

Sifat Kerahasiaan Nasihat dan Pertimbangan Dewan Pertimbangan Presiden dari Perspektif Good Governance di Indonesia = The Confidentiality of The Advice and Considerations of the Presidential Advisory Council from the Perspective of Good Governance in Indonesia

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Abstrak

Tesis ini membahas tentang Sifat Kerahasiaan sebuah nasihat dan pertimbangan (nastim) yang merupakan produk dari Dewan Pertimbangan Presiden (Wantimpres) yang dikaitkan dengan asas good governance. Tesis ini bermaksud menjawab pertanyaan mengenai sifat kerahasiaan nastim Wantimpres yang timbul dari tugas, fungsi dan kedudukannya apabila dilihat dari good governance, mengetahui sifat kerahasiaan nastim lembaga penasihat di beberapa negara dan bagaimanakah sifat dari nastim yang ideal dengan mengacu pada good governance. Metode penelitian yang digunakan adalah metode yuridis normatif dengan menggunakan data sekunder. Berdasarkan Pasal 6 Ayat (1) UU Wantimpres terkait kerahasiaan, memberi makna bahwa sifat pekerjaan Wantimpres itu selesai setelah memberi pertimbangan dan nasihat kepada Presiden. Dengan kata lain, selesailah kewajiban Wantimpres karena sifatnya yang rahasia. Di sisi lain, Indonesia merupakan negara yang demokratis yang berasaskan good governance, yaitu adanya transparansi, partisipasi masyarakat dan akuntabilitas. Idealnya sebuah nastim Wantimpres sejatinya bersifat rahasia, namun apabila nastim tersebut telah disampaikan kepada Presiden dan telah dilaksanakan menjadi sebuah kebijakan, maka dapat disampaikan kepada publik bahwa lahirnya/adanya kebijakan tersebut berasal dari nastim dari Wantimpres. Perwujudan good governance Wantimpres dapat tercermin dengan adanya pemberitaan berbagai kegiatan Wantimpres di Website Wantimpres dan Sosial Media Wantimpres. Selain itu, adanya mekanisme liputan media pada awal kegiatan seminar. Sebagai lembaga yang merupakan amanah Pasal 16 UUD 1945 yang memiliki tugas dan fungsi memberikan nasihat dan pertimbangan kepada Presiden, maka Presiden dapat lebih memberdayakan Wantimpres dalam pengambilan kebijakan. Sifat kerahasiaan nastim Wantimpres tetap dijaga dengan pembatasan apabila dalam beberapa hal terdapat kesepakatan dengan Presiden maka nastim Wantimpres dapat dibuka kepada publik.

.....This thesis discusses the confidential nature of advice and considerations which is the product of the Presidential Advisory Council that is associated with the principle of good governance. This thesis aims to answer questions regarding the confidential nature of the advice and considerations of the Presidential Advisory Council arising from its duties, functions and positions when viewed from a good governance perspective, to find out the confidential nature of the advice and considerations of advisory bodies in several countries and understand the nature of the ideal advice and considerations with reference to good governance. The research method used is a normative juridical method using secondary data. Based on Article 6 Paragraph (1) of the Law on the Presidential Advisory Council regarding confidentiality, it means that the nature of the work of the Presidential Advisory Council is completed after giving consideration and advice to the President. In other words, the obligations of the Presidential Advisory Council have been completed because of their secret nature. On the other hand, Indonesia is a democratic country based on good governance, namely transparency, community participation and accountability. Ideally, the advice and

considerations of the Presidential Advisory Council are confidential, however if the advice and considerations have been conveyed to the President and have been implemented into a policy, then it can be conveyed to the public that the existence of the policy comes from the advice and considerations of the Presidential Advisory Council. The realization of good governance of the Presidential Advisory Council can be reflected in the news of various activities of the Presidential Advisory Council on the official Website and social media of the Presidential Advisory Council. In addition, there is a media coverage mechanism at the beginning of the seminar. As an institution that is mandated by Article 16 of the 1945 Constitution which has the task and function of providing advice and considerations to the President, the President can further empower the Presidential Advisory Council in making policy. The confidential nature of the advice and considerations of the Presidential Advisory Council is maintained with restrictions whether in some cases there is an agreement with the President, the advice and considerations of the Presidential Advisory Council may be disclosed to the public.