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Consequences of Regulating the Rechterlijk Pardon Concept Against the Types of Criminal Decisions in Indonesia

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Abstract

Law Number 8 of 1981 concerning the Criminal Procedure Law has regulated the types of final decision s into 3 (three) namely acquittal decision, decision free from all demands, and criminal decision. Where each type of decision has its own characteristics that distinguish it from other types of criminal decisions. In the next development, the Government of Republic Indonesia seeks to update the provisions of the criminal law by including new concepts in the Criminal Code's Draft (RKUHP). One of the new concepts listed in the Criminal Code's Draft (RKUHP) is the concept of rechterlijk pardon which gives the authority to the judge not to impose actions or impose criminal sanctions on the accused even though criminal acts and mistakes have been proven. After going through a review of the application of the concept in a criminal case, it can be known that the type of decision produced has differences with the types of decisions that have been regulated in Law Number 8 of 1981 concerning the Criminal Procedure Law. Therefore, so that the concept of rechterlijk pardon can be applied in criminal cases in the future, it is necessary to add a type of criminal case decision based on the application of the concept of rechterlijk pardon in the form of Guilty Decision Without Conviction.

Keywords: *Rechterlijk Pardon Concept; Criminal Decisions; Guilty Decision Without Conviction*

1.Preliminary

The criminal justice process is a long process and is generally divided into investigation stage, prosecution stage, trial examination stage and ends with the reading of the decision by the Judge. Thus it can be said that the reading of the decision is the culmination of criminal justice itself. Which on the one hand the judge's ruling has fugsi as a means for the defendant to obtain certainty related to his legal status and on the other hand the judge's decision can also be said to be a "crown" for the judge that reflects the value of justice, truth, human rights, factual, qualified, and established mastery of the law, as well as a reflection of the ethics, mentality, and morality of the judge concerned[1]. With regard to the definition of criminal case decisions, Law Number 8 of 1981 concerning Criminal Procedure Law and several experts have tried to formulate it, among others::

[1] Lilik Mulyadi, **Seraut Wajah Putusan Hakim dalam Hukum Acara Pidana Indonesia**, Bandung: PT Citra Aditya Bakti, 2010, Hlm.129

a. Law Number 8 of 1981 concerning Criminal Procedure Law

A court decision is a statement of a judge spoken in an open court hearing, which can be either acquittal decision, decision free from all demands, and criminal decision in the case and in the manner stipulated in this law[2].

b. Laden Marpaung

A decision is the result or conclusion of something that has been considered and assessed from its writing [3].

c. Lilik Mulyadi

A criminal case decision is a decision spoken by the judge because his position in the criminal case trial is open to the public after conducting the process and criminal code procedur. criminal verdic in generally contains a sentence of criminal decision or acquittal decision or decision free from all demands made in written form with the aim of resolving the case[4].

Based on these definitions, so the decision can be said to be the end of the process of examining a criminal case at the first level which at the same time clarifies the status of the defendant whether to accept or reject the decision handed down to him then states that he will make legal efforts as determined by Law Number 8 of 1981 concerning the Criminal Procedure Law.

Based on this type, the decision of the criminal case is divided into 2 (two) types, namely interlocutory verdic and final decision. Interlocutory verdic or in Dutch known as *tussen-vonnis*[5] is a ruling handed down by a judge because the court is not authorized termrelatively or because of the submission of objections by the defendant or his legal counsel [6]. Implementation of Interlocutory verdic is based on the provisions of article 148 and article 156 Section (1) of Law Number 8 of 1981 concerning the Criminal Procedure Law. Then based on the substance, Interlocutory verdic is divided into 3 (three) types, namely:

a. Decisions declaring the court is not authorized termrelatively (*verklaring van onbevoegheid*)[7];
b. Decisions declaring the public prosecutor's charges null and void (*nietig van rechtswege/null and vold*)[8];
c. Decisions declaring the prosecutor's charges unacceptable (*niet onvankelijk verklaard*)[9].

While the final decision or *eind vonnis* is a decision handed down by the judge after going through 3 (three) stages yaitu:

a. Konstatir

It is a stage to find legal facts related to criminal acts that the public prosecutor charges against the accused.

b. Kualifisir

It is a stage to classify the laws and regulations related to the criminal act.

