

Implication of the Constitutional Court Ruling on the Binding Character of the Election Organizer Ethics Council Decision

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Implication of the Constitutional Court Ruling on the Binding Character of the Election Organizer Ethics Council Decision

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Abstract

This article aims to examine the implications of the Constitutional Court Decision Number 32/PUU-XIX/2021 on the decision of the General Election Organizers Honorary Council (DKPP) which is final and binding as stipulated in Article 458 paragraph (13) of Law Number 7 of 2017 concerning General Elections, where the arrangement does not regulate which parties are bound by the DKPP decision. The method used is normative, using a statutory approach and a conceptual approach, focusing on studying secondary data, and then analysing qualitatively-descriptively. The implications of the issuance of the Constitutional Court (MK) Decision on the binding nature of the DKPP decision include: First, it is only binding on the President, the General Election Commission, Provincial Election Commission, Regency/City General Election Commission, and the Election Supervisory Board. Second, the binding nature of DKPP's legal product in the form of a Decision must be interpreted as a Decision of State Administrative Officials (*beschikking*) which is individual, concrete, and final, not the nomenclature of "decision (verdict)". Court legal considerations, namely: The phrase "final and binding" has been submitted to a judicial review in the Constitutional Court against the previous election law, guaranteeing legal certainty and eliminating legal confusion about the nature of DKPP decisions which are different from the nature of judicial decisions in general, DKPP institutions are placed on an equal footing with the Bawaslu and KPU.

Keywords: Constitutional Court; Election Organizer Ethics Council, Binding Character.

1. Introduction

Indonesia as a constitutional state can only be realized by state institutions that obtain authority by attribution from laws as derivatives of the constitution, where statutory state institutions are given authority as executors of government through a mechanism of checks and balances to avoid possible the use of tyrannical, hegemonic and centralized power, as well as providing performance monitoring activities between state institutions to realize state goals based on law.

In the regime of Law Number 7 of 2017 concerning General Elections (hereinafter abbreviated as the Election Law), of the three general election organizers (Pemilu) is the Election Organizer Ethics Council (DKPP), in addition to the General Elections Commission (KPU) and the Election Supervisory Body (Bawaslu). The three institutions are a unified function of holding elections as stipulated in Article 1 point 7 of the Election Law, furthermore with regard to DKPP arrangements it is regulated in Article 155, Article 166 of the Election Law that these institutions are tasked with dealing with violations of the election organizers' code of ethics (Aspan and Suwandi, 2022).

The Election Organizer Honorary Council (DKPP) is a new institution that carries out fixed functions namely administrative, regulatory and punitive functions (Puspitasari, 2018). This was confirmed by the Constitutional Court in Decision Number 32/PUU-XIX/2021 which reads "the powers and obligations of the DKPP in the Election Organizers Law are designed in the mechanisms and working procedures of the court (quasi judiciary) to examine and decide on alleged violations of the election organizers' code of ethics".

In maintaining the dignity of the election code of ethics, the DKPP has the right to hold a hearing follow up on reports or findings related to violations of the code of ethics by election organizers. This is confirmed in Article 159 paragraph (1) of Law Number 7 of 2017, DKPP has the following tasks:

- a. receive complaints and/or reports of alleged violations of the code of ethics committed by election organizers; and

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- b. carry out investigations and verifications, as well as examine complaints and/or reports of alleged violations of the code of ethics committed by election administrators.

In holding elections in Indonesia, Indonesia has been deemed capable of further realizing electoral administration which can support a good integrity system with the presence of the DKPP institution. DKPP is very progressive in carrying out its duties and authority this can be seen from the many handling of code of ethics cases that have been handled by DKPP. The integrity of election organizers in carrying out their mandate is an important capital to be able to present democratic elections (Taufik, 2021).

In 2021, the DKPP has decided 240 cases with a total of 921 defendants, with details of 71 cases registered in 2020 which were decided in 2021 (31.3%) and 169 cases registered in 2021 (68.7%). In a total of 585 rehabilitation (63.5%), 325 defendants were sentenced to 11 defendants-issued decisions (1.2%). (Dewan Kehormatan Penyelenggara Pemilu, 2021). The terminology of the DKPP as a quasi-judicial institution (quasi-judiciary) causes the resulting legal product to be different from a purely judicial institution (judicial institution). It is this normative difference that causes some parties to think that the final and binding DKPP decision is not contextual to the DKPP.

