

Judge's Consideration of the Surakarta District Court's Divorce Verstek Decision Number 67/Pdt.G/2023/PN Skt

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Abstract

Marriage is a physical and spiritual bond between prospective male and female partners so that they can live together according to God's will. However, in reality, many couples cannot maintain a domestic relationship due to several reasons that make them divorce using legal channels. This research aims to analyze the judge's decision in determining the verstek decision in a divorce case in the decision case study: Surakarta District Court Number 67/Pdt.G/2023/PN Skt. The research method used uses a normative juridical method, carried out indirectly based on legal materials and several references related to this research. This research uses a library research method by searching for data through books, journal articles, scientific works and websites. The results of this study indicate that The marriage between the plaintiff and the defendant is declared dissolved in accordance with Article 35 of the Marriage Law, and a default judgment in divorce cases can affect various aspects, including marital status, alimony obligations, and the burden of proof in the case. The judge's decision reflects attention to the principles of justice and applicable legal norms.

Keywords : divorce; judge's verdict; verstek.

Abstrak

Pernikahan merupakan ikatan lahir batin antara pasangan calon laki-laki dan perempuan untuk dapat hidup bersama atas kehendak Tuhan, tetapi kenyataannya banyak pasangan yang akhirnya tidak dapat mempertahankan hubungan rumah tangga yang disebabkan beberapa alasan yang membuat mereka bercerai menggunakan jalur hukum. Tujuan penelitian ini untuk menganalisis putusan hakim dalam menetapkan putusan verstek perkara perceraian pada studi kasus putusan: PN Surakarta Nomor 67/Pdt.G/2023/PN Skt. Metode penelitian yang digunakan menggunakan metode normatif yuridis yang dilakukan secara tidak langsung berdasarkan bahan-bahan hukum serta beberapa referensi yang terkait dengan penelitian ini. Penelitian ini menggunakan metode pengumpulan data studi kepustakaan dengan mencari data melalui buku, artikel jurnal, karya ilmiah, dan website. Hasil penelitian ini menunjukkan bahwa perkawinan penggugat dan tergugat dinyatakan cerai sesuai Pasal 35 UU Perkawinan, dimana putusan verstek dalam perkara perceraian dapat memengaruhi berbagai aspek, yang meliputi status pernikahan, kewajiban nafkah, dan pembuktian dalam kasus tersebut. Keputusan hakim mencerminkan perhatian terhadap prinsip keadilan dan norma

hukum yang berlaku.

Kata kunci : *perceraian, putusan hakim, verstek*

Introduction

Marriage, as explained in Article 7 Paragraph (1) of Law No. 16 of 2019, is an innate bond between a man and a woman. The purpose of this bond is to form a legitimate relationship before God with His pleasure, with the intention of forming a happy and eternal family according to His grace. In essence, humans are created in the form of couples who match their class, allowing them to continue living together as life partners chosen to sail the ark of the household. In an effort to strengthen this relationship, they bind themselves to each other before God through a bond known as marriage.

If a man and a woman have been married, then they have been considered mature in all things both mentally, spiritually, and psychologically. Marriage needs to pay attention to these things, because with these factors, if the prospective husband and wife are not ready, the marriage can run not according to what is hinted by the law, even in their respective religions that have been adhered to. Prospective husband and wife couples must prepare themselves to face various situations because marriage is a life journey that is not only full of joy, but also trials and happiness that they will experience together.¹

The psychological state of prospective husband and wife couples is very influential and is an important factor for marriage. The readiness of prospective husbands and wives really needs to be considered and known because many of the husbands and wives have entered into a marriage bond but on the way have failed in the marriage. These failures can come from various problems that arise, namely from conflicts, third people, economic factors, and even domestic violence cases.²

Based on the data obtained, divorce has increased from year to year and has experienced a high increase in 2022 with the following data results:³

No.	Year	Number of Cases
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¹ Dahwadin Dahwadin et al., "The Nature of Divorce Based on the Provisions of Islamic Law in Indonesia," *YUDISIA: Journal of Legal Thought and Islamic Law* 11, no. 1 (June 2020): 87–104, <https://doi.org/10.21043/yudisia.v11i1.3622>.

² Arief Nugroho, "Verstek's Decision and Our Legal Remedies," Ministry of Finance of the Republic of Indonesia, 2019.