[2] Pasal 1 poin 11 Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana.
[3] Laden Marpaung, **Proses Penanganan Perkara Pidana (Penyelidikan dan Penyidikan)**, Jakarta: Sinar Grafika, 2009, Hlm.129.
[4] Lilik Mulyadi, *Op. Cit*, Hlm. 131.
[5] Lilik Mulyadi, *Ibid*, Hlm. 136.
[6] Pasal 148 ayat (1) dan pasal 156 Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana.
[7] Pasal 148 ayat (1) dan Pasal 156 ayat (1) Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana.
[8] Pasal 156 ayat (1), Pasal 143 ayat (2) huruf b, dan Pasal 143 ayat (3) Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana.
[9] Pasal 156 ayat (1) Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana.

c. Konstituir

It is the stage to establish the law against a criminal case which will then be read out at the trial as the final decision.

As the main guideline in the criminal case examination process, Law Number 8 of 1981 concerning criminal procedure law has stipulated that the final decision in criminal cases is divided into 3 (three) types, namely:

a. Acquittal Decision (*Vrijspraak*)

Article 191 Section (1) of Law Number 8 of 1981 concerning the Criminal Procedure Law has determined that if the court holds that from the results of the examination at the trial, the defendant's guilt for the acts alleged against him is not proven legally and convincingly then the defendant is freed.

b. Decision Free From All Demands (*Onslag Van Recht Vervolging*)

Article 191 Section (2) of Law Number 8 of 1981 concerning the Criminal Procedure Law has determined that if the court holds that the act charged against the accused is proven, but the act does not constitute a criminal offense, then the defendant is decided free from all lawsuits.

c. Criminal Decision (*Veroordeling*)

Article 193 Section (1) of Law Number 8 of 1981 concerning the Criminal Procedure Law has determined that if the court holds that the defendant is guilty of committing the criminal offense charged against him, then the court imposes a criminal offense.

However, in the next development, efforts to update the criminal law continue to be carried out in order to still accommodate the legal needs of the community which also continues to develop. In Indonesia, efforts to reform the criminal law have begun after the implementation of the national seminar I in Semarang in 1963. Where the figures present at the seminar agreed to form a special team in charge of drafting the Criminal Code (RKUHP)[10]. Then in 1991 there was a new concept that was included in the Draft Criminal Code (RKUHP). This concept is known as the rechterlijk pardon concept which gives the authority to the judge examiner case not to impose actions or criminal charges against the accused even though criminal acts and mistakes have been proven in themselves and their deeds[11]. If considered carefully, the authority given by the concept to the investigating judge of the case is very contrary to the types of final decisions that have been regulated in Law Number 8 of 1981 concerning the Criminal Procedure Law.

On the other hand, based on the results of searches that have been carried out, the author found that the concept of rechterlijk pardon has also been regulated in the provisions of article 70 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System which specifically becomes a guideline in handling child criminal cases. Then in 2021 the author also found a child criminal case that applied the provisions of article 70 to the decision. Where in consideration of his ruling, the judge stated "that application provisions Article 70 of the Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System in the court decision will produce a different type/qualification decision than the type/qualification of court decisions as stipulated in Article 1 number 11 Jo Article 191 of the Law of the Republic of Indonesia Number 8 of 1981 concerning the Criminal

[10] Syaiful Bakhri, **Menyikapi Pembahasan RUU-KUHP**, Bandung: makalah disampaikan pada seminar nasional di Universitas Padjajaran Bekerjasama dengan MAHUPIKI, 2016, Hlm. 2.

[11] Badan Pembinaan Hukum Nasional (BPHN), **Naskah Akademik Rancangan Undang-Undang tentang Kitab Undang-Undang Hukum Pidana (KUHP)**, Jakarta: 2009, Hlm. 81.

Procedure Law Code which divides decision only into three types, namely acquittal decision, decision free from all demands, and driminal decision[12].

