

Prinsip Transparansi Dalam Pengisian jabatan Hakim Konstitusi: Analisis Independensi Hakim Konstitusi = Principle of Transparency in Filling Constitutional Court Position: Analysis Independence of Constitutional Court Justice

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Abstrak

Mahkamah Konstitusi adalah suatu lembaga peradilan yang mempunyai fungsi sebagai penegak konstitusi yang putusannya bersifat final dan sebagai peradilan tingkat pertama dan terakhir. Menurut Undang-Undang Mahkamah Konstitusi, kewenangan pengisian jabatan hakim konstitusi didelegasikan kepada tiga lembaga berwenang, yaitu Mahkamah Agung, DPR dan Presiden. Pengisian jabatan hakim konstitusi oleh ketiga lembaga berwenang tersebut harus dilaksanakan berdasarkan prinsip transparansi, partisipasi, obyektif dan akuntabel. Transparansi diartikan sebagai keterbukaan. Artinya dalam setiap proses pengisian jabatan hakim konstitusi baik MA, DPR dan Presiden harus melaksanakan publikasi dan memberikan segala informasi terkait dengan proses yang dilaksanakan dalam pengisian jabatan hakim konstitusi. Namun, Undang-Undang Mahkamah Konstitusi tidak mengatur secara spesifik dan tidak adanya standarisasi aturan dalam pengisian jabatan hakim konstitusi dan indikator pelaksanaan prinsip transparansi. Proses pengisian jabatan hakim konstitusi yang transparan mempengaruhi pembentukan independensi personal hakim. Semakin baik pelaksanaan prinsip transparansi dalam pengisian jabatan hakim konstitusi, semakin baik pula terwujudnya independensi hakim. Untuk mewujudkan independensi hakim, tentunya harus diterapkan pula mekanisme pengisian jabatan hakim konstitusi yang ideal berdasar prinsip transparansi. Perbandingan mekanisme pengisian jabatan hakim konstitusi di negara lainnya dapat menjadi sebuah inspirasi untuk membentuk mekanisme pengisian jabatan hakim konstitusi yang ideal berdasar prinsip transparansi untuk memperkuat independensi hakim konstitusi.

.....Constitutional Court is a judicial institution that has function as constitutional enforcer which have final decisions and as first and final level judiciary. According to the Law of Constitutional Court, the authority to fill the positions of constitutional judges is delegated to three institutions, those are MA, DPR and President. The filling the positions of constitutional judges by those institutions must be implemented based on the principles of transparency, participation, objectivity and accountability. Transparency is defined as openness. This means in every process of filling positions of constitutional judges, both of MA, DPR and President, must carry out publications and provide all information related to process in filling positions of constitutional judges. However, the Law on the Constitutional Court does not specifically regulated and there is no standardization of rules in filling positions of constitutional judges and indicators of implementation principle of transparency. The transparent process of filling position of constitutional judge affects personal independence of judges. Implementation the principle of transparency in filling the positions of constitutional judges makes higher independence of judges will be. To realize the independence of judges, of course, the mechanism for filling the position of an ideal constitutional judge based on the principle of transparency must also be applied. Comparison of mechanisms for filling the positions of constitutional justices in other countries can be an inspiration to form an ideal mechanism for filling the positions of constitutional judges based on the principle of transparency to strengthen the independence of

constitutional judges.