³ Cindy Mutia Annur, "Divorce Cases in Indonesia Surge Again in 2022, the Highest in the Last Six Years," Databoks, 2023.

1.	2017	374.516
2.	2018	408.202
3.	2019	439.002
4.	2020	291.677
5.	2021	447.743
6.	2022	516.334

Table 1 Data on Divorce Cases in Indonesia

Article 39 Paragraph (2) of Law No. 1 of 1974 concerning marriage is that in order to separate, a sufficient reason is needed why the couple cannot live as happy. This can be explained that both couples are experiencing unpreparedness in the household. The key to marriage lies in the two couples. If they make a promise through a contract, husband and wife should be able to accept each other's shortcomings and advantages, and even take care of each other. This is the key to living happily in a household. If there is a problem, both couples must work together to find the best solution for the sustainability of the family and the future.⁴

In the Indonesian context, divorce cases show significant diversity and do not rule out the possibility of occurring every month and year in the Religious Court and District Court. If there is substantial disharmony between the spouses in the course of the marriage, and there are clear reasons that hinder the discussion and maintenance of the household, then a divorce lawsuit can be filed. Divorce lawsuits can be processed through the Religious Court for Muslims and through the District Court for non-Muslims.⁵

In the case study of the Surakarta District Court decision Number 67/Pdt.G/2023/PN Skt, the judge granted the plaintiff's lawsuit on the grounds of inability to communicate properly, as the husband and wife should have done. In fact, the lack of hope to live in harmony is the main factor due to the differences in habits, nature, and character between the plaintiff and the defendant. In addition, the plaintiff and the defendant also often experience quarrels and disputes that cannot be resolved properly. According to the case

⁴ Verlyta Swislyn, *Marriage Law* (Jakarta: PT Elex Media Komputindo, 2020).

⁵ Hardianto Djanggih and Nasrun Hipan, "Judges' Considerations in Defamation Cases Through Social Media (Study of Decision Number: 324/Pid./2014/PN. SGM)," *De Jure Legal Research Journal* 18, no. 1 (March 2018): 93–102, <https://doi.org/10.30641/dejure.2018.V18.93-102>.

judge, the application should be granted because it is considered in accordance with Article 39 Paragraph (2) of Law No. 1 of 1974 concerning marriage. The article states that divorce can be granted if there is a clear reason so that the couple can no longer live as a unit. Therefore, in this separation case, the appointed judge resolved the case by providing an option without the presence of the defendant, which had been officially presented.

This is in line with the following studies:

The research of Baharudin et al. (2023) emphasizes the speed of the litigation process by allowing the *verstek* system in divorce cases at the Religious Court. The main differentiator lies in the emphasis on the speed of the judicial process as a reason to allow *verstek* decisions. In the case study of the Surakarta District Court Number 67/Pdt.G/2023/PN Skt, the emphasis is more on the factors that trigger divorce such as consistent quarrels and degrading behavior, and how the judge handed down a *verstek* verdict due to the Defendant's absence.⁶

Jasmine's research (2018) concluded that the Defendant's bad behavior was the main factor in the divorce, and the *verstek* judgment was handed down due to the Defendant's absence without a valid reason. The main difference with the Surakarta District Court case study lies in the focus of the analysis, where Jasmine highlighted bad behavior as the cause of divorce, while the Surakarta District Court case study emphasized more complex factors such as quarrels and inability to provide family support.⁷

Pian's research (2021) discusses the regulation of *verstek* decisions in divorce cases from the perspective of positive law in Indonesia and details the conditions for *verstek* decisions. The significant difference with the Surakarta District Court case study lies in its more general and normative approach to the legal regulations governing *verstek* decisions, while the Surakarta District Court case study is more specific to the real-life factors that trigger divorce.⁸

Thus, the main differentiator between the three studies and the Surakarta District Court case study is the focus of the research, analytical perspective, and degree of specificity in describing the divorce situation faced by individuals in the legal context in Indonesia.

Based on the background that has been presented, the formulation of the problem of

⁶ Baharudin Baharudin, Indah Satria, and M. Ariq Gumilang AS, "Judge's Consideration of *Verstek*'s Decision in Divorce Case Number 1916/Pdt.G/2022/PA. Tnk," *Amsir Law Journal* 4, no. 2 (2023): 246–53, <https://doi.org/10.36746/alj.v4i2.190>.

