

The Honorary Board of Election Organizers (DKPP) as an Ethical Judicial Institution for Election Organizers

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Abstract

The Honorary Board of Election Organizers (DKPP) is an election organizing body tasked with handling violations of the code of ethics of election organizers. DKPP is a state institution established by law. As a state institution that organizes elections, DKPP has the authority to examine, call, sanction and decide on violations of the code of ethics of election organizers. The DKPP's decision is final and materially binding. The trial of violations of the code of ethics held by the DKPP and added to having the nature of a final and binding decision makes the DKPP in several judicial body decisions referred to as a quasi public court, while in the Constitutional Court decision the DKPP is interpreted as a single function of organizing the Election together with the KPU and Bawaslu, meaning that the DKPP is an election organizing institution. The research results conclude that the DKPP is an election organizer in the form of an auxiliary state organ that is independent. The DKPP has the authority to enforce the code of ethics of election organizers which in character is almost the same as a general court. The DKPP's decision is final and materially binding. Based on this, the DKPP as a state institution that organizes elections can be called quasi ethical court of public nature .

Keywords: DKPP; Code of Ethics; Election

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I. Introduction

The Honorary Board of Election Organizers hereinafter referred to as DKPP, is an election organizing institution tasked with handling violations of the code of ethics of election organizers. DKPP was formed to examine and decide on complaints and/or reports of alleged violations of the code of ethics committed by members of the KPU, members of the Provincial KPU, members of the Regency/City KPU, members of Bawaslu, members of the Provincial Bawaslu and members of the Regency/City Bawaslu. DKPP is tasked with receiving complaints and/or reports of violations of the code of ethics and conducting investigations and verifications, as well as examinations of complaints and/or reports of alleged violations of the code of ethics.

Based on the Constitutional Court decision Number 11/PUU-VIII/2010 that Article 22E paragraph (5) of the 1945 Constitution of the Republic of Indonesia the phrase "general election commission" does not refer to the name of the institution, but refers to the function of organizing general elections that are national, permanent, and independent. The function of organizing general elections is carried out by the General Election Commission (KPU), the function of supervising general elections is carried out by the General Election Supervisory Body (Bawaslu) and the function of handling violations of the code of ethics of general election organizers is carried out by the Honorary Board (at the time this decision was read, enforcement of the code of ethics of general election organizers was still carried out by the Honorary Board of the KPU and the Honorary Board of Bawaslu).

Constitutional Court Decision Number 11/PUU-VIII/2010 is a legal source that the Honorary Council has a position as an election organizer based on Article 22E paragraph (5) of the 1945 NRI Constitution which is national, permanent and independent. The DKPP was formed a year after the issuance of Constitutional Court Decision Number 11/PUU-VIII/2010, namely regulated in Law Number 15 of 2011 concerning Election Organizers and most recently regulated in Law Number 7 of 2017 concerning General Elections.

Based on the Constitutional Court's decision above, it is clear that the DKPP is an election organizing institution together with the KPU and Bawaslu. The position of the DKPP as an election organizer is a state organ or state institution established by law. The DKPP is included in the category of an independent state auxiliary body.

The enforcement of the code of ethics of election organizers by the DKPP is carried out by holding trials like in general courts. The DKPP has the authority to examine, summon, sanction and decide on violations of the code of ethics committed by election organizers. In enforcing the code of ethics of election organizers, the procedure for enforcing the code of ethics of election organizers as regulated in DKPP Regulation Number 3 of 2017 approaches the procedural law of trials in general courts.

The regulation that makes the DKPP have strong authority is that the DKPP's decision is final and binding. In several decisions of the Constitutional Court (MK), the nature of the DKPP's decision is final and binding as long as it applies to the President,

the KPU RI and Bawaslu RI, namely state administrative officials who have the authority to appoint and dismiss election organizers. In subsequent legal practice, the Decision of state administrative officials as a follow-up to the DKPP's decision can be appealed to the TUN Court.

Based on the above, this study was conducted to examine the position and authority of the DKPP based on a legal approach, namely laws and regulations, decisions of the Constitutional Court, Decisions of the Supreme Court and judicial bodies below it. The formulation of the problem of this study is how the position and authority of the DKPP as an Election Organizer. This study uses a theoretical framework including the theory of state institutions, the theory of authority and the concept of electoral justice.

II. Research Method

This research is legal research, which is a process to find legal rules, legal principles, and legal doctrines to answer the legal issues at hand. Normative legal science focuses on describing positive law, interpreting positive law, assessing positive law and analysing positive law.¹ In normative research, the truth sought is pragmatic truth, which is essentially the consensus of peer experts.² The type of research used in this research is normative legal research, which is a scientific research procedure to find the truth based on the logic of legal science from its normative side.³ Based on its nature, this research is descriptive research. Descriptive research is a form of research aimed at describing existing phenomena, both scientific and man-made phenomena.⁴ While according to the angle of form, this research is prescriptive research, which is research that aims to get suggestions on what to do to overcome certain problems.⁵

This research uses a legislative approach, a conceptual approach, a historical approach and a comparative approach. In this study, the collection of legal materials was carried out by inventorying 1). Laws and also minutes of their formation; 2). decisions of the Constitutional Court; 3). decisions of the Supreme Court and the judicial bodies below it; 4). decisions of the DKPP; and 5). regulations of the DKPP; 6) Minutes of meetings of the People's Representative Council (DPR) of the Republic of Indonesia in the context of discussing the Law; and 7) Journals, research results, proceedings, books and printed and electronic information.

