

Diversion Of Corruption Eradication Commission Of The Republic Of Indonesia Employees To State Civil Apparatus

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Diversification of Corruption Eradication Commission of The Republic of Indonesia Employees To State Civil Apparatus

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Abstract

Introduction: This article analyzes the regulation legislation related to the transition of employee Commission Eradication Corruption (CEC) became Apparatus Civil State (ACS). Based on the mandate of the CEC Law, it assesses CEC employees through National Insight Test (NIT) to measure integrity, neutrality, and radicalism, on March 18 until 09 April 2021 against thousand three hundred and fifty-one CEC employees. However, the implementation of NIT reaped the pros and cons.

Purposes of the Research: This study aims to analyze the validity test outlook nationality in the transfer of employee status Commission Eradication Corruption Becomes Apparatus Civil State and employee status Commission Eradication Corruption that does not pass the test outlook nationality based on regulation legislation.

Methods of the Research: The method used in the study is method research law normative with analysis data descriptive-prescriptive, using approach statutes and conceptual approach.

Results of the Research: The results of the research show the validity of NIT already based on Constitutional Court Decision Number: 34/PUU-XIX/2021, Law Number 19 of 2019, Law Number 5 of 2014, Government Regulation No. 41 of 2021, Supreme Court Decision Number 2 P/HUM/2020, Regulation of the Minister of Administrative Reform and Bureaucratic Reform of the Republic of Indonesia Number 61 of 2018, and CEC Regulation Number 1 of 2021. The status of CEC employees who do not pass the NIT is terminated based on CEC Decree Number 1354 of 2021. The study concludes that it results from NIT already corresponding Supreme Court decision Number 34/PUU-XIX/2021, and Law Number 19 of 2019 concerning the CEC. The Recommendation for this study is National Insight Test should be more transparent, consider the Constitutional Court's decision, and direct the president.

1. INTRODUCTION

The transitioning employee of Commission Eradication Corruption (CEC) became Apparatus Civil State (ACS) will strengthen not quite enough the responsibility and trust of the Corruption Eradication Commission Duty prevention and eradication cupped. This is where Article 1 Paragraph (6) Constitution Number 19 of 2019 Concerning Change Second on Constitution Number 30 of 2002 Concerning Commission Eradication follow Criminal Corruption (CEC Law) which is enforced as of October 17, 2019, which regulates that CEC employees are apparatus state civil.

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The change of employment status of the Commission Eradication Corruption became Apparatus State Civil Service predicted will reduce the independence and performance of the anticorruption institution in eradicating corruption because the position of the CEC will be under the President and Ministry of Empowerment State Apparatus and Reform Bureaucracy.¹ Next, Article 69 C of the CEC Law explains that since the enactment of the CEC Law, in range time maximum of 2 (two) years, CEC employees who have not become an ACS made as apparatus state civil based applicable regulations.² As the rule more carry on from the CEC Law, then invited Regulation Government (RG) of the Republic of Indonesia Number 41 of 2020 Concerning Diversion Employee Commission Eradication follow Criminal Corruption Become Employee Apparatus State Civil.

Condition switch CEC employees to become an ACS is status as employee permanent or non-permanent CEC; hold firm the values of Pancasila, the 1945 Constitution of the Republic of Indonesia, the Unitary State Republic of Indonesia, and government; have capabilities and abilities based on precondition position; have good integrity and morals; and requirements others are arranged in regulation commission eradication corruption.

Stages diverted CEC members for made ACS that is carried out suitability several positions on the Commission Eradication Existing Corruption Becomes appropriate ACS positions legislation; identify type and amount CEC employees; mapping qualification and competence as well as experience employee CEC with ACS positions to be occupied; Carry out over CEC employees become ACS corresponding with provision law; and Set level position corresponding with rule law.

Article 6 Paragraph (1) and (2) GR No. 41 of 2020 stipulates Procedures for diversion Employee Commission Eradication Corruption Becomes ACS employees, regulated more carry on with Regulation Commission Eradication Corruption, and Within drafting Regulation Commission Eradication Corruption as referred to in paragraph (1) involves ministries/agencies related. Regulation Commission Eradication Corruption Number 1 of 2021 also regulates the diversion of CEC employees to become ACS.

