

Desain Peradilan Penyelesaian Sengketa Hasil Pemilihan Umum Presiden Dan Wakil Presiden Di Mahkamah Konstitusi Republik Indonesia = UDICIAL DESIGN FOR SETTLEMENT OF DISPUTES RESULTS OF THE GENERAL ELECTION OF THE PRESIDENT AND VICE PRESIDENT IN THE CONSTITUTIONAL COURT OF THE REPUBLIC OF INDONESIA

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Abstrak

Pembentukan Mahkamah Konstitusi sebagai Lembaga Peradilan pasca reformasi nyatanya memberikan angin segar bagi para pihak yang ingin berperkara. Salah satu kewenangan yang dimiliki oleh Mahkamah Konstitusi yang diberikan pada Pasal 24C ayat (1) yaitu memutus perselisihan tentang hasil pemilihan umum. Melalui kewenangan tersebut banyak gugatan perselisihan hasil pemilu diajukan ke Mahkamah Konstitusi. Dalil-dalil yang disampaikan beragam yaitu gugatan secara kualitatif atau gugatan kuantitatif namun, timbul perdebatan bahwa sejauh mana Mahkamah Konstitusi dapat mengadili perkara PHPU berdasarkan 2 (dua) pendekatan tersebut. Tesis ini hendak menjawab permasalahan yaitu mengenai macam-macam putusan MK dalam menangani perkara PHPU dan desain yang ideal agar tercapai nilai keadilan. Metode yang digunakan dalam penelitian ini adalah metode yuridis normatif. Hasil Penelitian menunjukkan bahwa melihat beberapa putusan PHPU, Mahkamah Konstitusi memutus suatu perkara berbeda-beda dengan amar putusan yang melampaui dari ketentuan jenis putusan di UU Nomor 24 Tahun 2009 tentang Mahkamah Konstitusi. Formulasi desain yang ditawarkan adalah alat kelengkapan penyelesaian PHPU. Kalaupun hendaknya juga terdapat di PHPU Presiden dan Wakil Presiden. Pertimbangan estimasi waktu penyelesaian agar dapat diselaraskan mengingat kesamaan urgensi kekosongan Pemerintahan.

.....The establishment of the Constitutional Court as a judicial institution after the reformation has in fact provided fresh air for parties who wish to litigate. One of the powers that the Constitutional Court has granted in Article 24C paragraph (1) is to decide on disputes over the results of general elections. Through this authority, many disputes over election results are submitted to the Constitutional Court. The arguments presented are various, namely qualitative or quantitative claims, however, there is a debate as to the extent to which the Constitutional Court can judge PHPU cases based on these 2 (two) approaches. This thesis intends to answer the problem, namely regarding the kinds of Constitutional Court decisions in handling PHPU cases and the ideal design to achieve the value of justice. The method used in this research is normative juridical method. The results showed that looking at several PHPU decisions, the Constitutional Court decided a case that was different from the verdict that exceeded the provisions of the type of decision in Law Number 24 of 2009 concerning the Constitutional Court. The design formulation offered is that the completion tool for PHPUD should also be available at the PHPU President and Vice President. Consideration of the estimated completion time so that it can be harmonized given the similarity of urgency for the absence of Government.