¹ Bahder Johan, 2019, *Legal Science Research Methods (Metode Penelitian Ilmu Hukum)*, Bandung: Mandar Maju, p. 66

² Philipus M. Hadjon and Tatik Sri Djatmika, 2019, *Argumentation Law (Argumentasi Hukum)*, Yogyakarta: Gadjah Mada University Press, p. 32

³ Jhonny Ibrahim, *Theory And Method Study Law Normative (Teori dan Metode Penelitian Hukum Normatif) (print 6th)*, Bayumedia Publishing, Malang, 2012, p. 57

⁴ Irwansyah, *Legal Research: Choice of Methods & Practice of Writing Articles (Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel)* (3rd Edition), Mirra Buana Media, Yogyakarta, 2020, p 38.

⁵ Philipus M. Hadjon dan Tatiek Sri Djatmiati, *Argumentation Law (Argumentasi Hukum)*, Gadjah Mada University Press, Yogyakarta, 2005, p. 1.

Legal material analysis is carried out by collecting primary, secondary and tertiary legal materials. Then, analyze the legal materials. The analysis steps are first, identifying legal facts and eliminating irrelevant things to determine the legal issues to be solved. Then, review the legal issues raised based on the materials that have been collected. Finally, draw conclusions in the form of arguments that answer the legal issues and provide prescriptions based on the arguments that have been built in the conclusion.⁶

III. Results and Discussion

a. History of Enforcement of the Code of Ethics for Election Organizers

Ethics can be interpreted as a branch of philosophy, but can also be interpreted as a system of values. While professional ethics itself is normative ethics, namely a special branch that is social in nature. The three most basic keywords are ethics in relation to values, principles, and norms. All of these basic concepts contain descriptions of morality, law, ethical theory, the nature of the profession.⁷

The history of the enforcement of the code of ethics for election organizers can be seen from 4 (four) phases of development that refer to the regulations in the law, namely Law Number 12 of 2003, Law Number 22 of 2007, Law Number 15 of 2011 and Law Number 7 of 2017.

In Law Number 12 of 2003 concerning the General Election of Members of the DPR, DPD, and DPRD, an ad hoc KPU Honorary Council (DK-KPU) was formed with the aim of maintaining the independence, integrity and credibility of the KPU. DK-KPU is an internal apparatus for the KPU.

The DK-KPU is tasked with examining complaints of ethical violations committed by KPU members at the central level. For KPU at the provincial and district/city levels, there is no order from the law to form a DK-KPU at the provincial and district/city levels. The membership of the DK-KPU consists of 3 (three) people consisting of a chairman and members who are elected from and by KPU members. The results of the examination by the DK-KPU are issued recommendations that are submitted to the KPU.

Further developments based on Law Number 22 of 2007 concerning General Election Organizers, regulations related to the enforcement of the code of ethics for election organizers have developed, although not significantly. Based on Law Number 22 of 2007, to handle violations of the code of ethics for Election Organizers, the KPU Honorary Board (DK-KPU) and the Bawaslu Honorary Board (DK-Bawaslu) were formed. The DK-KPU was formed at the central level

⁶ Peter Mahmud Marzuki, 2015, *Introduction to the Science of Law (Pengantar Ilmu Hukum)*, Jakarta: Prenada Media Group, p. 171

⁷ Shidarta, 2009, *Morality of the Legal Profession : An Offer to framework of thought (Moralitas Profesi Hukum: Suatu Tawaran Kerangka Berpikir)*, Bandung: Refika Aditama, p. ii

with a Decree of the KPU RI to resolve violations of the code of ethics for the KPU RI and the Provincial KPU. Meanwhile, to resolve violations of the code of ethics by the Regency/City KPU, the Provincial KPU Honorary Board (DK-KP Province) was formed.

The DK-KPU is formed by a KPU decision. The DK-KPU consists of 5 (five) people consisting of 3 (three) KPU members and 2 (two) people from outside the KPU members. Based on the results of the examination, the DK-KPU determines recommendations that are binding and the KPU is obliged to follow up on the DK-KPU recommendations. Meanwhile, the DK-KPU Province is formed by a KPU Province Decree consisting of 5 (five) people consisting of 3 (three) KPU Province members and 2 (two) people from outside the KPU Province members. The DK-Bawaslu is only formed at the central level to examine members of the Bawaslu RI. The membership of the DK-Bawaslu consists of 5 (five) people, 3 (three) from Bawaslu and 2 (two) from outside Bawaslu, regarding the nature of the recommendations, it is also emphasized that Bawaslu is obliged to implement the recommendations of the DK-Bawaslu.