⁷ Meutia Jasmine, "A Judicial Review of Divorce with the *Verstek* Decision (Study of Decision No. 1876/PDT. G/2017/PA. MDN)" (University of North Sumatra, 2018).

⁸ Happy Pian, "Judge's Consideration of *Verstek*'s Decision on Divorce Cases from the Perspective of Islamic Law and Indonesian Positive Law" (State Islamic Institute (IAIN) Bengkulu, 2021).

this study is:

1. What are the judge's considerations in handing down the Surakarta District Court's divorce *verstek* decision Number 67/Pdt.G/2023/PN Skt, regarding the complex factors that trigger divorce?
2. What are the consequences of the *verstek* decision in the Surakarta District Court divorce Number 67/Pdt.G/2023/PN Skt for the plaintiff and the defendant, and how does it reflect the judicial process in the District Court?

The method to answer the formulation of this problem is normative law that emphasizes the importance of a wise approach to divorce, the search for preventive solutions, and considering the interests of children in handling divorce cases in Indonesia.

Research Methods

In this study, the preparation method can be fundamentally classified as a normative legal research method or a literature law research method. The normative legal approach or literature method is implemented through the analysis of legal literature materials or legal secondary data. This study uses secondary data, involving primary and secondary legal materials. The data collection technique is carried out through document studies, with the application of Library Research as a data collection method.⁹ Meanwhile, the type of research used is descriptive research, which aims to explain in detail an event or occurrence experienced or carried out by the community. This study uses secondary data from indirect sources, such as primary legal materials, for example the Surakarta District Court Decision Number 67/Pdt.G/2023/PN Skt, the Compilation of Islamic Law, Law No. 1 of 1974, and Law No. 16 of 2019 concerning Marriage. In addition, there are also secondary legal materials that include journals, articles, and scientific papers that have relevance to the research topic to be investigated.¹⁰ The researcher then uses the literature study method in collecting the data to be obtained. After the research method process has been implemented, the authors analyze the data using a qualitative method that focuses on in-depth observation and analysis of the data in the case study.

Results and Discussion

⁹ Jasmine, "A Judicial Review of Divorce with the *Verstek* Decision (Study of Decision No. 1876/PDT. G/2017/PA. MDN)."

¹⁰ Sugiyono, *Introduction to Educational Research Methodology (Quantitative, Qualitative, and R&D Approaches)* (Bandung: Alfabeta, 2015).

Verstek's Decision in Divorce Case

The verstek decision in a divorce case is a legal decision issued by the court when the defendant is not present at the first trial and the next hearing after the postponement. If the defendant is not present at the second hearing, the panel of judges will still issue a verstek verdict, considering that the defendant has never been present from the beginning. Although the defendant's presence at the hearing is not mandatory, he needs to respond to the plaintiff's lawsuit because of the threat of a verstek verdict. The judicial process at the first trial without the presence of the defendant is called a verstek event or default procedure. The legal basis for verstek decisions is found in Article 125 Paragraph (1) of the HIR and Article 149 Paragraph (1) of the RBg. The verstek system in procedural law aims to encourage the parties to comply with the procedural order, keeping the judicial process from being influenced by arbitrariness. The law stipulates that the presence of both parties is a valid condition for the case examination process. Verstek rulings have a close relationship with the procedural function and case resolution.¹¹ In this context, the plaintiff gives the authority to the judge to issue a judgment due to the defendant's absence.

In divorce cases at the Religious Court, verstek decisions refer to the General Court Procedural Law, in accordance with Law Number 3 of 2006. The Religious Court applies the provisions of Article 125 of the HIR and Article 149 of the Civil Code, which states that the lawsuit is accepted with a decision of absence (verstek) if the defendant is not present on the specified day of the hearing without a valid reason. This legislative practice provides a legal basis for judges to issue verstek decisions in the context of divorce cases in Religious Courts.¹²

Factors Behind the Filing of Divorce Petitions in Indonesia and in the Surakarta District Court Decision Number 67/Pdt.G/2023/PN Skt

Article 114 of the KHI provides a definition that separation in the context of Muslims can occur due to an invitation to separate from a spouse, which is called talaq separation, or because of a demand from a spouse or husband, which is referred to as separation. Divorce refers to the end of the bond in the relationship between husband and wife, so that the marriage law is severed, and the two no longer have the status of husband and wife and

¹¹ Jasmine, "A Judicial Review of Divorce with the Verstek Decision (Study of Decision No. 1876/PDT. G/2017/PA. MDN)."