Based on the mandate of the CEC Law, then do it assesses employee CEC through Test Outlook Nationality to measure integrity, neutrality, and radicalism, on March 18 until 09 April 2021 against thousand three hundred and fifty-one CEC employees, whom the result set as much as thousand two hundred and seven twenty-four conditional, as many as 75 employees who do not conditional, and two people absent interview, through CEC Leadership Decree Number 652 of 2021.

There are 4 things in the Decree that are included, namely first: determine What is the name of the CEC employees who do not fulfill conditions for transition to become ACS, second: to instruct all the names referred to in the point first for the quick report, and submit not quite enough answer to the leader, then wait for decree next, third: declare that attachment this is something unified whole and fourth: provisions this applies since the date

¹ Gabriel Daniel et al., "Legal Analysis of Changing the Status of KPK Employees to State Civil Apparatuses," *Lex Administratum* 10, no. 2 (2022): 1-16, <https://ejournal.unsrat.ac.id/v3/index.php/administratum/issue/view/3228>.

² Muhammad Junaidi Fitriawan Trisnanda, "The Legal Consequences of the Applicability of Government Regulation Number 49 of 2018 Concerning the Management of Government Employees with Work Agreements for the Appointment of Corruption Eradication Commission Employees Who Have Not Yet Status Civil Servants of the State," *Jurist-Diction* 4, no. 1 (2021): 229, <https://doi.org/10.20473/jd.v4i1.24300>.

that has set if later day there is an error in decree this. so will review the return as should.³

Lots of pros and cons related to NIT transitioning CEC members to become ACS, so the anti-corruption professor alliance represented as many as 73 people who have sent letters objecting to President Joko Widodo because according to them NIT procurement does not have a base law and violation code ethics public. This is based on 2 rules i.e. Constitution Number 19/2019 regarding the CEC, then Regulation Government Number 41/2020 concerning the diversion of CEC members to become ACSs, no explanation for made ACS is required via NIT.

NIT questions asked CEC employees are considered to contain racism, offend basic human rights, discriminate, and attack privacy.⁴ Presidents as state leaders are expected to complete this problem, remembering many cases of middle corruption handled by the CEC. Naturally, if the problem this no quick searched right solution will make CEC's performance becomes hampered, especially now the interim CEC handle big cases such as case corruption help social services, procurement of electronic ID cards, bribes for lobster seeds, and cases of meat imports involving official's political party large and also a member of the House of Representative of Indonesia Republic. Case this has smudged every institution trusted by society as a capable institution of controlling the government in the right direction.⁵

Since signed by President Joko Widodo and started enactment results in the revision Constitution about the CEC in October 2019, no one in the regulation mentioned that to become ACS, CEC employees must through NIT first. Article 69 C explains that workers at the CEC switch become ACS at least shrug slow two years after the enactment regulation. However, based on the same article, the chairman of the CEC made CEC regulation Number 1/2021 regarding procedures diversion of CEC employees to become ACS, which in article 5 point 4 explains that the CEC will stage tests together with the State Civil Service Agency as one condition for becoming an ACS.⁶

Debate-related problems Novel Baswedan became the center of attention because is part of seven twenty-five CEC members who did not pass the NIT. In the meeting with Karni Ilyas, Novel Baswedan disclosed behind the scenes elicited status change the disappointment of 75 CEC representatives due to NIT, even Karni Ilyas revealed that NIT views as the part that can be debated. Novel Baswedan, an alumnus of the Academy Police who has climbed a career in institutions the police and at the CEC, assessed very no reasonable if not pass the NIT, because look background behind excellent education and career familiarity with things nationality, not only in exam but also deep its application during the study period.

Director Center studies Andalas University constitution evaluates questions in NIT

³ BEM Sospol UNDIP, *Releases Study: Efforts to Weaken and Records of KPK Problems* (Semarang: BEM UNDIP, 2021). p. 33.

⁴ Galih Akbar Prabowo, "Framing Analysis of Reporting on National Insight Tests for KPK Employees in Media Viva.Co.Id," *Proceeding of The 1st Conference on Strengthening Islamic Studies in the Digital Era (FICOSIS)* 1 (2021): 220-49, <https://prosiding.iainponorogo.ac.id/index.php/ficosis/article/view/79>.

