

## Eksistensi pengadilan pajak dalam Undang-Undang nomor 48 tahun 2009 tentang kekuasaan kehakiman = Eksistensi justice of lease in [code/law] number 48 year 2009 about judicial power

Amir Nurdianto, author

Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=20349060&lokasi=lokal>

---

### Abstrak

[<b>ABSTRAK</b><br>

Undang-Undang Nomor 14 Tahun 2002 tentang Pengadilan Pajak yang mulai berlaku sejak tanggal diundangkannya yakni tanggal 12 April 2002. Lahirnya Undang-Undang Nomor 14 Tahun 2002 tentang Pengadilan Pajak memang terkesan memunculkan dualisme bahwa seolah-olah Pengadilan Pajak, yang hanya berkedudukan di Jakarta, itu berada di luar kekuasaan kehakiman yang diatur dalam Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman. Hingga sekarang, kewenangan pembinaan organisasi, administrasi dan keuangan Pengadilan Pajak belum dialihkan kepada Mahkamah Agung. Hal ini menimbulkan polemik tersendiri dalam lingkungan Peradilan di Indonesia, khususnya untuk Pengadilan Pajak. Dalam yudisial review terhadap Undang-Undang Nomor 14 Tahun 2002 tentang Pengadilan Pajak di Mahkamah Konstitusi, yaitu putusan Perkara Nomor 004/PUU-II/2004 dan putusan Perkara Nomor 011/PUU-IV/2006, Mahkamah Konstitusi berpendapat bahwa Pengadilan Pajak termasuk dalam lingkungan peradilan yang berada di bawah Mahkamah Agung sebagaimana dinyatakan oleh Pasal 24 ayat (2) Undang-Undang Dasar 1945. Keputusan tersebut diambil berdasarkan pertimbangan bahwa pihak yang bersengketa dapat mengajukan Peninjauan Kembali atas Putusan Pengadilan Pajak kepada Mahkamah Agung, bahwa adanya ketentuan yang menyatakan pembinaan teknis peradilan bagi Pengadilan Pajak dilakukan oleh Mahkamah Agung, dan bahwa dilingkungan Peradilan Tata Usaha Negara dapat diadakan pengkhususan yang diatur dengan undang-undang, dalam hal ini Undang-Undang Nomor 14 Tahun 2002 tentang Pengadilan Pajak. Dalam pertimbangannya Mahkamah Konstitusi juga berpendapat bahwa sebagai lembaga peradilan, Pengadilan Pajak mempunyai kekhususan tersendiri, dalam hal ini termasuk dalam pembinaan organisasi, administrasi, dan keuangan yang dilakukan oleh Departemen Keuangan. Ketentuan Pasal 5 ayat (1) dan ayat (2) Undang-Undang Nomor 14 Tahun 2002 tentang Pengadilan Pajak yang menyatakan bahwa, Pembinaan teknis peradilan bagi Pengadilan Pajak dilakukan oleh Mahkamah Agung; dan Pembinaan organisasi, administrasi, dan keuangan bagi Pengadilan Pajak dilakukan oleh Departemen Keuangan, hal tersebut telah mencerminkan adanya pemisahan kekuasaan. Di sini jelas terlihat adanya pemisahan kekuasaan, yaitu kekuasaan eksekutif berada di bawah Departemen Keuangan, yang saat ini adalah Kementerian Keuangan Republik Indonesia dan kekuasaan yudikatif berada dibawah Mahkamah Agung. Pembinaan organisasi, administrasi, dan keuangan pengadilan pajak yang saat ini berdasarkan Undang-Undang Nomor 14 Tahun 2002 tentang Pengadilan Pajak dilaksanakan Departemen Keuangan hendaknya diserahkan ke Mahkamah Agung. Menempatkan badan peradilan di bawah eksekutif, dalam hal ini departemen, meskipun yang ditempatkan dibawahnya hanya organisatoris, administratif dan financial, sistem seperti ini baik langsung maupun tidak langsung merupakan simbol pengakuan yuridis bahwa badan peradilan di bawah departemen yang bersangkutan. Salah satu ciri dari negara hukum adalah adanya pemisahan yang tegas antara kekuasaan-kekuasaan negara.