¹² Darmawati and Asriadi Zainuddin, "The Application of Verstek Decisions in Religious Courts," *Al-Mizan* 11, no. 1 (2015): 90–101, <https://doi.org/10.30603/am.v11i1.997>.

do not live together in the household. It is important to know that in this case, the relationship between the child and his parents is not automatically severed.¹³ Divorce involves a variety of complex factors. Here are some factors that can be behind the occurrence of divorce:¹⁴

- a) Poor communication: The inability to communicate effectively is a major factor in many divorces. Poor communication can result in misunderstandings, disagreements, and unresolved conflicts.
- b) Infidelity: Infidelity or infidelity in a relationship can damage trust and intimacy between couples, often being a trigger for divorce.
- c) Family conflicts: Conflicts between spouses or with extended family, such as in-laws or siblings, can affect marital relationships and lead to divorce.
- d) Financial problems: Disagreements when it comes to finances, excessive debt, or an inability to manage financial problems together can lead to tension in a marriage.
- e) Differences in values: Differences in values, religious beliefs, or life goals between couples can lead to incompatibility that is difficult to overcome.
- f) Health problems: The physical or mental health problems of one spouse or children can be an additional burden in the marriage and be a factor that triggers the divorce.
- g) Sexual dissatisfaction: Disharmony in sexual life can lead to dissatisfaction in marital relationships.
- h) Lack of emotional support: A lack of emotional support from a partner, such as indifference or domestic violence, can damage the relationship.
- i) Roles and responsibilities: Differences in responsibilities and roles in the household, especially in the context of the role of husband and wife and the role of parents, can create tension in marriage.
- j) Boredom or loss of affection: Some marriages may feel a loss of affection or intimacy over time, which can be a factor in the decision to divorce.
- k) Limited time together: High work demands, busy schedules, or difficulties in creating time together can result in emotional distress in marriage.

Each divorce case is unique, and the factors that trigger a divorce can vary. Not all

¹³ Vincensia Esti, Serlly Waileruny, and Rizky P. P. Karo Karo, "Efforts to Prevent Divorce During the Covid-19 Pandemic from the Perspective of Theory of Dignity Justice," *Journal of Lemhannas RI* 9, no. 1 (2021): 136–50, <https://doi.org/10.55960/jlri.v9i1.383>.

¹⁴ Indasari, "Analysis of the Influence of Family Divorce on the Future of the Family Reviewed from an Economic Perspective (Case Study of the Sungguminasa Religious Court)" (University of Muhammadiyah Makassar, 2020).

divorces can be explained by common factors because each relationship involves different dynamics and personal experiences. Sometimes, more than one factor can contribute to a divorce, and often this is the result of a set of problems that have arisen for some time. Each relationship and the factors that contribute to divorce can interact with each other in complex ways, and can vary between couples.¹⁵

The factors of divorce contained in the Surakarta District Court decision Number 67/Pdt.G/2023/PN Skt between the plaintiff and the defendant have occurred quarrels and disputes that cannot be resolved familiarly. The plaintiff and the defendant are not able to communicate properly like husband and wife and there is even no hope to live in harmony because it is indeed the main factor due to differences in habits, traits and characters and the defendant does not provide support for the plaintiff and his children so that the plaintiff and the defendant cannot live in harmony again in a marriage bond. In this case, the judge in the Surakarta District Court decision Number 67/Pdt.G/2023/PN Skt has considered and decided *verstek* due to the defendant's absence and in the absence of a guardian or legal representative from the defendant, the defendant in this case must accept all consequences of the *verstek* decision.

Divorce is not a desirable solution or considered a good middle ground in a marriage relationship. Couples who are having problems in their marriage should try to find a way out and repair their relationship before deciding to divorce. A variety of resources that can help couples cope with conflict, such as marriage counseling, family therapy, or support from a religious or social community. Getting professional help can help couples overcome problems and find ways to rebuild their relationship.

Complex situations in divorce do not guarantee that there are certain preventive measures that will be completely prevented. However, there are some preventive measures that couples can take before and during marriage to build a strong foundation and reduce the risk of divorce. Here are some preventive measures that can be considered:¹⁶

- a) Pre-marital counseling: Take classes or pre-marital counseling. It provides insight into communication skills, conflict management, and expectations in marriage.