⁵ Syamsul Bahri, "Corruption in the Study of Islamic Law," *Kanun: Journal of Legal Studies* 17, no. 3 (2015): 603-14, <https://doi.org/10.24815/kanun.v17i3.6089>.

⁶ Ilham Asisdiq, Sudding, And Sumiati Side, "Transition of Employee Status for the Corruption Eradication Commission (Kpk) in the Bureaucratic Reform Era," *Chemistry Education Pps Unm* 1, no. 1 (2017): 91-99, <https://Jurnal.Untidar.Ac.Id/Index.Php/Literasi Hukum/Article/View/6811>.

employees rather weird and contrived. For example questions regarding the Islamic Defenders Front (IDF) and opinions of employees regarding government programs. Employee no can in a manner ethically deal with debate politics, so the NIT is contrary to the CEC Law. Chaotic NIT reaps hope over President Jokowi's issued statement that employees in this CEC no one be discontinued only because of NIT. A representative of 75 people who did not pass the stage NIT test has become ACS at the CEC report Thing the National Commission on Human Rights because of suspected has to do violations of rights basic them. In the report, the representative of the 75 people provides supporting data that contains notes as well as facts that happened at the time of the NIT test.

On May 19, 2021, 75 CEC employees reported to the Ombudsman of the Republic of Indonesia (ORI) above alleged maladministration in the implementation of NIT. Chief Ombudsman, Mokh Najih explained that will investigate this deeply related problem. The Ombudsman has the authority to do an investigation for those who only have reported. The presence of the Ombudsman is expected to supervise state administrators and public services.⁷ this is the result of reports of 75 CEC staff who were stated to not fulfill the requirements to become an ASN because they did not pass the NIT test conducted by the CEC.⁸

Representative Nurul Ghuftron has already finished being summoned by the National Commission on Rights Fundamental Humans Evaluation of the related claim violation was right basic During the time spent carrying out the NIT test. Ghuftron interpreted the reason legitimization of NIT as a condition for the change of CEC employees to become civil servants (ACS). In organizing NIT, more than 75 representatives did not pass, so CEC officials released them.

Next according to the CEC representative, umbrella law and position law formation CEC regulation Number 1 of 2021 regarding the transition of CEC members to ACS namely on order Article 5 paragraph 6, and Article 6 of Law no. Number 41 of 2020. Article 5 paragraph 4 CEC regulation Number 1 of 2021 regulates the implementation of the NIT test by the CEC in collaboration with State Civil Service Agency, which is the reason for its implementation.⁹

2. METHOD

This study discusses the institution (CEC) of the Republic of Indonesia. The focus point mainly studies the validity of the transition from the status of CEC members to ACS based on the Republic of Indonesia legislation. In line with it is needed ingredients law from the studies library. Study this including in type study law normative, which is descriptive - prescriptive (explanations have the purpose to obtain depiction condition law of time and place certain). Prescriptive planned to give argumentation acquisition results research, then will give a solution in connection valid or nope thing to do. The method approach in the study is the Approach of the law (statute approach), which is carried out with the study of

⁷ Kelik Iswandi and Nanik Prasetyoningsih, "Resolving Disputes on Authority of Independent State Institutions in Indonesia," *Sasi* 26, no. 4 (2020): 438, <https://doi.org/10.47268/sasi.v26i4.283>.

⁸ Tuarita. Dedi Rusman, Victor Juzuf. Erick, Sedubun, and Stenly Holle, "The Authority of the Ombudsman of the Republic of Indonesia in Examining Maladministration of National Insight Tests for Corruption Eradication Commission Employees," *Tatohi Journal of Legal Studies* 1, no. 12 (2022): 1273-74. <https://f.hukum.unpatti.ac.id/jurnal/tatohi/issue/view/55>.