<hr>

<b>ABSTRACT</b><br>

[Code/Law] Number 14 Year 2002 about Justice of Iease which go into operation commencing from the date of its it[him] namely the 12 April 2002. Delivering birth of [Code/Law] Number 14 Year 2002 about Justice of Iease (it) is true impress to peep out dualisme that impressing Justice of Iease, which only dimiciling [in] Jakarta, that beyond judicial power which [is] arranged in [Code/Law] Number 48 Year 2009 about Judicial Power. Until now, kewenangan construction of organization, finance and administration Justice of Iease not yet been transferred to Appellate Court. This Matter generate separate polemic in Jurisdiction environment in Indonesia, specially for the Justice of Iease. In review yudisial to [Code/Law] Number 14 Year 2002 about Justice of Iease [in] Lawcourt Constitution, that is Number verdict 004/PUU-II/2004 and Number verdict 011/PUU-IV/2006, Lawcourt Constitution have a notion that Justice of Iease of[is included in jurisdiction environment which under Appellate Court as expressed by Section 24 sentence ( 2) Constitution 1945. The decision taken pursuant to consideration that the lawsuit can raise Sighting Return of Decision Justice of Iease to Appellate Court, that there is rule him expressing technical construction [of] jurisdiction to Justice of Iease [done/conducted] by Appellate Court, and that Civil service arbitration tribunal environment can be performed [a] [by] peculiarity which regulate, in this case [Code/Law] Number 14 Year 2002 about Justice of Iease. In the balance [of] Lawcourt Constitution also have a notion that as jurisdiction institute, Justice of Iease have separate specialty, in this case the included in construction of organization, administration, and finance [done/conducted] by Treasury Department. Rule Section 5 sentence ( 1) and sentence ( 2) [Code/Law] Number 14 Year 2002 about Justice of Iease expressing that, Technical construction [of] jurisdiction to Justice of Iease [done/conducted] by Appellate Court; and Construction of organization, administration, and finance to Justice of Iease [done/conducted] by Treasury Department, [the] mentioned have expressed the existence of dissociation of power. Clear here seen the existence of dissociation of power, that is power of executive under Treasury Department, what in this time [is] Ministry Of Finance Republic Of Indonesia and power of yudikatif reside in below/under Appellate Court. Construction of organization, administration, and finance justice of Iease which in this time pursuant to [Code/Law] Number 14 Year 2002 about Justice of Iease executed [by] Treasury Department shall be delivered to Appellate Court. Placing jurisdiction body below/under executive, in this case department, though which [is] placed under him only organisatoris, administrative and financial, system like this indirect and also direct goodness represent symbol confession of yuridis that jurisdiction body below/under pertinent department. One of [the] characteristic of body politic [is] the existence of coherent dissociation [among/between] powers of state., [Code/Law] Number 14 Year 2002 about Justice of Iease which go into operation commencing from the date of its it[him] namely the 12 April 2002. Delivering birth of [Code/Law] Number 14 Year 2002 about Justice of Iease (it) is true impress to peep out dualisme that impressing Justice of Iease, which only dimiciling [in] Jakarta, that beyond judicial power which [is] arranged in [Code/Law] Number 48 Year 2009 about Judicial Power. Until now, kewenangan construction of organization, finance and administration Justice of Iease not yet been transferred to Appellate Court. This Matter generate separate polemic in Jurisdiction environment in Indonesia, specially for the Justice of Iease. In review yudisial to [Code/Law] Number 14 Year 2002 about Justice of Iease [in] Lawcourt Constitution, that is Number verdict 004/PUU-II/2004 and Number verdict 011/PUU-IV/2006, Lawcourt Constitution have a notion that Justice of Iease of[is included in jurisdiction environment which under Appellate Court as expressed by Section 24 sentence ( 2) Constitution 1945. The decision taken pursuant to consideration that the lawsuit can raise Sighting Return of Decision Justice of Iease to Appellate Court, that there is rule him

expressing technical construction [of] jurisdiction to Justice of Iease [done/conducted] by Appellate Court, and that Civil service arbitration tribunal environment can be performed [a] [by] peculiarity which regulate, in this case [Code/Law] Number 14 Year 2002 about Justice of Iease. In the balance [of] Lawcourt Constitution also have a notion that as jurisdiction institute, Justice of Iease have separate specialty, in this case the included in construction of organization, administration, and finance [done/conducted] by Treasury Department. Rule Section 5 sentence ( 1) and sentence ( 2) [Code/Law] Number 14 Year 2002 about Justice of Iease expressing that, Technical construction [of] jurisdiction to Justice of Iease [done/conducted] by Appellate Court; and Construction of organization, administration, and finance to Justice of Iease [done/conducted] by Treasury Department, [the] mentioned have expressed the existence of dissociation of power. Clear here seen the existence of dissociation of power, that is power of executive under Treasury Department, what in this time [is] Ministry Of Finance Republic Of Indonesia and power of yudikatif reside in below/under Appellate Court. Construction of organization, administration, and finance justice of Iease which in this time pursuant to [Code/Law] Number 14 Year 2002 about Justice of Iease executed [by] Treasury Department shall be delivered to Appellate Court. Placing jurisdiction body below/under executive, in this case department, though which [is] placed under him only organisatoris, administrative and financial, system like this indirect and also direct goodness represent symbol confession of yuridis that jurisdiction body below/under pertinent department. One of [the] characteristic of body politic [is] the existence of coherent dissociation [among/between] powers of state.]