¹⁵ Mulati, "Reasons for Divorce in Marriage in the Tangerang City Area," *The Legal Era: A Scientific Journal of Legal Sciences* 10, no. 2 (2007): 568–83, <https://doi.org/10.24912/era%20hukum.v10i2.5508>.

¹⁶ Risa Nurhalisa, "Literature Review: Causative Factors and Systematic Prevention Efforts Against Divorce," *Nutrition Media* 10, no. 1 (June 2021): 157–64, <https://doi.org/10.20473/mgk.v10i1.2021.157-164>.

- b) Communication and openness: Learn effective communication skills. Listen attentively to your partner and convey your thoughts and feelings respectfully.
- c) Conflict management: Learn how to manage conflict in a healthy and constructive way. Avoid hurting your partner with derogatory words or actions.
- d) Be responsible for financial management: Financial conflicts can strain relationships, which is why it's important to create a joint financial plan.
- e) Prepare mentally and emotionally: Before marriage, it would be good for yourself to prepare mentally carefully because Strengthening mentally in marriage is an important step to create a healthy and lasting relationship.
- f) Not suspicious of each other: Set aside special time for the two of you, without distractions from work or other obligations, open up to each other and maintain communication with your partner
- g) Increase trust, Always foster a sense of trust in your partner, a sense of mutual understanding or concern in marriage, give space for the expression of feelings.

In certain cases, when there is an insecure situation, including domestic violence, abuse, or repeated infidelity with no intention of change, divorce can be a necessary last resort to protect the physical, emotional, or financial well-being of the spouse or children involved. In this case, divorce can be considered the best solution to a situation that can no longer be repaired. However, it is important to approach the divorce process wisely and ensure that all legal and safety measures have been carefully considered.

With the existence of several factors of divorce, it can be concluded that divorce can occur if the household can not live in harmony again, there are financial or economic problems, even to the problem of domestic violence, for some people feel that divorce is the best goal for the good of their respective spouses but with the divorce the father continues to carry out his duties and obligations, namely providing for the child, fulfillment of the child's needs and affection for the child so that the child does not feel lacking to get attention and affection from a father, thus the divorce must be thought carefully so as not to make the wrong decision for the future.

Judge's Considerations in Determining Verstek's Decision in Divorce Cases Case Study Decision: Surakarta District Court Number 67/Pdt.G/2023/PN Skt

According to Article 49 of Law Number 50 of 2009 concerning Religious Courts, which has the responsibility and authority to mediate, decide, and settle first-level cases involving Muslims in matters of marriage, inheritance, wills, and grants, it is carried out

based on the provisions of Islamic law. In addition, authority in legal cases, waqf, and sadaqah is given to the Religious Court, which is part of the judicial system at the District Court level. The judge's decision must consider several aspects so that the court process can provide balanced and objective justice. A thorough understanding of the various aspects of a case ensures that the judge's decision is based on accurate facts, applicable law, and moral and ethical considerations.¹⁷

The things done by the Judge of the Surakarta District Court in the subject matter of the Surakarta District Court case Number 67/Pdt.G/2023/PN Skt can be analyzed as follows:

The reasons that encourage the aggrieved party to file a divorce lawsuit are mostly caused by continuous quarrels and problems, which are difficult to resolve, and are regulated in Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage. Article 39 Paragraph (2) states that in order to recognize a divorce, an explanation of a strong reason is required that the couple can no longer live together as husband and wife. The reasons for the registration of divorce lawsuits are regulated in the Guidelines of Law of the Republic of Indonesia Number 9 of 1975 concerning the Implementation of the Regulation of Law of the Republic of Indonesia Number 1 of 1974 concerning Marriage where in Article 19 Letter F it is stated that "separation can occur due to constant debate and quarrels between married couples and at that time there is no desire to live reunited in the family."

The Surakarta District Court's Decision Number 67/Pdt.G/2023/PN Skt stated that the plaintiff's reason for filing for divorce against the defendant was that there were often consistent debates in married life, which raised questions that were difficult to resolve. This reason is strengthened by the fact that the defendant did not provide assistance to the plaintiff and his children. This opinion was also affirmed by the observers presented by the plaintiff. The evidence presented in the trial, especially from the plaintiff, is able to support the arguments presented. The plaintiff was supported by three witnesses, namely the first observer, the second observer, and the third observer.