Based on the background description, the author is interested in researching further about "Consequences of Regulating the Rechterlijk Pardon Concept Against The Types Of Criminal Decisions In Indonesia"

2.Research Methods

The research used in this paper is normative legal research. Normative legal research is a process to find the rule of law, legal principles and legal doctrines in order to answer the legal issues faced so that new arguments, theories or concepts are obtained as descriptions in solving problems. Normative legal research is also known as doctrinal legal research. In this type of research, law is often conceptualized as what is written in legislation (law in book) or law is conceptualized as a rule or norm which is a benchmark for human behavior that is considered appropriate[13].

In this study, the authors analyze consequences of regulating the rechterlijk pardon concept against the types of criminal decisions in Indonesia.

3.Results and Discussion

3.1 Types of Criminal Case Decisions According to Law Number 8 of 1981 concerning Criminal Procedure Law

As outlined in the Preliminary part, that article 1 Section (11) of Law Number 8 of 1981 concerning the Criminal Procedure Law has divided the final decision into 3 (three) types. Where to be able to determine the type of decision to be handed down, the judge already has his own criteria[14] which are outlined as follows:

a. Acquittal Decision (Vrijspraak)

Theoretically in countries that adhere to the Continental European legal system, Acquittal is commonly referred to as "vrijspraak" ruling, whereas in countries that adhere to the Anglo-Saxon legal system, free decisions are better known as "acquittal" rulings. Acquittal decision are included as a type of decision not a conviction. This is because the actions charged against defendant are not proven legally and convincingly. Further explanation of the article 191 Section (1) of Law Number 8 of 1981 concerning the Criminal Procedure Law has arrange that what is meant as "the act charged against defendant is not proven legally and convincingly" is that on the basis of proof, the judge judged that there was no valid evidence to prove the defendant's guilt. Therefore, in the end, the judge did not criminal decision the defendant. With regard to the establishment of acquittal decision, there are at least several factors behind it, among others[15]:

- Absence of judge's conviction

The results of the examination carried out on the evidence presented at the trial were not able to convince the judge that the deeds and mistakes had been proven in the defendant's self and deeds. This results in the non-fulfillment of the principle of proof according to the law negatively. Such conditions

[12] Pertimbangan Putusan Pengadilan Negeri Rengat Nomor 2/Pid.Sus-Anak/2021/PN Rgt, Hlm. 27.
[13] Amiruddin dan Zainal Asakin. **Pengantar Metode Penelitian Hukum**, Jakarta: PT Raja Grafindo Persada, 2006, Hlm. 118.
[14] Tolib Effendi, **Dasar Dasar Hukum Acara Pidana (Perkembangan dan Pembaharuannya Di Indonesia)**, Malang: Setara Press, 2014, Hlm. 182.
[15] Anak Agung Gede Wiweka Narendra, I Gusti Bagus Suryawan, dan I Made Minggu Widyantara, "Pertimbangan Hukum terhadap Putusan Lepas Dari Segala Tuntutan Hukum (*ontslag van rechtsvervolging*)", *Jurnal Konstruksi Hukum* 1, no 2 (Oktober 2020); 243-250 doi: https://doi.org/10.22225/jkh.1.2.2595.243-250. Hlm.244-245.

can occur because in the implementation of criminal case examinations, especially related to the enforcement of the decision, the judge is bound by the provisions of article 183 of Law Number 8 of 1981 concerning the Criminal Procedure Law which basically states that the judge can impose a criminal offense if the conditions that have been determined in this article are met, namely based on at least 2 (two) valid evidence the judge obtains confidence the crime has occurred and it is the defendant who is guilty of the crime. The consequence of such an arrangement is that the judge cannot impose a criminal charge on the defendant if it is based only on two means of evidence but is not accompanied by the judge's belief in the defendant's guilt;

- Minimum proof not met

This factor is closely related to the provisions of article 183 of Law Number 8 of 1981 concerning Criminal Procedure Law which adheres to the minimum principle of proof (n*egatief wettelijke stelsel*)[16]. If in the previous factor the deficiency lies in the absence of the judge's belief even though the minimum proof has been met, while on this factor the minimum proof is not met because the evidence presented at the trial does not meet at least two pieces of evidence. Thus, even though based on the evidence presented, the judge obtained the belief that the defendant had been guilty of a criminal offense, the judge still could not impose the defendant because the evidence presented at the trial did not meet the minimum proof;