According to Jimly Asshidiqie, although it is ad hoc, in practice the DK-KPU institution is always formed every year because the level of violations of the Election Organizer Code of Ethics is increasing. Although it is ad hoc and the decision is recommendatory and depends on follow-up in a plenary meeting at the KPU, in fact there are many KPU members who have been dismissed because they have been proven to have violated the Code of Ethics. It may be that the good performance achievements and several breakthroughs made by the ad hoc DK KPU are what then encouraged the DPR RI to upgrade it to permanent through Law Number 15 of 2011.⁸

In further developments, the DK-KPU and DK-Bawaslu metamorphosed into the Election Organizer Honorary Board (DKPP) with the issuance of Law Number 15 of 2011 concerning General Election Organizers. Article 1 number 22 of Law Number 15 of 2011 concerning Election Organizers states that "DKPP is an institution tasked with handling violations of the code of ethics of election organizers and is a single function of organizing elections. DKPP is permanent and is domiciled in the State Capital. In its further development, Law Number 15 of 2011 was amended by Law Number 7 of 2017 concerning General Elections. In this law, in terms of position and authority, DKPP has not undergone significant changes.

Table of History of Election Organizers' Ethics Enforcement

No	Arrangement	Law No. 12/2003	Law No. 22/2007	Law No. 15/2011	Law No. 7/2017
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⁸Jimly Asshiddiqie, *Enforcing the Ethics of Election Organisers (Menegakkan Etika Penyelenggara Pemilu)*, Rajawali Pers, Jakarta, 2013, p 31.

1.	Name of Institution	KPU DK	DK KPU, DK KPU Province & DK Bawaslu	DKPP	DKPP
2.	Status	Under the General Election Commission (KPU) of the Republic of Indonesia	Under the General Election Commission (KPU) of the Republic of Indonesia, the Provincial KPU and the Bawaslu of the Republic of Indonesia	Independen	Independen
3.	Formation	Decision of the General Election Commission (KPU) of the Republic of Indonesia	Decision of the General Election Commission (KPU) of the Republic of Indonesia, the Provincial KPU and the Bawaslu of the Republic of Indonesia	Presidential decree	Presidential decree
4.	Characteristic	Ad Hoc	Ad Hoc	permanent	permanent
5.	Authority	Examine and publish recommendations on the results of the examination to the KPU	Examine and publish recommendations on the results of the examination to the KPU and Bawaslu	Drafting and determining the code of ethics; holding hearings, examining, summoning and deciding on violations of the code of ethics by the KPU and the central Bawaslu up to the ad hoc body.	Drafting and determining a code of ethics, forming a regional inspection team, holding meetings, examining, summoning and deciding on violations of the code of ethics from the KPU and Central Bawaslu to the district/city level.
6.	Scope	Indonesian General Election Commission	The Indonesian General Election Commission, the Provincial	<ul style="list-style-type: none"> • KPU RI, Provincial KPU, Regency/City 	<ul style="list-style-type: none"> • KPU RI, Provincial KPU,

			General Election Commission, the Regency/City General Election Commission and the Indonesian Bawaslu	KPU, PPK, PPS <ul style="list-style-type: none"> Indonesian Election Supervisory Body, Provincial Election Supervisory Body, Regency/City Election Supervisory Body, Sub-district Election Supervisory Committee, Village/Sub-district Supervisory Body 	Regency/City KPU <ul style="list-style-type: none"> Indonesian Election Supervisory Body, Provincial Election Supervisory Body, Regency/City Election Supervisory Body
7.	Membership	3 members of the Indonesian KPU	3 KPU members and 2 community leaders	3 people proposed by the DPR, 2 people proposed by the President, 1 person ex officio KPU, 1 person ex officio Bawaslu	3 people proposed by the DPR, 2 people proposed by the President, 1 person ex officio KPU, 1 person ex officio Bawaslu
8.	Inspection	Closed	Closed	Open Session	Open Session
9.	Results	Recommendation	Recommendation	Decision	Decision
10.	Sanctions	Written warning, temporary suspension or permanent suspension	Written warning, temporary suspension or permanent suspension	Written warning (warning, severe warning or final severe warning), Temporary suspension or permanent suspension as chairman/member	Written warning (warning, severe warning or final severe warning), Temporary suspension or permanent suspension as chairman/member
11.	Accountability	Reporting the results of the inspection and	Reporting the results of the examination and	Public	Public

		recommenda tions to the KPU	recommenda tions to the KPU and Bawaslu		
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Source: Processed from several sources

Based on the table above, we can see the development of the enforcement of the ethics of Election Organizers to date. If we refer to the stages of the development of the ethics system created by Jimly Asshiddiqie, it can be interpreted that the first emergence of an ethics enforcement agency called the DK KPU through Law Number 12 of 2003 was at the closed functional stage. This has been marked by the existence of an ethics enforcement agency tasked with examining ethical violations by Election Organizers. The transformation of the DK-KPU & DK-Bawaslu into the DKPP through Law Number 15 of 2011 was the beginning of the open functional stage. This is marked by the examination of ethical violations that are carried out openly as in a public trial.

b. Position of DKPP as a State Institution Organizing Elections

In the Indonesian constitutional system after the amendment to the 1945 Constitution, currently more than 50 auxiliary state institutions have been formed. The formation of auxiliary state institutions is carried out according to different legal bases. Some are based on the 1945 Constitution such as the Judicial Commission, KPU, and some are based on laws, including the Broadcasting Commission, KPPU, Komnas HAM, or based on Presidential Decrees including the National Ombudsman. In detail, there are around 13 Independent State Commissions and 40 Executive State Commissions⁹.

