DETERMINATION OF SUSPECT AS THE PRETRIAL OBJECT

Ely Kusumastuti

ABSTRACT

The background of this research is the legal uncertainty after the MKRI verdict Number: 21 / PUU-XII / 2014 on April 28, 2015 which has added pre-trial object with the determination of suspects, foreclosures and searches. The legal issues of this research are:
1. The philosophical foundation of the pre-trial.
2. Ratio Decidendi of pre-trial verdict related to the determination of suspects, i.e. the pre-trial verdict on behalf of the Budi Gunawan and the pre-trial verdict on behalf of the Suroso.

The type of this research is a legal research. Problem and analysis approaches used on this research are legislation, conceptual, comparative and case approaches.

The conclusions of this research are: First, the pretrial philosophical foundation is to provide human rights protection in the use of forceful efforts by investigators and prosecutors. Second, the ratio decidendi pretrial verdict on behalf of Budi Gunawan and The Verdict of MKRI Number: 21/PUU-XII/2014, April 28, 2015 which has decided determination of suspect as pretrial object, has shifted from philosophy of pretrial in the Criminal Code and not according to the principles of fairness, certainty and expediency. The authority of the Pretrial Institution in the Criminal Procedure Code only examines the procedural truth in this case the investigator's and prosecutor's actions, while to examine the material truth related to the suspect's acts is the absolute authority of the Case Trial Session.

Keywords: Determination of The Suspect, Pre-trial.