-Evidence tool is irrelevant to the evidentiary process

Evidence tool holds a very important position in the evidentiary process. Because the evidence tools that are not relevant to the subject matter can be said to have failed to carry out their function to prove the defendant's guilt. So automatically the judge cannot make these evidence tools as a basis for impose punishment because the defendant's guilt cannot be proven by that evidence. Therefore, it is important to ensure the relevance of the evidence that will be presented at the trial before the trial process is carried out.

b.Decision Free From All Demands (Onslag Van Recht Vervolging)

The decision Free from All Demands is handed down to the defendant if based on the evidentiary process at the trial, the defendant's action have actually occurred, but the defendant is not convicted cause the act is not a crime or there is a reason for eliminate. There are several things behind the impose of this decision, including:

- The defendant's actions are not a criminal offense

The act charged against the accused legally and convincingly proven to the law, but the act does not constitute a criminal offense;

- There is a forgiving reason

Forgiving reason is a reason that is subjective and attached to the perpetrator, especially with regard to his inner attitude either before or when doing the deed so as to result in the removal of the element of error from the perpetrator. However, the defendant's actions remain against the law and are criminal acts, but he is not convicted, because there is no eror. The Criminal Code (KUHP) has determined several forgiving reasons, including:

1. Article 44 Section (1): The perpetrator has a mental disorder or mental disability;
2. Article 49 Section (2): Aperson who makes a forced defense who overreachs because of the great shock of the soul (*noodweer*);

[16] M.Yahya Harahap, **Pembahasan Permasalahan Dan Penerapan KUHAP; Pemeriksaan Sidang Pengadilan, Banding, Kasasi, dan Peninjauan Kembali**, Jakarta: Sinar Grafika, 2012, Hlm.347-348.

3. Article 51 Section (2): Performing orders given by legitimate superiors[17];

-There is a justification reason

The justification reason is a reason that is objective and attached to the action or related to other things outside of the perpetrator's mind. With existence of justification reason for the perpetrator's actions then can remove the unlawful nature so that the act becomes appropriate and correct and not against the law. The Criminal Code has regulated several justification reason, including:

1. Article 48: A person who commits an act due to forced circumstances (overmacht);
2. Article 49 Section (1): A person who commits an act against the law on the grounds of forced defense for himself or for others, the honor of decency or property of oneself or others (noodweer);
3. Article 50: A person who commits an act based on the order of office;
4. Article 51 Section (1): A person who commits an act because carrying out a statutory order.

c. Criminal Decision (Veroordeling)

If based on the evidentiary process at the trial, the judge obtains the belief that the defendant has committed the act as charged by the public prosecutor and because the act causes the defendant to be convicted, then the judge imposes a punishment (*veroordeling*)[18] which contains an order for the defendant to serve the sentence as a consequence of his actions. Before sentencing the defendant, the judge is obliged to consider incriminating matters and mitigating matters, for example[19]:

- The incriminating thing like the defendant is a recidivist;

-Things that relieve for example the defendant who is still young.

As soon as the reading of the decision was completed, the judge conveyed the rights of the accused related to the decision which included[20]:

1. The right to immediately accept or immediately reject the decision;
2. The right to study the decision before declaring to accept or reject the decision, within the specified grace period which is seven days after the decision is handed down or after the decision is notified to the defendant who is not present;
3. The right to request the suspension of the implementation of the award within the grace period is determined by law to be able to apply for clemency;
4. The right to appeal within a grace period of seven days after the decision is handed down or after the decision is notified to the absent defendant;
5. The right to immediately revoke the statement as intended in point 1 (reject) in the time as specified in article 235 Section 1 of the Law Number 8 of 1981 concerning the Criminal Procedure Law which states that as long as the appeal case has not been decided by the high court the appeal can be revoked at any time and in the event that it has been revoked then the appeal request in that case must not be filed again.

[17] Muhamad Sadi Is, **Kumpulan Hukum Acara Di Indonesia**, Malang: 2016, Hal 114.
[18] Tolib Effendi, *Op. Cit*, Hlm. 186.
[19] Muhamad Sadi Is, *Op. Cit*, Hal 115.
[20] Andi Hamzah, **Hukum Acara Pidana Indonesia**, Jakarta: 2017, Hal. 284.