The old view was based on Montesquieu's theory which separated three branches of power which were defined as "trias politica", in the current era the state in a broad sense includes 4 (four) micro branches of power, namely the executive, legislative, judiciary and mixed functions.¹⁰

According to Jimly Asshiddiqie, the emergence of various forms of government organs includes a very varied structure, including the central government, territorial ministries or intermediate institutions. These organs generally function as a quasi-governmental world of appointed bodies and are non-departmental, single-purpose authorities and mix public private institutions. Its quasi- or semi-governmental nature and is given a single function or sometimes a

⁹ Titik Triwulan, 2010, *Construction of Indonesian Constitutional Law after the Amendment of the 1945 Constitution (Konstruksi Hukum Tata Negara Indonesia Paska Amandemen UUD 1945)*, Jakarta: Prenadamedia Group, p. 181.

¹⁰ Jimly Asshiddiqie, 2020, *Hierarchical Theory of Legal Norms (Teori Hierarki Norma Hukum)*, Jakarta: Konstitusi Press, p. 194

mixed function such as on the one hand as a regulator, but also punishes such as the judiciary which is mixed with the legislature.¹¹

The regulation in the 1945 Constitution of the Republic of Indonesia only determines one state institution that is a state auxiliary body, namely the Judicial Commission, but outside the Constitution, other state auxiliary bodies have developed. Based on Asimow's opinion, state commissions can be divided into two categories, namely First, independent state commissions, namely state organs that are ideally independent and therefore outside the executive, legislative and judicial branches of power; but actually have mixed functions from all three. Second, ordinary State Commissions (state commissions), namely state commissions that are part of the executive branch of power and do not have a very important role.¹²

Theoretically, according to Zainal Arifin Mochtar, the existence of an independent state institution is caused by factors that can directly reduce disputes between the state and citizens. In the context of the DKPP, the DKPP is present to reduce disputes between election organizers and citizens regarding the code of ethics of election organizers, in addition to the argument that the existence of the DKPP is a necessity to accelerate democracy, especially elections¹³.

Supporting state institutions exist in independent and non-independent forms. Institutions that are independent in nature, in the sense that they are not part of the three pillars of power. These institutions are usually formed in sectors of branches of power such as the judiciary (quasi-judicial), executive (quasi-public) whose functions can be in the form of supervision of state institutions in the same sector or taking over some of the authority of state institutions in the same sector. Jimly Asshiddiqie stated that supporting state institutions are generally quasi or semi-governmental in nature and are given a single function or sometimes a mixed function on the one hand as a regulator, but also punishes such as the judiciary which is mixed with the legislature.¹⁴

The Honorary Board of Election Organizer (DKPP) in this category is included in the form of a supporting state institution (state auxiliary bodies) with the type of independent state institution. According to its duties, DKPP is an institution that serves as an election organizer that handles violations of the code of ethics of election organizers.

¹¹ Jimly Asshiddiqie, 2016, *Development & Consolidation of State Institutions Post Reform (Perkembangan & Konsolidasi Lembaga Negara Pasca Reformasi)* (third print), Sinar Grafika, Jakarta, p. 25.

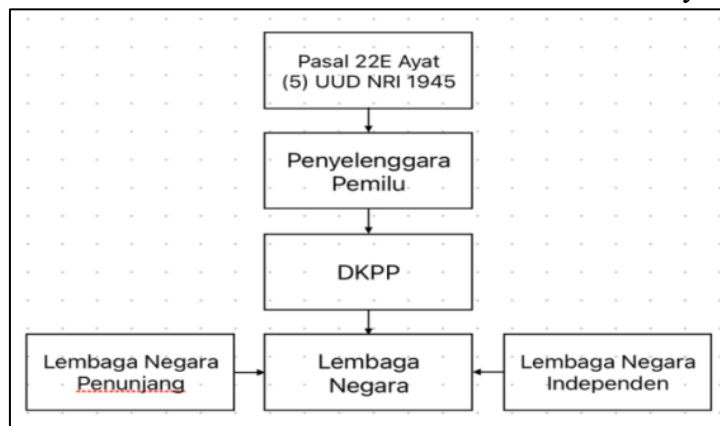
¹² Titik Triwulan Tutik, *Op.Cit*, p. 180.

¹³ Zainal Arifin Mochtar, 2019, *Independent State Institutions: Dynamics of Development and Urgency of Reorganisation Post-Constitutional Amendment (Lembaga Negara Independen: Dinamika Perkembangan dan Urgensi Penataannya Kembali Pasca-Amandemen Konstitusi)* (3rd print), Rajawali Pers, Jakarta, p. 127.

¹⁴ Jimly Asshiddiqie, *Op.cit*, p. 341

Saldi Isra divides state institutions into 3 (three) categories, namely; classification based on the legal basis for formation, classification based on function, and classification based on its position. Based on this categorization, DKPP is a state institution formed based on law. In terms of function, DKPP is included in the category of state institutions that carry out law enforcement functions, in this case, the enforcement of the code of ethics for election organizers. The description of the position of DKPP in the state structure is seen in the table below.