In the preliminary examination, it was revealed that the relationship between the plaintiff and the defendant was often filled with ongoing quarrels. This is due to the defendant's inability to provide support to the aggrieved party and their children. In

¹⁷ Mohamad Abdun Nasir and Heru Sunardi, "Judicialization and Limitation of Islamic Law: Divorce Talak in Religious Courts in Lombok," *Al-Ahwal: Journal of Islamic Family Law* 11, no. 2 (May 2020): 159–73, <https://doi.org/10.14421/ahwal.2018.11205>.

addition, the defendant also often treated the plaintiff degrading and humiliating him. This detrimental attitude triggers repeated conflicts, encouraging divorce applications. The reason for the constant debate and quarrel, which cannot be accommodated (*onheerbare tweesplat*), in the context of this case is not solely to reveal the explanation behind the statements and quarrels that should be shown. Rather, the goal is to judge the truth of the statements and the constant quarrel.

As stipulated in Article 19 Letter F of Law No. 9 of 1975 which states "there are endless disputes and quarrels between husband and wife and perhaps at that time there is no longer a desire to live together as a family anymore", the judge considered that the reason behind the separation was because the household could not achieve harmony again. Taking into account the provisions of Article 35 Paragraph 1 of Government Regulation of the Republic of Indonesia Number 9 of 1975 which implements Law Number 1 of 1974 concerning Marriage, based on these considerations, the marriage of the plaintiff and the defendant is declared dissolved due to divorce.¹⁸

In accordance with the provisions stipulated in Article 41 Number 1 of 1974 concerning marriage, it is stated that even though the plaintiff and the defendant have divorced. The defendant still has an obligation to provide support for his children. The panel of judges will determine the amount of alimony in the judgment, by referring to the principle of propriety and based on the evidence of the letter submitted by the plaintiff. Taking into account the above considerations, the lawsuit filed by the plaintiff is partially granted so that the plaintiff is considered the winning party, while the defendant is considered the losing party. In addition, in the court process, the judge has also produced a *verstek* decision.

A *verstek* verdict is a type of decision issued by a judge when one of the parties involved in a case does not present a defense or does not attend the trial, even though he has been previously given notice and the opportunity to do so. The *verstek* decision is generally taken when the defendant or defendant is not present at the court hearing.¹⁹ If the plaintiff is absent despite being formally summoned, without providing a legal representative and without organizing another person to represent him or her in court, and

¹⁸ Legal Aid Institute for Protection, "Judges' Considerations in Criminal Cases: Politeness is a Mitigating Reason?," LBH "Protection" Parahyangan Catholic University, 2022.

¹⁹ Ema Rahmawati and Linda Rachmainy, "The Execution of *Verstek* Verdicts in Practice in Religious Courts and Bandung District Courts in Positive Civil Procedure Law Studies in Indonesia," *Journal of Civil Procedure Law (ADHAPER)* 2, no. 2 (2016): 211–38, <https://doi.org/10.36913/jhaper.v2i2.32>.

his absence is not based on a valid reason, then the defendant shall be deemed absent and the preliminary hearing shall proceed without the presence of the disputing party.

Judges in Indonesia have the authority to consider jurisprudence or previous legal decisions as a guide when making decisions, including in *verstek* cases. In the Indonesian legal system, judges hold autonomy in making decisions, even in *verstek* situations. This allows the judge to consider the specific facts in a case and apply the applicable law without being strictly bound by previous rulings. Although jurisprudence can be used as a reference, judges in Indonesia still have the freedom to assess and decide a case independently.²⁰

Regarding what is regulated in decision-making, the provisions of Article 149 RBg Paragraph (1)/Paragraph (1) of Article 125 of the HIR direct that the choice to impose a *verstek* judgment can be taken as long as the dispute in the lawsuit still pays attention to the applicable regulations, which is appropriate and reasonable. The concepts of "reasonable" and "not contrary to rights" in this case require testable evidence. This applies both to separate cases and property dispute cases. In every *verstek* case, the preliminary examination stage should involve proof. The arrangements stipulated in Article 149 paragraph (1) and Article 125 paragraph (1) of the HIR are expressly expected specifically for the decision-making of *verstek* decisions.