This is what causes the norm of Article 458 paragraph (13) of Law 7/2017 which reads that the decision referred to in paragraph (10) is final and binding, it is not appropriate in the context of the DKPP decision which is quasi-judicial, on this basis Evi Novida Ginting Manik and Arief Budiman submitted a review of Article 458 paragraph (13) of Law 7/2017.

Regarding the request for judicial review of the norms of the article, the Constitutional Court decided that Article 458 paragraph (13) of Law 7/2017 which originally read "The decision as referred to in paragraph (10) is final and binding", must be interpreted as "Decision as referred to in paragraph (10) binding for the President, the General Election Commission, the Provincial Election Commission, the Regency/City General Election Commission, and the General Election Supervisory Board are decisions of TUN officials that are individual, concrete, and final, and can be the object of a lawsuit in court State Administration.

If we examine the object of the lawsuit regarding the nature of the DKPP decision, it is identified that the Constitutional Court has ruled on the same norm in the previous election law, namely Article 112 paragraph (2) of Law Number 15 of 2011 concerning General Elections that "DKPP's decision is final and binding" contained in the Constitutional Court Decision No.31/PUU-XI/2013, then changed the norm to "The decision as referred to in paragraph (10) is final and binding for the President, KPU, Provincial KPU, Regency/City KPU, and Bawaslu".

Referring to the description above to provide an understanding of the implications of the Constitutional Court's decision on the binding nature of the Election Organizer Ethics Council's decision, as well as the basis for the judge's considerations in deciding the Constitutional Court decision Number 32/PUU-XIX/2021.

2. Method

This research is a normative research, the nature of this research is descriptive-prescriptive, focuses on examining secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. The approaches used are statutory approaches, conceptual approaches, and case approaches. (Irwansyah, 2020). The data that has been collected is then analyzed descriptively qualitatively (Mamonto, 2019).

3. Result and Discussion

3.1. Implications of the Binding Nature of DKPP Decisions after the Issuance of Constitutional Court Decision Number 32/PUU-XIX/2021

The Election Organizer Honorary Council (DKPP) is the first ethics court in the world and of course the first ethics court in Indonesia (Ashiddiqie, 2014). The institutional concept of the DKPP is an institution whose position is as an ethics court, the use of the name DKPP does not use the term "court", even though DKPP's duties and authorities are an ethics court. As previously discussed, the DKPP is one of the institutions within the election administration group whose job is to handle violations of the election organizers' code of ethics. The meaning of this task is to examine and decide on alleged violations of ethics by election organizers. Related to this task, Article 458 paragraph (13) of Law 7/2017 states that DKPP decisions are final and binding (Chakim, 2016).

As part of the government that exercises executive power in the electoral field, DKPP's authority as an ethics court is obtained by attribution. Theoretically, H.D. Van Wijk in Ridwan HR defines attribution as the granting of government

authority by ⁴ isulators to government organs. Ridwan HR emphasized that the authority obtained by attribution is original from laws and regulations. In other words, govern⁴ at organs obtain authority directly from the editorial board of certain articles in statutory regulations. Recipients of authority can create new powers or expand existing ones (Rokhim, 2013).

DKPP Duties and Authorities are emphasized in Article 159 of Law 7/2017, which reads:

- (1) DKPP on duty:
 - a) receive ¹ complaints and/or reports of alleged violations of the code of ethics committed by election administrators; and
 - b) carry out investigations and verifications, as well as examine ¹ complaints and/or reports of alleged violations of the code of ethics committed by election administrators.
- (2) DKPP authorized:
 - a) Summon the Election Organizer who is suspected of violating the code of ethics to provide an explanation and defense;
 - b) Summon reporters, witnesses and/or other related parties for questioning, including documents or other evidence;
 - c) impose sanctions on election organizers who are ¹ proven to have violated the code of ethics; and
 - d) Decide on violations of the code of ethics.
- (3) DKPP obliged:
 - a) Apply the principles of maintaining fairness, independence, impartiality and transparency;
 - b) Enforce the rules or ethical norms that apply to election organizers;
 - c) Be neutral, passive, and do not take advantage of cases that arise for personal popularity; and
 - d) Submit the decision to the related party to be followed up.

The legal product from the DKPP's authority is a decision on violation of the code of ethics which is a follow-up to complaints and/or reports, research and/or verification, ⁴⁴ aring defence and witness statements, considering the evidence, and arriv⁴⁸ at a decision. The DKPP's decision related to the violation of the code of ethics has caused legal confusion because the nature of the decision is "final and binding".