Table of Position of DKPP in the Indonesian State System



Source: Research Results

The DKPP was formed for the purpose of examining and deciding on complaints and/or reports of alleged violations of the code of ethics committed by members of the KPU, members of the Provincial KPU, members of the Regency/City KPU, members of the Bawaslu, members of the Provincial Bawaslu and members of the Regency/City Bawaslu. The DKPP is tasked with receiving complaints and/or reports of violations of the code of ethics and conducting investigations and verifications, as well as examinations of complaints and/or reports of alleged violations of the code of ethics.

Based on the Constitutional Court decision Number 11/PUU-VIII/2010 that Article 22E paragraph (5) of the 1945 Constitution of the Republic of Indonesia the phrase "a general election commission" does not refer to an institutional name, but refers to the function of organizing general elections that are national, permanent and independent. The function of organizing elections is carried out by the General Election Commission (KPU), the function of supervising elections is carried out by the Election Supervisory Body (Bawaslu) and the function of handling violations of the code of ethics of election organizers is carried out by the Honorary Board (at the time the decision was read, enforcement of the code of ethics of election organizers was still carried out by the Honorary Board of the KPU and the Honorary Board of Bawaslu.

Constitutional Court Decision Number 11/PUU-VIII/2010 is a legal source that the Honorary Council has a position as an election organizer based on Article 22E paragraph (5) of the 1945 Constitution of the Republic of Indonesia which is national, permanent and independent. The DKPP was formed a year after the issuance of Constitutional Court Decision Number 11/PUU-VIII/2010, namely regulated in Law Number 15 of 2011 concerning Election Organizers and most recently regulated in Law Number 7 of 2017 concerning General Elections. According to Jimly Asshidiqie, the norms contained in the constitution are binding and are understood, recognized, accepted and obeyed by the legal subjects bound by it, so the constitution is called a constitution that has a normative nature.¹⁵

Based on the Constitutional Court's decision above, it is clear that the DKPP is an election organizing institution together with the KPU and Bawaslu. The position of the DKPP as an election organizer has legal problems related to the principles that regulate it. Based on Article 22E paragraph (5) of the 1945 NRI Constitution "General elections are organized by a national, permanent and independent general election commission. The Constitution requires election organizers to have national, permanent and independent principles.

National in nature, namely reflecting that the working area of the general election commission as the organizer of the election covers the entire territory of the country. The permanent nature shows the general election commission as an institution that carries out its duties continuously even though it is limited by a certain term of office. The independent nature confirms that the institution of the election organizer in organizing and implementing the election is free from the influence of any party.¹⁶

c. DKPP's Authority in Enforcing the Election Organizer Code of Ethics

Authority is often equated with the term authority. What authority is called formal power, power comes from legislative power (granted by law) or from administrative executive power. Meanwhile, authority is a legal action that is regulated and given to a position based on the applicable laws and regulations that regulate the position in question¹⁷.

The main pillar of the rule of law is the principle of legality, so based on this principle it is implied that the government's authority comes from laws and regulations, namely the source of authority for the government, namely laws and regulations. In theory, authority derived from laws and regulations is obtained in

¹⁵ Jimly Asshiddiqie, 2006, *Introduction to the Science of Constitutional Law (Pengantar Ilmu Hukum Tata Negara)*, Jakarta: Constitutional Court, p. 136

¹⁶ Ida Budhiati, 2020, *The Constitutional Court and Election Law Certainty (Mahkamah Konstitusi dan Kepastian Hukum Pemilu)*, Jakarta: DKPP, p. 29

¹⁷ Habib Adjie, *Indonesian Notary Law (Thematic Interpretation of Law No.30/2004 on the Position of Notary) (Hukum Notaris Indonesia (Tafsir Tematik Terhadap Undang- Undang Nomor.30 Tahun 2004 tentang Jabatan Notaris)*, Refika Aditama, Bandung, 2008, p. 77.

three ways, namely authority obtained through attribution, authority obtained through delegation and authority obtained from mandate.¹⁸

The authority obtained from absolute attribution comes from the mandate of the law which is explicitly contained directly in the wording of the law or a particular article. Delegation authority is the delegation of existing government authority (from attribution authority) from a government organization to another government organization. Mandate authority is the authority given by a government agency/institution to another agency/institution on its behalf and with the permission of the authority holder and usually in routine relationships occurs from superiors to subordinates.

Based on the theory of authority above, the DKPP as a state institution that organizes elections has a source of authority derived from the law, namely Law Number 15 of 2011 and has been amended by Law Number 7 of 2017. Based on Article 159 paragraph (2) of Law Number 7 of 2017, the DKPP has the authority to:

- a. To call Election Organizers suspected of violating the code of ethics to provide an explanation and defense;
- b. To call reporters, witnesses, and/or other related parties to be questioned, including to request documents or other evidence;
- c. impose sanctions on Election Organizers proven to have violated the code of ethics; and
- d. decide on violations of the code of ethics.

Based on the provisions above, in general there are 4 (four) authorities of the DKPP, namely calling, examining, sanctioning and deciding. The DKPP convenes to examine alleged violations of the code of ethics of election organizers. The trial of violations of the code of ethics resembles a trial in a general court.

The DKPP's code of ethics trial is held with the principles of speed, openness, and simplicity. The principles of fast, open, and simple proceedings at the DKPP are similar to those in the general court system. However, in the general court system, there is a more structured and clear mechanism in balancing the speed of the process with the need for a thorough examination. The general court system also has stricter rules regarding openness and confidentiality, as well as more detailed procedures in handling complex cases.

