity of judicial resources, and reforming regulations to ensure the execution process is carried out efficiently, quickly, and justly.

d. Discussion

There is a difference between the written legal standards and the reality on the ground, as shown by the way civil judgments are executed in the Indonesian judicial system. The Herzien Inlandsch Reglement (HIR) and Reglement Buitengewesten (RBg), which regulate the execution procedure from *aanmaning* to forceful execution, clearly outline these processes (Runtu et al., 2024). Several Supreme Court Circular Letters (SEMA) emphasize the importance of legal certainty and order in the execution of judgments, supporting these regulations (Phireri et al., 2022). However, due to many obstacles from both a legal and non-legal perspective, the execution process does not always succeed.

From a legal perspective, the biggest obstacle is the legal actions filed by the executed party or third parties, such as *verzet* (objection), *derden verzet*, and judicial review (*peninjauan kembali* or PK). These legal actions are often used to delay the execution, slowing down the law enforcement process and diminishing the quality of court rulings (Hartati, 2021). In addition, another common issue is the unclear judgment or one that is difficult to execute, as it leads to differing interpretations between the enforcer and the interested parties (Utami et al., 2023). This highlights how crucial it is for judges to be meticulous when making their decisions so that they can be correctly implemented without causing legal uncertainty (Wulansari, 2015).

From a non-legal perspective, social and psychological factors within the community often become the main obstacles to the execution process (Yasa & Iriyanto, 2023). Eviction



execution of land or buildings often faces physical resistance, mass mobilization, and third-party intervention. This is especially true for objects of execution that have social and economic value. Additionally, the situation is worsened by limited court resources, insufficient security support from the police, and interference from political or influential parties. In such situations, execution requires strong inter-agency coordination and a persuasive approach to maintain public order and prevent conflicts on the ground (Trisnawati, 2020).

After examining the various stages and forms of execution, it can be concluded that the implementation of civil judgment execution is not only a procedural part of civil procedural law but also a measure of how effective the judicial system itself is. When execution is carried out quickly, fairly, and orderly, public trust in the judiciary increases. Conversely, if execution is delayed or not carried out, the court's judgment becomes irrelevant, and the supremacy of law weakens. As a result, reforms to the execution mechanism should focus on strengthening regulations, improving the professionalism of the judiciary, and optimizing inter-agency support so that legal objectives such as justice, certainty, and benefit can be achieved in a balanced manner.

4. CONCLUSION

Although the mechanism for executing civil judgments in Indonesia has a strong legal foundation, its implementation still faces challenges, both legally and non-legally. The HIR and other implementing regulations govern the stages of execution, such as aanmaning, the determination of execution seizure, and forceful execution, with three main types of execution: real execution, payment of money, and eviction. Legal obstacles such as legal resistance, unclear judgment wording, and the use of extraordinary legal remedies, as well as non-legal challenges such as social and psychological factors and a lack of inter-agency coordination, cause many court decisions that have permanent legal force (inkracht) to be executed ineffectively, leading to legal uncertainty and a decline in public trust in the judiciary. To create a fair and efficient execution system, systemic reforms are needed, including simplifying execution regulations, improving the capacity and integrity of enforcement officers, strengthening inter-agency cooperation, and creating a reliable system. Thus, the execution of civil judgments is not only a formal legal action but also reflects how well the judiciary upholds justice and legal certainty in Indonesia.

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