Article 125 of the HIR, also known as the verdict out of attendance (*verstek*), regulates the absence of the defendant. In practice, the date of determination of *verstek* decisions varies. At a basic level, this applies regardless of whether the defendant is present or not. Assessments at the preliminary stage must be carried out fairly, taking into account the interests and freedoms of the parties involved in the case. In the civil context, the provisions regarding *verstek* decisions are regulated by Article 1266 of the Civil Code (KUHPerdata), which states that *verstek* decisions can be enforced if the lawsuit is not answered or the defendant is not present without a valid reason. It is important to understand how *verstek* is carried out by the Religious Court and the District Court in the examination of the Indonesian Positive Legal Regulation.

Verstek rulings often occur in divorce cases, especially when the party being sued for divorce is not present at the divorce hearing. If the divorced party is not present at the first hearing, the judge will call for the next hearing, but if it remains absent without a valid

²⁰ Taufik Abdullah, *Analysis of the Verstek Decision in the Divorce Talaq Case from the Perspective of Social Justice (Analysis Study of the Verstek Decision in Case Number 0520/Pdt.G/2014 P.A.Kab.Kediri)* (Kediri: CV. Dimar Intermedia, 2020).

reason, in accordance with the requirements of Article 125 and Article 126 of the HIR.²¹ Simple proof in the context of *verstek* can be considered a method that meets the standards of fast, straightforward, and simple justice, especially when compared to the choice of a *verzet* verdict.²² However, the consequence of *verstek*'s ruling against the defendant is that he cannot defend himself, and the defendant may also be required to compensate or agree to what the panel of judges has required, such as providing child support and fulfilling obligations as a parent. If the evidence submitted at the time of the *verstek* decision is direct, then the *verstek* decision is basically considered reasonable and reasonable, and does not harm the plaintiff. However, if after the *verstek* verdict is submitted, additional evidence is more complete because it turns out to be contrary to the lawsuit, then a rebuttal from the opposing party will appear, which then gives rise to a contradictory examination.

After analyzing the judge's considerations in the Surakarta District Court's decision Number 67/Pdt.G/2023/PN Skt, the judge decided to issue a verdict *verstek*. Divorce cannot be avoided because there are several strong reasons, such as quarrels and disputes that cannot be resolved properly, even the defendant does not provide support for his family. In the divorce trial, the defendant did not attend the trial even though he had been officially and appropriately summoned. Therefore, the judge issued a decision of the Surakarta District Court Number 67/Pdt.G/2023/PN Skt in a *verstek* manner, which means that the decision was taken without the presence of the defendant. With the *verstek* decision, the defendant is expected to accept the consequences that have been considered by the judge in the decision. This includes decisions related to divorce and the defendant's obligations related to family support.

In the case of Surakarta District Court Number 67/Pdt.G/2023/PN Skt, the *verstek* verdict was handed down because the defendant was not present at the divorce hearing without a valid reason. The judge considers the complex factors that trigger the divorce, such as consistent quarrels, degrading behavior, and the defendant's inability to provide family support. Although the *verstek* ruling allows the judicial process to run quickly and simply, the consequence is that the defendant cannot defend himself directly in the trial. Meanwhile, the research of Baharudin et al. (2023) highlights the importance of the speed of the judicial process as a reason to allow *verstek* decisions in divorce cases at the

²¹ Yulizar Novina Rizma, "Islamic Law Views on Divorce of Convicted Wives (Case Study of Religious Court Class 1A Tanjung Karang)" (UIN Raden Intan Lampung, 2020).

²² Maswandi, "Verstek's Decision in Civil Procedure Law," *Mercatoria Journal* 10, no. 2 (2017): 160–79, <https://doi.org/10.31289/mercatoria.v10i2.1153>.

Religious Court. The main focus of this research is on the aspect of judicial process speed, by emphasizing the need to allow the *verstek* system to speed up the resolution of divorce cases²³. Jasmine's research (2018) shows that the defendant's bad behavior is a major factor in divorce, and the *verstek* judgment is handed down due to the defendant's absence without a valid reason. The difference in analysis lies in the focus of the study, where Jasmine emphasized bad behavior as the cause of divorce, while PN Surakarta emphasized more complex factors that trigger divorce, such as consistent quarrels and inability to provide family support²⁴. Meanwhile, Pian's research (2021) discusses the legal regulations that govern *verstek* rulings in divorce cases from a positive legal perspective in Indonesia²⁵. The significant difference with the Surakarta District Court lies in its more normative approach to legal regulations, while the Surakarta District Court is more specific to the real-life factors that trigger divorce.