Every Indonesian citizen has a legal standing as a complainant/reporter of alleged violations of election organizer ethics. In cases of alleged violations of ethics, the party who has the position as a complainant/reporter can submit a complaint or report directly or indirectly. Direct complaints are complaints submitted directly to the complaint receiving officer, while indirect complaints are complaints submitted via electronic or non-electronic media.

¹⁸ Ridwan, H.R, *State Administrative Law (Hukum Administrasi Negara)*, Revised Edit, 9th printing, Rajawali Pers, Jakarta, 2016, p. 101.

The object of the complaint/reported party is the KPU and Bawaslu along with their ranks at the Regency/City level, while for ad hoc organizers at the sub-district, village/ward and TPS levels, the Regency/City KPU and Regency/City Bawaslu have the authority to conduct investigations and decide on alleged ethical violations.

Complaints/reports received by the DKPP are subject to administrative verification which aims to ensure the completeness of the complaint requirements. Complaints/reports that have met the requirements in administrative verification are then subject to material verification. Material verification aims to determine the eligibility of the complaint to be tried. Complaints/reports that have passed the administrative verification and material verification stages are then subject to case registration. In the case of complaints/reports that have been registered, the complaint/report cannot be withdrawn.

The purpose of the ethics violation trial is to prove and test legal facts. The trial is conducted openly as in a public trial. The stages of the trial include: examining the legal standing of the Reporter/Reporter, listening to the statements of the Reporter/Reporter, Defendant/Reported, witnesses, experts and related parties, and examining and validating evidence. The evidence in the ethics violation trial by the DKPP includes:

1. Witness testimony;
2. Expert testimony;
3. Letters or writings;
4. Instructions;
5. Statements of the parties;

After the trial is completed, the DKPP will hold a plenary meeting no later than 10 days after the examination hearing is declared closed. The purpose of the plenary meeting is to listen to the presentation of the trial results, listen to the considerations of the DKPP members and then determine the verdict. Based on Article 458 paragraph (13) of Law Number 7 of 2017, the DKPP's decision is final and binding.

Based on a study of the minutes of the discussion session on the draft of Law Number 7 of 2017 in the Indonesian House of Representatives, it was found that in the philosophical aspect, the ratio legis of the DKPP's decision being final and binding is in order to realize general elections with integrity, because based on the minutes of the session, the author concluded that the rule of law is actually used to maintain the quality of the election, and the rule of ethics is used to maintain the integrity of the election.

In the legal aspect, the regulation of the DKPP decision being final and binding is in order to provide legal certainty to the party seeking justice, because in the minutes of the trial it was revealed that if the nature of the DKPP decision is not final, then the party seeking justice will take it to the State Administrative Court, and if this is done then the aspect of legal certainty will be eroded. While

in the sociological aspect, the regulation of the final nature of the DKPP decision is in order to maintain public trust in the implementation of the general election.

Regarding the nature of the DKPP's final and binding decision, it has been tested twice at the Constitutional Court, namely through the Constitutional Court Decision Number 31/PUU-XI/2013 and the Constitutional Court Decision Number 32/PUU-XIX/2021. The Constitutional Court is of the opinion that the final and binding decision of the DKPP cannot be equated with the final and binding decision issued by judicial institutions in general. The position of the DKPP which is not a judicial institution makes the DKPP fall into the function of government, in other words, the DKPP is a State Administrative organ that should be subject to the principles of State Administrative officials, so it is very possible to be questioned in the State Administrative Court (PTUN) if it is considered to be contrary to applicable laws and regulations and general principles of good governance. Therefore, the Constitutional Court Decision Number 32/PUU-XIX/2021 states that:

“The phrase "final and binding" in Article 458 paragraph (13) of Law 7/2017 is intended to be binding for the President, KPU, Provincial KPU, Regency/City KPU and Bawaslu, and is a concrete, individual and final decision of a TUN official, which can be the object of a lawsuit in the TUN Court.”

Based on the author's study of several State Administrative Court Decisions regarding disputes over decisions of state administrative officials as a follow-up to the DKPP decision, it was found that the State Administrative Court limited the scope of examination to the procedures or procedural law of the trial at the DKPP and the examination did not enter into the material or substantive aspects that were the domain of the trial at the DKPP. For example, in the Jakarta State Administrative Court Decision Number 82/G/2020/PTUN-JKT, the dispute between Evi Novida Ginting and Presidential Decree Number 34/P.Year 2020 concerning the Dishonorable Dismissal of Evi Novida Ginting as a Member of the Indonesian KPU for the 2017-2022 Term as a follow-up to the DKPP Decision Number 317-PKE-DKPPX/2019, in the section considering the PTUN decision, it is stated as follows:

Considering, that based on the provisions above, a fundamental question arises in relation to the actual situation in this dispute, namely if the decision on the object of the dispute is understood as a declarative decision, and the DKPP decision which underlies the issuance of the object of the dispute is viewed as a constitutive decision, then is it automatic that the validity (legality) of the issuance of the object of the dispute is determined absolutely by the validity (legality) of the DKPP decision?