⁹ UNDIP, *Op. Cit.* p. 32.

relevant laws and regulations with issue moderate law happening, and approach concept (conceptual approach), which is sourced from views experts/doctrines which develop in knowledge law.¹⁰ Approach concept used for comparing and analyzing draft impact changes social to Public from existing corruption. Approach Constitution needed for study Settings mechanism participation Public in effort prevention corruption.¹¹

3. RESULTS AND DISCUSSION

The aim of establishing the CEC Institution is: to advance in the effort to restrict corruption that has run before. The position of the CEC is based on the Constitutional Court Decision Number 36/PUU-XV/2017, where the CEC is part of the power implementing government function in a manner autonomous and free from influence.¹² Talks related to the independent state agency in framework state organization turned out to become vital when the commission will do something functions, obligations, and authorities as an auxiliary state organ where around already there are clear state organs one with other.¹³

Switching CEC members to Apparatus State Civilians (ACS) must become urgent for the sustainability and existence of the CEC alone. Therefore, the NIT test against CEC employees is meant to give a good contribution to CEC's progress, good for humans or CEC institutions. Test Outlook Nationality should be no reason to terminate seven twenty-five CEC members who turned out to not pass the assessment. If any considered things less should be given a chance to repair with education service and ways to repair others on the level of individuals and organizations.

Law Number 5/2014 Concerning Apparatus Civil State (ACS Law) does not arrange transition CEC employees became ACS, however, Thing this is arranged in Article 69C of the CEC Law states CEC representatives who have not become ACS lifted become appropriate civil servants with terms/regulations legislation. GR Number 41/2020 concerning transition CEC employees becoming ACSs who have been issued by President Joko Widodo, arrange some mandatory requirements owned by CEC employees who wish to change status to become an ACS. Condition the i.e. status as employee permanent/non-permanent CEC; loyal and obedient to guidelines/philosophy of the state (Pancasila), Constitution, The Unitary State of the Republic of Indonesia, and government.¹⁴ Then, qualified and appropriate competencies condition positions, as well as integrity and morality ok. Besides, that is a requirement corresponding with regulation legislation regarding regulated ACS in CEC regulations.

Based on GR No. 41 of 2020 is not mentioned that to become ACS, CEC is required to pass the TON test. So that appears to speculate that the implementation of TON

¹⁰ Muhaimin, *Legal Research Methods*, 1st ed. (Mataram: Mataram University Pres, 2020). p. 56

¹¹ Nandha Risky Putra and Rosa Linda, "Corruption in Indonesia : The challenge of social change " *Integrity : Journal of Anti-Corruption* 8, no. 1 (2022): 13–24.

¹² Muhammad Habibi, "Independence of the Corruption Eradication Commission's Authority After the Amendment to the Corruption Eradication Commission Law," *Cepalo* 4, no. 1 (2020): 41–54. <https://doi.org/10.25041/cepalo.v4no1.1962>.

¹³ Laurensius Arliman S, "Position of Indonesian State Institutions to Achieve the Goals of a State of Law," *Journal of Kertha Semaya* 8, no. 7 (2020): 1030–43, <https://ojs.unud.ac.id/index.php/kerthasemaya/article/view/59701>.

¹⁴ Michael Marlee, "Policy Analysis of the Corruption Eradication Commission Regarding National Insight Tests in the Context of Transitioning Kpk Employment Status to State Civil Apparatus," *Adigama Law Journal* 4 (2021): 2042–66, <https://journal.untar.ac.id/index.php/adigama/article/view/17144>.

intentionally held to weaken and diminish the existence of the CEC because it is based on the CEC regulation Number 1 of 2021 which discusses the transition of CEC workers becoming ACSs abusing authority only, this is based CEC regulations. The ACS Law does not arrange in any detail about conditions to become civil servants, but the settings in GR No. 78/2013 concern the Procurement of civil servants. Conditions change in the status of CEC employees based on CEC Regulation Number 1-2021 then, of course, different from provisions of RG Procurement of Civil Servants, because NIT only addressed pawnshop civil servants, no switch status.

Deputy chairman Nurul Ghufuron stated that NIT remains legitimate as a mechanism and as a means of employee status change to become an ACS though not arranged in the CEC Law, however, can conduct assessment itself, so NIT was held. The position of CEC members as ACS as the arrangement is in Article 1 point 6 of the CEC Law, which gives time for the CEC to handle the status¹⁵ shift. Administration to make CEC personnel become ACS has regulated in Article 69C of the Law a quo. Then fulfilling individual conditions could be made as an ACS.