The 2017 AIPI-P2P-DKPP Survey Report surveyed several parties regarding the use of the phrase "final and binding" by ethical law enforcers, including DKPP. The surveyors also stated that the majority of their respondents agreed with what had existed so far, namely that the decisions of ethics enforcement agencies, including, in this case, the DKPP-RI, were final and binding. That is, decisions from ethical institutions cannot be appealed against the parties experiencing cases. The nature of decisions that are final and binding, as illustrated in graph 1 below, also requires all parties to the trial to comply with the decisions of other institutions to make the decisions of the ethics enforcement agency a reference or guideline in the administration of national and state life. (Prasetyo, 2018).

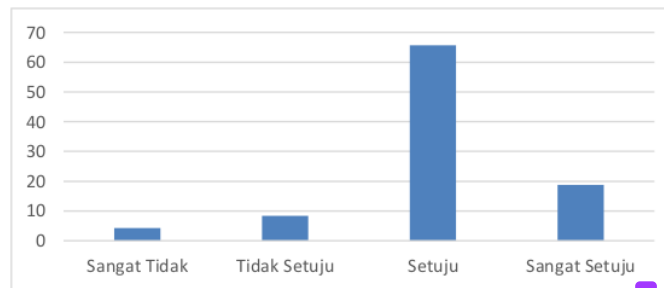


Figure 1. The decision of the Ethics Enforcement Agency in the National Integrity System is ³ Final and Binding (in Indonesia)

Normatively, Article 458 paragraph (13) of Law 7/2017 stipulates that the DKPP Decision relating to violations of the EMB code of ethics is final and binding. The phrase “final and binding” is then understood to be the same as “final and binding” in judicial institutions in general, such as Constitutional Court Decisions, Arbitration Decisions, and Consumer Dispute Settlement Agency (BPSK) Decisions through district courts. It is this phrase that raises legal debates, about whether “final and binding” DKPP decisions can be equated with other general courts. Normatively, Article 458 paragraph (13) of Law 7/2017 stipulates that the DKPP Decision relating to violations of the EMB code of ethics is final and binding. The phrase “final and binding” is then understood to be the same as “final and binding” in judicial institutions in general, such as Constitutional Court Decisions, Arbitration Decisions, and Consumer Dispute Settlement Agency (BPSK) Decisions through district courts. It is this phrase that raises legal debates, about whether “final and binding” DKPP decisions can be equated with other general courts.

Likewise, if we look at the final and binding nature of the Arbitration Award. The arbitrator will give an honest, fair by the applicable provisions and the parties will receive a final and binding decision as mutually agreed (Article 17 paragraph (2) Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution). The arbitral award is final and has permanent legal force and is binding on the parties. This means that the arbitral award is final and thus cannot be appealed, cassation or reviewed. (Article 60 and its Explanation Law Number 30 of 1999 Concerning Arbitration and Alternative Dispute Resolution). This is intended to prevent dispute resolution through arbitration from fracturing. In contrast to the district court process where the parties can still appeal and cassat against the decision, the process of resolving disputes through arbitration is not open to appeals or judicial review. (General Explanation of Law Number 30 of 1999 Concerning Arbitration and Alternative Dispute Resolution).

Apart from the two types of decisions above, the Consumer Dispute Settlement Agency (BPSK) decisions are also final and binding. To handle and resolve consumer disputes, BPSK forms an assembly and the decision of this assembly is final and binding (Article 54 paragraphs (1) and (3) of Law Number 8 of 1999 concerning Consumer Protection). What is meant by being final is that there are no appeals and cassation efforts. It's just that, the BPSK decision can be submitted to the District Court no later than 14 working days after receiving notification of the decision. (Article 56 of Law Number 8 of 1999 Concerning Consumer Protection). If you do not file an objection within that period, it is deemed to have accepted the decision. (Article 56 paragraph (3) of Law Number 8 of 1999 Concerning Consumer Protection). For example, what happened in Yogyakarta, namely the business actor/defendant/defendant/applicant objected to the BPSK Kota Yogyakarta Decision Number 11/Abs/BPSK-YK/2009 dated 14 July 2009, dated 1 June 2010 and registered at the Registrar Office of the Makassar District Court. (Yogyakarta District Court Decision Number 73/Pdt.G.BPSK/2010/PNK Year 2010).

Of the three types of decisions above, if we refer to the DKPP Decision which uses the phrase “final and binding”, as described in the Constitutional Court's decision, Arbitration Award or BPSK Decision. That is, the legal implications could be like those decisions. However, this will clash with the existence of the DKPP which is considered a quasi-judicial institution (quasi judicial).