Considering, that because the validity of the Presidential Decree and the DKPP decision in the context of this dispute cannot be separated from each other, furthermore, to test whether the decision on the object of the dispute has been issued in accordance with laws and regulations and general principles of good

governance, the legal review by the Court will be limited to the authority and procedural aspects alone, while the substantive aspect is excluded from being tested, among others, on the basis of respect for the DKPP as a TUN organ that carries out quasi-judicial functions, this respect is a self-restraint attitude based on the principle of margin of appreciation, marginal toetsing, so that the limitations of the assessment of validity focus on the formal aspects of authority and procedures for issuing the Presidential Decree on the object of the dispute and/or the issuance of the DKPP decision.

Based on the analysis of the PTUN decision above, it can be seen that the PTUN did not test the substantive aspect of the DKPP decision, but only tested the authority aspect and the procedural aspect of the trial of alleged ethical violations at the DKPP. This confirms that the DKPP Decision is final and binding in material terms, but not final in formal terms.

The regulation that everyone has the position of a complainant/reporter proves that violations of the code of ethics of election organizers are within the scope of public law. Public law is defined as the law that regulates the interaction between citizens and the state. The difference between public law and private law is, in short, if public law aims to regulate or protect the interests of the state, while private law aims to regulate or protect the interests of individuals. The conclusion that the author draws is that by regulating everyone can become a complainant/reporter without having to require individual losses for an act of violation, it proves that the enforcement of the code of ethics of election organizers is within the scope of public law.

Election organizers are in the public interest and violations by election organizers have an impact on the public interest, so this means that election violations enter the realm of public law. Constitutional Court Decision Number 21/PUU-XVII/2019 in the considering section expressly states that the resolution of violations of the code of ethics of election organizers is in the realm of public law, namely as follows:

Legally, the main task of the DKPP in enforcing ethics is to examine and decide on alleged ethical violations committed by election organizers. As an institution within the realm of election organizers, the establishment of the DKPP is based on the provisions of Article 22E paragraph (5) of the 1945 Constitution. By placing the DKPP as a single unit of election organizer function, the DKPP is not actually an institution outside the realm of election organizer institutions. This means that the DKPP is an internal apparatus of election organizers. Thus, the election organizer institution consists of three institutions that continue to function as one institutional unit.

In this perspective, according to the Court, because the implementation of elections is a public interest and the alleged violations by election organizers have had an impact on the interests of many people (the public), so that such matters have entered the realm of public law. Therefore, the principles used as a reference

for resolving problems when there are alleged violations committed by election organizers, although limited to the realm of ethics, must still be guided by the "procedural law" of quasi-public courts.

Based on the study of the Constitutional Court's decision above, it can be concluded that the DKPP institution is in the realm of election organizers who have the authority to enforce the code of ethics of election organizers which is a public legal area. Therefore, the enforcement of the code of ethics by the DKPP is a manifestation of the state's interest in realizing direct, general, free, secret, honest and fair elections.

IV. Discussion

In the current Indonesian constitutional system, there are institutions enforcing the code of ethics and institutions that function as quasi-judicial bodies. The institutions enforcing the code of ethics include the Judicial Commission (KY), the Council of Honor Court (MKD), the State Civil Service Commission (KASN), while institutions that function as quasi-judicial bodies include the Information Commission (KI) and the Business Competition Supervisory Commission (KPPU).

The author conducted a comparative analysis between the DKPP and the ethics enforcement agencies as above in the form of the table below:

Comparison Table of DKPP with KY, MKD and KASN

Instrument	DKPP	Judicial Commission	MKD	KASN
Institutional	Independent & Self-Reliant	Independent & Self-Reliant	Internal	Independent
Institutional Basis	Law	UUD	Law	Law
Membership	<ul style="list-style-type: none"> • Ex Officio KPU and Election Supervisory Agency • DPR proposal • President's Proposal 	<ul style="list-style-type: none"> • Former Judge • Legal Practitioner • Legal Academic • Member of the Community 	Representatives of all factions	Government and/or non-government elements
Authority	Examine, calling and decide on violations of the Ethics of Election Organizers	<ul style="list-style-type: none"> • Maintaining the dignity and upholding the honor, nobility, dignity and behavior of judges 	<ul style="list-style-type: none"> • Investigation and verification of complaints • Receiving complaints 	<ul style="list-style-type: none"> • Surveillance & tracking • Receive reports • Examination, clarification

		<ul style="list-style-type: none"> Establishing a code of ethics and guidelines for the conduct of judges Maintaining and enforcing the implementation of the code of ethics for judges 	<ul style="list-style-type: none"> Call and check 	and request for documents related to alleged ethical violations
Handling Resources	Complaint/Report (Passive)	Findings and Reports	<ul style="list-style-type: none"> Complaint MKD member proposal 	Supervision and reporting
Inspection	Open Court	Closed Examination	Closed Court	Closed Examination
Check-up result	Decision	Recommendation	Decision	Recommendation
Nature of Examination Results	Final and binding	Binding to the Supreme Court and the Constitutional Court	Final and binding, except regarding decisions regarding permanent dismissal.	Binding to the Personnel Management Officer
Form of Sanctions	<ul style="list-style-type: none"> Reprimand Temporary suspension Permanent termination 	<ul style="list-style-type: none"> Light sanctions (reprimand) Medium sanctions (delay in salary/rank) Severe sanctions (dismissal) 	<ul style="list-style-type: none"> Light sanctions (reprimand) Medium sanctions (dismissal from office) Severe sanctions (permanent suspension) 	<ul style="list-style-type: none"> Warning & reprimand Repair Disciplinary punishment

Source: Research Results

The three institutions above, KY, MKD, and KASN play a very important role in maintaining ethical standards in the judiciary, legislative, and bureaucratic

institutions of Indonesia. The effectiveness of enforcing the code of ethics depends heavily on the independence of the institution, oversight mechanisms, and resistance to political influence. The Judicial Commission and KASN tend to face external challenges, such as political influence and limited resources, which can hinder their ability to enforce the code of ethics effectively. The MKD is often faced with internal dilemmas related to political loyalties that affect the objectivity of ethics enforcement.