A distinctive feature of the *verstek* verdict raised in the Surakarta District Court research is the emphasis on the complex factors that trigger divorce, such as consistent quarrels, degrading behavior, and the inability to provide family support. Although the *verstek* ruling allows the judicial process to move quickly, the consequence is that the defendant cannot defend himself directly in the trial, so the decision taken may not cover all points of view of the case.

Consequences of *Verstek*'s Decision in the Divorce of the Surakarta District Court Number 67/Pdt.G/2023/PN Skt

The *verstek* verdict in divorce cases has significant juridical consequences for the parties involved in the trial. These consequences include the impact on marital status, maintenance obligations, and parental responsibilities. According to Article 49 of Law Number 50 of 2009 concerning Religious Courts, Religious Courts have the responsibility to handle first-instance cases involving Muslims, including divorce cases. The judge's decision in the Surakarta District Court Number 67/Pdt.G/2023/PN Skt, which was issued in *verstek*, considers complex aspects in the case. The first juridical consequence is related

²³ Baharudin Baharudin, Indah Satria, and M. Ariq Gumilang AS, "Judge's Consideration of *Verstek*'s Decision in Divorce Case Number 1916/Pdt.G/2022/PA. Tnk," *Amsir Law Journal* 4, no. 2 (2023): 246–53, <https://doi.org/10.36746/alj.v4i2.190>.

²⁴ Meutia Jasmine, "A Judicial Review of Divorce with the *Verstek* Decision (Study of Decision No. 1876/PDT. G/2017/PA. MDN)" (University of North Sumatra, 2018).

²⁵ Happy Pian, "Judge's Consideration of *Verstek*'s Decision on Divorce Cases from the Perspective of Islamic Law and Indonesian Positive Law" (State Islamic Institute (IAIN) Bengkulu, 2021).

to the dissolution of marriage. The *verstek* ruling decided on the divorce without the presence of the defendant, assessing that the household could not achieve reconciliation. This is in accordance with Article 35 Paragraph 1 of Government Regulation of the Republic of Indonesia Number 9 of 1975 which implements Law Number 1 of 1974 concerning Marriage. Furthermore, the defendant still has an obligation to provide maintenance to his children, in accordance with Article 41 of Law Number 1 of 1974 concerning marriage. The amount of alimony is determined in the judgment, considering the principle of propriety and evidence of the letter submitted by the plaintiff. Thus, the *verstek* verdict can affect the defendant's financial obligations to his family. In addition, the *verstek* ruling gives a partial victory to the plaintiff, while the defendant is considered the losing party. Nonetheless, the plaintiff is also expected to fulfill his responsibilities as a parent, in accordance with the judge's decision. The juridical consequences of the *verstek* verdict can also be seen from the perspective of proof. In the context of divorce, there is a burden on proving the grounds for divorce, such as ongoing quarrels and the defendant's inability to provide family support. The Surakarta District Court's decision confirmed that the evidence was accepted by the judge as an argument in favor of the plaintiff's lawsuit. Thus, the *verstek* decision in the Surakarta District Court case has a juridical impact that includes the dissolution of marriage, maintenance obligations, parental responsibilities, and evidentiary consequences. The judge's decision reflects attention to the principles of justice, the facts of the case, and the legal norms that apply in the judicial system in Indonesia.

Conclusion

Divorce is caused by various factors that can interact with each other and vary between couples in marriage. The divorce process is generally taken through legal channels between the plaintiff and the defendant, in this case it is a married couple who intend to divorce. In the divorce case study in the Surakarta District Court trial decision No. 67/Pdt.G/2023/PN Skt, the judge has decided *verstek* with several strong reasons, namely in the trial process the defendant was not present even though he had been properly and officially summoned by the court and there were quarrels and disputes in the marriage that could not be resolved properly. Regarding the judge's consideration in the *verstek* decision in the divorce case with the provisions of Article 149 Paragraph (1) RBg / Article 125 Paragraph (1) of the HIR stipulates that the *verstek* decision can be handed down if the postulate of the lawsuit does not go against the rights and is sufficiently reasonable. A *verstek* verdict in divorce

cases is usually issued when the defendant or defendant is not present at the court hearing. Therefore, the marriage of the plaintiff and the defendant is declared divorced by paying attention to the provisions of Article 35 paragraph (1) of Government Regulation of the Republic of Indonesia Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage.

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