3.2 Consequences of Regulating The Rechterlijk Pardon concept Against The Types of Criminal Decisions in Indonesia

As has been little discussed in the Preliminary section that the concept of rechterlijk pardon allows the judge not to impose an action or impose a criminal charge on the defendant even though the criminal offense and guilt have been proven in himself and his deeds. Where in the Draft Criminal Code (RKUHP version of September 2019) the concept of rechterlijk pardon is regulated in article 54 Section (2) "The lightness of the act, the personal circumstances of the perpetrator, or the circumstances at the time of the Criminal Act and what occurs later can be used as a basis for consideration not to impose a criminal punishment or not to take action taking into account the aspects of justice and humanity"[21]. Furthermore, in the explanatory section of article 54 Section (2) it has been regulated that "The provisions of this Section are known as the principle of rechterlijke pardon which gives the authority to the judge to forgive someone who is guilty of a minor criminal offense. This forgiveness must included in the judge's ruling and it must still be stated that the defendant was proven to have committed the Crime charged against him"[22]. On the other hand, based on the searches that have been carried out, it turns out that Law Number 11 of 2012 concerning the Juvenile Criminal Justice System has first regulated the concept of rechterlijk pardon. Where the concept is regulated in article 70 "The lightness of the act, the personal state of the Child, or the circumstances at the time of the Criminal Act or that occurs later can be used as a basis for the judge's consideration not to impose criminals or impose actions taking into account the aspects of justice and humanity". Based on these explanations then arises the question of what kind of decision will be produced through the application of the concept of rechterlijk pardon in a criminal case.

If based on the concept of rechterlijk pardon then the judge handed down a acquittal decision to the defendant then it can be ascertained that the decision has been contrary to the provisions of article 191 Section (1) of Law Number 8 of 1981 concerning the Criminal Procedure Law. This is because the provisions of article 191 Section (1) have stipulated that the clause "the defendant's guilt for the acts alleged against him is not validly and convincingly proven" is the main condition that must be met before passing a acquittal decision. While the concept of rechterlijk pardon can only be applied to criminal cases whose defendants have been legally and convincingly guilty of committing criminal acts. So it can be said that the main conditions for the establishment of acquittal decisions and the main conditions for applying the concept of rechterlijk pardon are opposite each other. Therefore, calling the type of decision based on the concept of rechterlijk pardon as a type of acquittal decision is an inappropriate choice.

Then if the concept of rechterlijk pardon is used as the basis for impose the decision free from all demands then it is also not the right choice. This is because the main condition of the decision free from all demands is that the act charged against the defendant has been proven but not included as a criminal offense because the act in question is not a criminal offense or because there is a forgiving reason or justification reason. While the application of the concept of rechterlijk pardon can only be done in criminal cases whose defendants have been legally and convincingly guilty of committing criminal acts. So calling a ruling based on the application of the concept of rechterlijk pardon as a type of decision free from all demands is also not the right thing.

Furthermore, because the type of acquittal decision or the type of decision free from all demands is not in accordance with the criteria of the concept of rechterlijk pardon then all that is left is the type of criminal decision. Where although the main reason behind the application of the concept of rechterlijk pardon and the criminal decision is the same namely "that the defendant has been proven legally and convincingly guilty of committing a criminal offense", but the purpose of the two things is completely different. Where the purpose of the criminal decision is none other than to impose criminal sanctions on the defendant as a consequence of the criminal act that has been committed. While the application of the concept of rechterlijk pardon in a criminal case is intended so that the defendant does not to be sentenced

[21] Pasal 54 ayat (2) Rancangan Kitab Undang-Undang Hukum Pidana (RKUHP versi september 2019).
[22] Penjelasan pasal 54 ayat (2) Rancangan Kitab Undang-Undang Hukum Pidana (RKUHP versi september 2019).

to any crime. Still with regard to the previous differences, Law Number 8 of 1981 concerning the Criminal Procedure Law has stipulated that "defendant's statement of guilt, statement that all elements in the formulation of a crime have been fulfilled along with their qualifications, and the criminal conviction or action imposed"[23] must be included in the criminal decision. The consequences of not fulfilling these things will result in the criminal decision being null and void[24]. This is contrary to the application of the concept of rechterlijk pardon in criminal cases that allows the judge not to impose a criminal sanctions or not to impose an action on the defendant even though the crime charged by the public prosecutor has been proven. Thus, calling a decision based on the rechterlijk pardon concept as a criminal decision is also inappropriate..

