

# Kedudukan Badan Pengawas Pemilihan Umum dalam Perkara Perselisihan Hasil Pemilihan Umum Presiden dan Wakil Presiden di Mahkamah Konstitusi = The Position of the General Election Supervisory Agency in the Dispute over the Results of Presidential General Elections before the Constitutional Court

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## Abstrak

Skripsi ini membahas mengenai kedudukan Bawaslu dalam penyelesaian perkara PHPU Presiden dan Wakil Presiden di Mahkamah Konstitusi. Tujuan dari penelitian ini adalah untuk mengetahui kedudukan Bawaslu dalam PHPU Presiden dan Wakil Presiden di Indonesia serta menjelaskan sejauh mana hukum acara Mahkamah Konstitusi mempertimbangkan kedudukan Bawaslu dalam pertimbangan putusan perkara PHPU Presiden dan Wakil Presiden di Indonesia. Penelitian ini dilakukan dengan menggunakan metode penelitian hukum doktrinal serta analisis Putusan PHPU Presiden dan Wakil Presiden dari tahun 2009 hingga 2024. Berdasarkan hasil penelitian ini, ditemukan bahwa Bawaslu merupakan pihak pemberi keterangan dalam perkara PHPU Presiden dan Wakil Presiden. Selain itu, Bawaslu juga diberi kewenangan untuk menghadirkan saksi atau ahli dalam proses persidangan PHPU Presiden dan Wakil Presiden. Akan tetapi, hukum acara Mahkamah Konstitusi dalam menangani perkara PHPU Presiden dan Wakil Presiden masih belum sempurna. Dalam mempertimbangkan putusannya, Hakim Konstitusi juga masih bergantung pada keterangan Bawaslu. Mahkamah Konstitusi juga dalam putusan PHPU Presiden dan Wakil Presiden mengesampingkan dalil permohonan Pemohon ketika ditemukan bahwa Bawaslu telah menangani perkara tersebut, terlepas apakah proses di Bawaslu telah dilakukan secara benar atau tidak. Untuk menyelesaikan masalah tersebut, diperlukan perubahan terhadap Undang-Undang Mahkamah Konstitusi, Undang-Undang Pemilihan Umum, serta peraturan perundang-undangan di bawahnya guna memperbaiki tata cara penanganan pelanggaran pemilu di Bawaslu serta menyempurnakan hukum acara PHPU Presiden dan Wakil Presiden oleh Mahkamah Konstitusi.

.....This undergraduate thesis discusses the position of General Election Supervisory Agency (Bawaslu) in the resolution of Dispute over the Results of Presidential General Elections (PHPU of the President and Vice President) in the Constitutional Court. The purpose of this research is to determine the position of Bawaslu in the PHPU of the President and Vice President in Indonesia and to explain the extent to which the procedural law of the Constitutional Court considers the position of Bawaslu in the consideration of the decision of the PHPU case of the President and Vice President in Indonesia. This research was conducted using doctrinal legal research methods and analysis of PHPU decisions of the President and Vice President from 2009 to 2024. Based on the results of this study, it was found that Bawaslu is a party providing information in the PHPU case of the President and Vice President. In addition, Bawaslu is also entitled to present witnesses or experts in the PHPU trial of the President and Vice President. However, the procedural law of the Constitutional Court in dealing with the PHPU cases of the President and Vice President is still not perfect. The Constitutional Court often relies on Bawaslu's testimony in reaching its decision. The Constitutional Court has also often rejected the petitioner's arguments when it found that Bawaslu had handled the case, regardless of whether or not Bawaslu's procedure was correct. To solve these problems,

amendments to the Constitutional Court Law, the General Election Law and the laws and regulations under them are needed to improve the procedures for handling election violations in Bawaslu and to improve the procedural law for the PPHU president and vice-president by the Constitutional Court.