Arrangement of more carry-on related change of status arranged in Regulation Government (RG) Number 41 of 2021 concerning Diversion CEC employees becoming ACS employees. In the RG, there are explanation conditions and status switches. CEC is an independent State Institution. This is in line with the view Milakovich, and Gordon elaborated on several many characteristics of independent state agencies (independent regulatory boards and commissions) as follows;¹⁶ 1) this institution's characteristic leadership taking a collegial decision in a manner together; 2) Individuals or official institutions this not serve the desired president as positions elected by other presidents; 3) Period the positions of the leaders are usually certain / fixed and very long, for example, 14 years for periodization of the position of the Federal Reserve Board in America; 4) His term of office is "staggered," that is, every changing year, respectively official changed in a manner continuous so that with so, president though no could fully control authorities of related bodies; 5) Commissioners and membership amount odd, order at the moment take something decisions that have been made through a long process debate in decide, then the path taken is voice majority; 6) This institution has members with a purpose for each other's balance.

On the NIT test with participants, as many as 1,351 people have conducted and cooperated with ACS which processes it conducted from March 18th until April 09, 2021, deputy chairman Nurul Ghufuron announced results from the NIT test that has been held in cooperation with State Civil Service Agency followed by CEC employees' switch to becoming an ACS. Implementation The assessment of CEC personnel and State Civil Service Agency is by following under Article 5 paragraph (4) CEC Law Number 1 of 2021. Base juridical implementation of the knowledge test nationalism by the CEC is Law Number 19 of 2019, Government Regulation Number 41 of 2020, and CEC Regulation Number 1 of 2021.

Series evaluation the belief will be the more confirmed underlying foundation is not quite enough answers and honesty for every people on the Commission Eradication

¹⁵ Kartika Sasi Wahyuningrum, Hari Sutra Disemadi, and Nyoman Putra Jaya, "Independence of the Corruption Eradication Commission: Does it Really Exist?" *Legal Reflections: Journal of Legal Studies* 4, no. 2 (2020): 239-58, <https://doi.org/10.24246/jrh.2020.v4.i2.p239-258>.

¹⁶ Zainal Arifin Mochtar, *Independent State Institution, Dynamics of Development and Urgency of Rearranging After the Amendment to the Constitution* (Jakarta: Rajagrafindo Persada, 2016). p. 81.

Corruption. Expected people, such as the development institution, must direct the spirit and face the Commission in the future. Due to the eradication of corruption, it is difficult to carry out the CEC without existing togetherness. CEC sure will all affiliate citizens in institution anti-corruption already walk. During this, anyway will always guard what has entrusted by the people of Indonesia to eradicate corruption all over corners of this country. Transitioning CEC personnel to become ACS is commonplace. this will make the system more arranged. CEC employees who become ACS are the same case as the investigator Attorney General who is also ACS. Although they become ACS, permanent CEC employees have independence alone and are not bound by institutions anywhere.

Article 24 (3) of Law no. 30/2002 explains that conditions and recruitment at the CEC are regulated by the CEC's decision alone. CEC is given the right to lift and stop its members in the room scope of the Institution¹⁷. The Unitary State Republic of Indonesia (USRI) needs efforts outside normal to eradicate corruption. CEC is a symbol of phenomenal effort so that the eradication of corruption is truly resolved. CEC must be fortified and strengthened as conditions are absolute. Fortify soul this Keep going echo from all elements. Reinforced good from strength and trust from in nor from outside, because. Public generals were very high and hanging he hoped for the CEC. Whole Indonesian citizens expect the CEC to have people reliable for Indonesian rescue from clutches of criminals. Love this country against the CEC as well base appearance support and hindrance change body CEC organization.

The moment when the Commission Eradication Corruption has a change in employee status to become an ACS based on order Constitution Number 19 of 2019 concerning Commission Eradication Corruption (CEC). The results have been reported, and 1,274 representatives stated fulfilled requirements and 75 workers did not fulfill requirements. In the meantime, two representatives did not take the NIT test. The assessment carried out by the CEC is implementation from regulation legislation.