Because the three types of final decisions as stipulated in article 1 number 11 of Law Number 8 of 1981 concerning Criminal Procedure Law do not have criteria that are in accordance with the concept of rechterlijk pardon, then the last alternative that can be chosen is to add a new type of decision that has conformity with the main substance in the concept of rechterlijk pardon. Where after paying attention to the redaction of article 54 paragraph (2) of the Draft Criminal Code (RKUHP version of September 2019), article 70 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, as well as consideration of the decision of child criminal cases Number 2 / Pid.Sus-Anak / 2021 / PN Rgt which lists the concept of rechterlijk pardon, it can be known that the decision that applies the rechterlijk pardon concept have a minimum of 2 (two) characteristics, namely "statement of guilt of the accused" and "statement without punishment". So it can be said that a decision based on the concept of rechterlijk pardon is a type of guilty decision without conviction. This is in accordance with the opinion of Andi Hamzah who stated that "the form of the decision that applies rechterlijk pardon concept will be a guilty decision without criminality"[25]. Andi Hamzah's opinion is similar to the statement of Jeroen Chorus which states that "if the judge decides to forgive the defendant then the decision is a guilty Decision without punishment"[26]. In accordance with the opinions of the two experts, in consideration of the decision of the child criminal case Number 2 / Pid.Sus-Anak / 2021 / PN Rgt has also been stated that "guided by the provisions of Article 70 of the Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System, the court's decision can be in the form of eliminating criminal sanctions or actions on the perpetrator's child"[27]. So based on the previous explanations, the best alternative that can be taken is to add a new type of decision based on the concept of rechterlijk pardon in the Draft Criminal Procedure Law (RKUHAP). The addition of the type of decision due to the regulation of the concept of rechterlijk pardon has been applied earlier in the Netherlands, where the country knows 4 (four) types of final decisions, namely [28]:

a. Acquittal Decision (*Vrijspraak*);
b. Decision Free From All Demands (*Ontslag Van Alle Rechtsvervolging*);
c. Criminal Decision (*Veroordeling Tot Enigerlei Sanctie*); dan
d. Judge's Forgiving Decision (*Rechterlijk Pardon*).

Conclusion

Based on the explanations that have been outlined earlier, it can be concluded that the regulation of the concept of rechterlijk pardon in the provisions of the Indonesian criminal law directly has an

[23] pasal 197 ayat 1 huruf h Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana.
[24] pasal 197 ayat 2 Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana
[25] Muhammad Iftar Aryaputra, **Pemaafan Hakim dalam Pembaharuan Hukum Pidana Indonesia** (Tesis), Depok: Fakultas Hukum Universitas Indonesia, 2013, Hlm. 185.
[26] Adery Syahputra, **Tinjauan Atas *Non-Imposing of a Penalty/ Rechterlijk Pardon/ dispensa de pena* dalam R KUHP serta Harmonisasinya dengan R KUHAP**, Jakarta: Institute for Criminal Justice Reform, 2016, Hal. 24.
[27] Pertimbangan Putusan Pengadilan Negeri Rengat Nomor 2/Pid.Sus-Anak/2021/PN Rgt, Hlm. 27.
[28] T.P. Marguery, **Unity and diversity of the public prosecutot services in Europe: A Study of the Czech, Dutch, French, and Polish System** (Doctoral Tesis), Gronigen: Faculty of law Universitas Gronigen 2008, Hlm. 104.

influence on the types of final decisions that can be handed down to the accused. This is because the types of criminal case decisions that currently exist have different criteria from the criteria possessed by the concept of rechterlijk pardon. So it can be said that these types of rulings cannot accommodate the application of the rechterlijk pardon concept in a criminal case. Therefore, so that the rechterlijk pardon concept can be implemented in the practice of the criminal case trial, it is necessary to add the new type of criminal case decision in the form of a guilty decision without conviction.

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