In Law Number 48 of 2009 concerning Judicial Power, arrangements regarding the existence of a quasi-judicial institution are regulated in a separate chapter with the chapter title “Other Bodies whose Functions are Related to Judicial Power”. Special arrangements regarding quasi-judicial institutions indicate the existence of legislative politics related to legal recognition of the existence of more and more semi-judicial institutions in the realm of judicial power in Indonesia as well as further unification of constitutional norms contained in Article 24 paragraph (3) of the Constitution of the Republic of Indonesia which still very short. Article 38 paragraph (1) of Law 48/2009 stipulates that “besides the Supreme Court and its subordinate judicial bodies and the Constitutional Court, there are other bodies whose functions are related to judicial power”. In the provisions of Article 38 paragraph (2) Law, 48/2009 further regulates the limitations of functions related to judicial power, including a). investigation and investigation, b). prosecution c). implementation of the decision, d). provision of legal service and settlement of disputes outside the court. Furthermore, Article 38 paragraph (3) of Law 48/2009 stipulates that provisions regarding other bodies whose functions are related to judicial power are regulated in the law (Asshidique, 2007).

It's just that, if we look at the final and binding nature of the Constitutional Court's decision, it can be understood that it is binding in general, not only to the party applying or being petitioned for. In contrast to the Arbitration Award and the BPSK Decision which are only binding on both parties. While the DKPP decision is still being debated. So that the applicant the quo Constitutional Court Decision submitted a judicial review of the phrase “final and binding” contained in Article 458 paragraph (13) of Law 7/2017, so that the Constitutional Court emphasized the scope and limits of the application of this phrase. However, if we look at the DKPP which is considered a quasi-judicial institution, it means that the nature of the decision must be different from the MK decision. The highlight is Evi Novida Ginting

Manik and Arief Budiman (KPU members for the 2017-2022 period) submitted a review of Article 458 paragraph (13) of Law 7/2017, which relates to the phrase “final and binding”, with several considerations, including:

- 1) The DKPP institution is superior to other election organizers. This is due to the existence of a final and binding norm of the DKPP decision which ²⁰ has made the 3 (three) election management bodies not in an equal position. This inequality is a violation of the provisions of Article 22E paragraph (5) of the 1945 Constitution;
- 2) ⁵² The DKPP decision is final and binding, resulting in the norm of Article 458 paragraph (13) of Law 7/2017 which, without an explanation of the article, cannot be interpreted differently by the President, KPU RI, Provincial KPU, Regency/City KPU and Bawaslu, so that the a quo DKPP decision has been cause legal consequences. Whereas according to the Petitioners, based on the Court Decision and SEMA 4/2016 the DKPP decision can be interpreted as a state administrative decision that can be tested directly in the TUN court;
- 3) The DKPP's authority with decisions that are final and binding causes the loss of the checks and balances mechanism, because the phrase “final and binding” DKPP decisions have created a DKPP institution that does not have a checks and balances mechanism by other institutions including by the courts. Uncontrolled power will result in abuse of authority;
- 4) Final and binding DKPP decisions have made DKPP often abuse power by issuing decisions that exceed authority (ultra vires), procedural defects, and substance defects, and often exceed demands (ultra petita). As a result, ²⁵ DKPP actually deviated from its original purpose of establishment. In making decisions, the independence of the RI KPU, Provincial KPU, and Regency/Municipal KPU may not be intervened by any institution, including the DKPP. The final and binding norm for DKPP decisions has been proven to make KPU and its staff consider other matters (DKPP decisions) when making a decision;
- 5) ²⁹ The confusion over the final and binding nature of the DKPP decision results in no ⁵ time limit for the validity of the DKPP decision. In the ²⁰ perspective of state administrative law it can be defined as a decision, so that DKPP decisions according to the perspective of state administrative law are state administrative decisions. The Petitioners asked the Court to consider two concepts of testing the DKPP decision, namely first, the TUN court could directly examine the DKPP decision. secondly, a direct examination of the DKPP's decision in the TUN court is carried out using a quick trial;

Affirming some of the applicant's considerations above, including the principle of checks and balances, DKPP's legal product which is considered a Decision, not a Decision, added to the norm of the phrase “final and binding” which had ³ previously been reviewed by the Constitutional ²⁷ Court, the MK judge then decided that the phrase “final and binding” in Article 458 paragraph (13) of Law 7/2017 is contrary to the 1945 Constitution of the Republic of Indonesia, as long as it is not interpreted as “The decision as referred to in paragraph (10) is binding for the President, KPU, Provincial KPU, Regency/City KPU, and Bawaslu is a decision of a TUN official that is concrete, individual and final, which can be the object of a lawsuit in the TUN court”.