After that, the author conducted a comparative analysis between the DKPP and institutions that function as quasi-judicial bodies, namely as follows.

Comparison Table of DKPP with KPPU and KI

No	Instrument	DKPP	KPPU	Information Commission
1	Institutional	Independent & Self-Reliant	Independent	Independent
2	Institutional Basis	Law	Law	Law
3	Membership	<ul style="list-style-type: none"> • Ex Officio KPU and Election Supervisory Agency • DPR proposal • President's Proposal 	Appointment President on DPR approval	Open selection by the government and elected by the DPR/D
4	Authority	Checking, Calling and Deciding on Violations of Election Organizer Ethics	<ul style="list-style-type: none"> • Receive reports • Supervision • Investigation • Prosecution • Examination Hearing • Breaking up 	<ul style="list-style-type: none"> • Settlement of public information disputes • Check and Decide
5	Handling Resources	Complaints/Reports (passive)	Reports and findings (active and passive)	Report (passive)
6	Inspection	Open Court	Open Court	Open Court
7	Inspection Result	Decision	Decision	Decision
8	Nature of the Decision	Final and binding (KTUN follow-up) decision in submitted to PTUN)	Not final & binding (legal action can be taken to the District Court and Supreme Court)	Not final and binding (Legal appeal to PTUN and PN and cassation at MA)
9	Accountability	Public	President	Public

10	Form of Sanctions	<ul style="list-style-type: none"> • Reprimand • Temporary suspension • Permanent termination 	Administrative sanctions	Cancellation of public body decisions and orders to provide public information
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Source: Research Results

Based on the table above, it can be seen that only DKPP has a final and binding decision. The decisions of KI and KPPU in substance (material) can be appealed to the general court. This shows that DKPP is the only state institution (MKD is not a state institution, but rather a DPR supporting tool) that functions to enforce the code of ethics in the form of quasi-judicial with a final and binding decision.

V. Conclusions

Based on the description of the position, authority and comparison of DKPP in the previous discussion, the author concludes that DKPP is an independent state institution that organizes elections and functions as a quasi-ethical court. This conclusion is drawn based on the following arguments.

First, the position of the DKPP as an election organizer is quite strong based on Constitutional Court Decision Number 11/PUU/VIII/2010 which interprets Article 22E paragraph (5) of the 1945 NRI Constitution. As an election organizer, the DKPP is an independent state institution.

Second, the DKPP has the authority to call, examine, sanction and decide on violations of the code of ethics of election organizers. This authority is exercised by holding a trial. The trial for violations of the code of ethics by the DKPP resembles a trial in a general court, namely including the stages of the trial to examine the legal standing of the Complainant/Reporter, listen to statements from the Complainant/Reporter, the Defendant/Reported, witnesses, experts and related parties, and examine and validate evidence.

Third, the DKPP Decision is final and binding. Based on the Constitutional Court Decision Number 31/PUU-XI/2013 and the Constitutional Court Decision Number 32/PUU-XIX/2021, the DKPP Decision is final and binding for the President, KPU, and Bawaslu. The DKPP Decision is final and binding materially, formally (procedure) it can be appealed to the State Administrative Court.

DKPP is the only ethical judicial institution that has a strong position and authority. In terms of position, based on the Constitutional Court Decision Number 11/PUU-VII/2010, it is an interpretation of Article 22E paragraph (5) of the 1945 Constitution of the Republic of Indonesia. In addition, the construction in the DKPP law is an independent state institution. In terms of authority, DKPP has the same authority as a general court, namely to examine, try and decide. DKPP

resolves ethical violations by holding trials as in a general court. DKPP decisions are final and materially binding.

Comparison conducted by the author of several state institutions enforcing the code of ethics and those of a quasi-judicial nature, found that the DKPP has a much stronger position and authority. According to the author, the DKPP is a model for the idea of establishing a State Organizer Ethics Court in the future. Quoting Jimly Asshiddiqie that:

The legal system that has been the mainstay of hope in solving various humanitarian problems has proven to increasingly show its limitations. The death penalty is increasingly considered inhumane, while imprisonment is increasingly ineffective. Prisons are full everywhere, while the number of crimes continues to increase. In current developments, the ethical norm system is undergoing rapid changes as has been experienced by the legal norm system. The tendency that has been experienced by legal norms in history, namely the emergence of a current of need to make efforts to positivize law, is also being experienced by the ethical norm system.¹⁹

Based on this, the idea of establishing a State Officials Ethics Court needs to be studied further.

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