Constitutional Court has done a related evaluation on May 4, 2021, with the CEC Law (Decision Number: 34/PUU-XIX/2021) deep contents explain the transition of CEC employees to become an ACS based on Law Number 19 of 2019 concerning the CEC, and whatever the process is no can there is injured employee. The CEC stated will operate the decision of the Constitutional Court and will coordinate with the State Civil Service Agency as well as the Decree of the Minister of Administrative Reform and Bureaucratic Reform for determining NIT results for those who don't fulfill condition stages.

Switching process CEC members become civil servants based on valid legislation as in Law Number 19 of 2019, then in GR Number 41 of 2020, as well in CEC regulation Number 1 of 2021 concerning condition transition become an ACS. However, from rule This also raises the pros and cons in society, no little gives support to the policy, however many people think that the policy this on purpose held to weaken the CEC.

Based on Article 10 of Law Number 5/2014 Concerning ACS, mentioned that ACS is working to carry out services and policies publicly, as well as create a united nation. On behalf of unity and oneness, then it is true if transparency is carried out by the CEC with methods open in a light bright process and results in NIT assessment. Of the many questions there, should be capable explained in a manner open, for example, is implementation

¹⁷ Anggiat P Simamora and Ramsul Nababan, "The Legal Basis and Impact of the KPK's National Insight Test: A Doctrinal Study," *Strukturasi: Scientific Journal Masters of Public Administration* 3, no. September 2020 (2021): 201-8, <https://doi.org/10.31289/strukturasi.v3i2.740>.

already corresponding to existing laws? Is it true problems of *qunut*, marriage, and hijab are ingredients for the exam? The relationship must also be explained Among the questions given with the main duties and functions of the KPK in eradicating corruption.

Everything will be good if the results of the 75 representatives who did not pass were known by the public. Submit to the witnessing public yes / no exists fraud in a manner transparent, supposing true, true did not pass. With exists transparency, whatever the result, then the public certainly supports it. Police chief General Listyo Sigit Prabowo who got an agreement from President Jokowi agreed and gave hope to 57 previous CEC employees dismissed with respect because they failed TON for ACS for fill-in positions in the Indonesian National Police. The steps of the Chief of Police become favorable answers for CEC workers who do not graduate to become ACS CEC.

Based on the ACS Law so that that's all many power honors no one could be lifted an ACS if no one managed to pass the selection, though he has devoted himself many years in the area remote farthest, in need of patience because full of challenges and lack of means of infrastructure. Condition as experienced also not help for life made as an ACS. They still must follow test selection. Another possible problem could hinder the appearance of dualism in ACS acceptance. Supreme Court through Decision Number 2 P/HUM/2020 states that TON is legal and constitutional for carrying out the testing of candidate Apparatus State Civilian. Analysis from Indonesia Corruption Watch (ICW) suspects that switching CEC staff to ACS has implications at the time of investigation to guess corruption.

4. CONCLUSION

The validity of TON in the Transfer of CEC employee status to ACS based on the decision of the Constitutional Court (CC) opinion that diverted CEC employees to ACS is in a manner law based on Constitution About Commission Eradication follows Criminal Corruption because in implementation involving authorized and competent parties; Constitution Apparatus State Civil; Regulation Government about Diversion CEC employees become ASN employees; Decision Supreme Court stated that TON is legal and constitutional for made base laid off 75 employees Commission Eradication Corruption on testing candidate Apparatus State Civilian (ACS), with based on Regulation of the Minister of Empowerment State apparatus and reform Bureaucracy Number 61 of 2018, and Regulations Commission eradication Corruption regarding Transfer Procedures CEC employees become ACS employee. Employee status Commission Eradication Corruption that does not pass the test outlook nationality official dismissed from his job after stated not fulfill test outlook nationality as condition change of employment status Becomes apparatus state civil based on CEC Chairman Decree Number 1354 of 2021, which was stipulated on September 13, 2021. Already duly the acquisition of the TON test that does not successful, shown to the public wider for more transparent and accountability; CEC should submit and run decision Court Constitution which states that implementation transition CEC staff made apparatus state civil servant (ACS) cannot harm right employee; CEC should consider appeal President stated that TON could not be a reason for dismissing the stated CEC personnel that not passed the test, and the CEC should do coaching and training for employees who do not pass TON through education service about the nationality outlook.

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