From the redaction of the a quo decision above, it can be identified the legal implications arising from the issuance of ⁷ the Constitutional Court Decision Number 32/PUU-XIX/2021, including: First, the binding limitations of the decision are only binding on the President, KPU, Provincial KPU, Regency KPU / City, and Bawaslu. The institutional position in the triangle of EMBs, namely the KPU, Bawaslu, and DKPP will return to what the legislators wanted, namely an equal and equal position. No single election management body may overcome other election management bodies (Cita Auliana, 2020).

Second, DKPP's legal product in the form of a DKPP Decision must be interpreted as a DKPP Decision (beschikking), not the nomenclature “verdict (verdict)” as in courts in general. ⁸ As a result, DKPP's legal products must be understood as decisions of State Administration officials (TUN) which are concrete, individual and final. Concrete, namely the object decided in the State Administrative Decree is not abstract, but tangible, certain or can be determined. In what case and to whom the decision is made, it must be clearly stated in the decision, or in other words, the object and subject of the decision must be stated explicitly (Ma⁸un and Mahfud MD, 2006). It is individual in nature, meaning that the TUN decision is not addressed to the general public, but is specific in both the address and the intended matter. If more than one person is addressed, the name of each person affected by the decision must be mentioned, so that such decision can then be called a collection of written decisions. The TUN's decision which is final means that the legal consequences that arise and are intended by issuing the written decision must be correct and have a definitive legal effect. In practice, we will encounter two groups of decisions that do not have the character of giving birth to definitive legal consequences. (Indroharto, 2002).

Third, as a result of DKPP's legal product being considered a decision (*beschikking*), parties who object to the DKPP's decision can file legal remedies at the TUN Court, referring to Article 87 of Law Number 30/2014 concerning Government Administration which reads "With the enactment of this Law, State Administrative Decisions as referred to in Law Number 56 of 1986 concerning State Administrative Courts as amended by Law Number 9 of 2004 and Law Number 51 of 2009 must be interpreted as:

- a) Written determination which also includes factual actions;
- b) Decisions of State Administrative Agencies and/or Officials within the executive, legislative, judicial and other state administrators;
- c) Based on the provisions of laws and regulations and AUPB;
- d) Is final in a broader sense;
- e) Decisions that have the potential to cause certain legal consequences; and/or
- f) Decisions that apply to community members.

3.2. Legal Considerations of the Constitutional Court in Deciding Case Number 32/PUU-XIX/2021

The author needs to reiterate that the main substance of the petition in the a quo case is the phrase "final and binding" in Article 458 paragraph (13) of Law 7/2017, while the explanatory article does not spell out the final and binding limitations. This has resulted in the President, KPU, Provincial KPU, Regency/City KPU and Bawaslu not interpreting the DKPP decision differently, so that the DKPP decision has had legal consequences. Therefore, DKPP interprets that DKPP's decision cannot be carried out by any legal remedies, including being tested in the TUN court. According to the Petitioners, this is not in line with the Constitutional Court Decision Number 31/PUU-XI/2013 and causes the DKPP to become a superior institution because it does not have a mechanism *checks and balances*.

Based on the essence of the above petition, the court provides legal considerations as follows: First, the applicant's application relates to the phrase "final and binding" in Article 458 paragraph (13) of Law 7/2017, previously having been tested on the same norm, namely Article 112 paragraph (12) Law 15/2011 (Law Number 15 of 2011 concerning General Elections is a law that came into effect before Law Number 7 of 2017). Where the DKPP decision on Law 15/2011 is also final and binding. The Court then handed down its decision as contained in the Constitutional Court Decision No. 31/PUU-XI/2013 which states that "DKPP's decision which is final and binding on Article 112 paragraph (12) Law 15/2011" is contrary to the 1945 Constitution of the Republic of Indonesia. The Court then expanded the meaning of the norm that "DKPP's decision which is final and binding for the President, KPU, Provincial KPU, Regency/Municipal KPU and Bawaslu". If it is not interpreted that way, then Article 112 paragraph (12) of Law 15/2011 will be considered contrary to the 1945 Constitution of the Republic of Indonesia and declared invalid.

In line with the development of electoral regulations, the legislature annulled Law 15/2011, then replaced it with Law 7/2017. However, the phrase "final and binding DKPP decision" maintained in Article 458 paragraph (13) of Law 7/2017. This is what causes the applicants to apply for a review of the norms of the article.

Second, when referring to Article 60 paragraph (2) of Law 8/2011 concerning the Constitutional Court in conjunction with Article 78 paragraph (2) of the Constitutional Court Regulation No. 2/2021 concerning Procedures in Cases Reviewing the Law, provides space for applicants who have legal standing to carry out another review of the same norm, even though the norm of Article 458 paragraph (13) of Law 7/2017 is the same as Article 112 paragraph (12) of Law 15/2011, because the legal basis for the establishment of the norms of this article is different, so it is considered that the reason for the application is also different.

In fact, the Court considered that the legal considerations in the Constitutional Court Decision No. 31/PUU-XI/2013 can be used as a consideration in deciding the a quo decision because the constitutional issues are related to the explanation above, the court then adopted legal considerations in the Constitutional Court Decision No. 31/PUU-XI/2013, which considers that the final and binding DKPP decision creates legal uncertainty, because it creates a dichotomy whether the final and binding nature of Law 7/2017 is considered the same as final and binding decisions of pure judicial institutions. To eliminate legal confusion and ensure certainty, the court then emphasized this norm, that DKPP's final and binding decisions are different from final and binding on judicial institutions in general. This is because the DKPP is the internal apparatus of the election administration which is authorized by law.

Third, the DKPP, KPU and Bawaslu institutions are equal election management bodies, none of the three institutions is more superior. This departs from the principle of checks and balances applied to state institutions in Indonesia.

The principle of checks and balances in the administration of power allows for mutual control between existing branches of power and avoids hegemonic, tyrannical centralized acts of power (Hadjar et al, 2003). Jimly Asshiddiqie also believes that the existence of a system of checks and balances means that state power can be regulated, limited and even controlled as well as possible, so that the abuse of power by state administrators who occupy positions in state institutions can be prevented and handled as well as possible (Asshiddiqie, 2006). As a result, based on this principle, the DKPP Decision is considered the same as a legal product issued by the KPU and Bawaslu in the form of a decision by a TUN official that is concrete, individual and final, whose legal consequences can be used as the object of a lawsuit in the TUN Court.

Based on the several legal considerations above, the court then granted the applicant's request regarding the review of Article 458 paragraph (13) Law 7/2017 by stating that "the provisions of Article 458 paragraph (13) Law 7/2017 are contrary to the Constitution of the Republic of Indonesia, 1945 and does not have binding legal force as long as it is not interpreted, "The decision as referred to in paragraph (10) is binding for the President, KPU, Provincial KPU, Regency/City KPU, and Bawaslu is a decision of a TUN official that is concrete, individual and final, which can be the object of a lawsuit in the TUN court".

4. Conclusion

The legal implications that arise include: (i) the binding limitations of the decision are only binding on the President, KPU, Provincial KPU, Regency/City KPU, and Bawaslu, not generally applicable by the characteristics of the Constitutional Court Decision. This binding nature is compatible with the type of Arbitration Award and BPSK Decision; (ii) DKPP's legal product in the form of a DKPP Decision must be interpreted as a DKPP Decision (beschikking), not the nomenclature of "verdict (verdict)" as in courts in general. As a result, DKPP's legal products must be understood as decisions of State Administration officials (TUN) which are concrete, individual and final. (iii) as a result of DKPP's legal product being considered a decision (beschikking), the party who has objections to the DKPP's decision can file a legal remedy at the TUN Court. As for the legal considerations of the court in deciding the a quo case, namely: (i) The phrase "final and binding" once filed for a judicial review at the Constitutional Court against the previous election law. However, Article 60 paragraph (2) of the Constitutional Court Law in conjunction with Article 78 paragraph (2) of the Constitutional Court Regulation No. 2/2021 concerning Procedures in Cases Reviewing the Law, opens space for testing Article 458 paragraph (13) of Law 7/2017, even though the norms of the article are the same as testing Article 112 paragraph (12) of Law 15/2011 because the legal basis different; (ii) ensure legal certainty and eliminate legal confusion regarding the nature of DKPP decisions that differ from the nature of court decisions in general; (iii) DKPP institutions are considered equivalent to Bawaslu and KPU institutions, so that DKPP's legal products in the form of DKPP decisions are considered the same as Bawaslu and KPU, in the form of decisions of TUN officials that are concrete, individual and final, whose legal consequences can be used as the object of a lawsuit in the TUN.

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