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Analysis of the Legal Outputs of State Institutions: The Case of the Constitutional Court of the Republic of Indonesia

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ABSTRACT

The Constitutional Court (MK) safeguards the constitution, specifically the 1945 Constitution of the Republic of Indonesia. The Constitutional Court issues a variety of legal documents, including decisions, decrees, rules, and rulings, as part of its responsibilities and jurisdiction. The ruling of the Constitutional Court carries paramount significance as a legal outcome. The ruling of the Constitutional Court is conclusive and obligatory, applying to both governmental bodies, individuals, and legal companies. The rulings made by the Constitutional Court have the power to nullify or modify laws, government regulations, presidential regulations, ministerial regulations, or regional rules that are in contradiction with the 1945 Constitution of the Republic of Indonesia. The decrees of the Constitutional Court can establish rules for the process of reviewing cases, the selection and appointment of constitutional judges, and other subjects concerning the responsibilities and powers of the Constitutional Court. Constitutional Court rules are legally enforceable items that typically serve as regulatory measures. The regulations of the Constitutional Court might govern issues pertaining to the administration and management of the Constitutional Court, as well as other concerns concerning the responsibilities and jurisdiction of the Constitutional Court. The decisions made by the MK can govern various aspects pertaining to cases under its jurisdiction, including the determination of court expenses, the appointment of temporary judges, and other relevant topics concerning the case. The legal outputs of the Constitutional Court play a crucial role in upholding the constitution, ensuring law enforcement, and safeguarding human rights in Indonesia.

1. Introduction

The Constitutional Court (*Mahkamah Konstitusi*/MK) safeguards the constitution, specifically the 1945 Constitution of the Republic of Indonesia. One of the main responsibilities of the MK is to authorize the production of lawful goods. The legal outputs of the Constitutional Court encompass rulings, decrees, rules, and decisions. The ruling of the Constitutional Court carries paramount significance in the realm of law. The ruling of the Constitutional Court is ultimate and obligatory, applying to both governmental bodies, persons, and legal entities. The ruling of the Constitutional Court has the power to invalidate or modify laws, government regulations, presidential regulations, ministerial regulations, or regional rules that are in contradiction with the 1945

Constitution of the Republic of Indonesia.¹⁻⁴

The ruling of the Constitutional Court is a legally binding and regulatory outcome. Constitutional Court decrees can govern the processes for reviewing cases at the Constitutional Court, the methods for choosing and appointing constitutional judges, and other subjects pertaining to the responsibilities and jurisdiction of the Constitutional Court. Constitutional Court rules are legally enforceable items that typically serve as regulatory measures. The regulations of the Constitutional Court pertain to the governance and operations of the court, including its administration and management. They also cover various aspects concerning the responsibilities and powers of the Constitutional Court. The ruling of the Constitutional Court represents a distinct legal outcome. The

decisions made by the MK have the authority to govern several aspects pertaining to cases under its jurisdiction, including the determination of court expenses, the appointment of temporary judges, and other relevant topics concerning the case.⁵⁻⁸

The Constitutional Court (MK)

The Constitutional Court (MK) safeguards the constitution, specifically the 1945 Constitution of the Republic of Indonesia. The MK was founded on August 13, 2003, following the implementation of the Third Amendment to the 1945 Constitution of the Republic of Indonesia. Nine justices comprise the Constitutional Court (MK), elected by the People's Representative Council (DPR) and sworn in by the President. The term of constitutional justices is five years and they can be re-elected for one additional term. The Constitutional Court possesses the jurisdiction to make conclusive rulings in the following matters: examining the compatibility of laws with the 1945 Constitution of the Republic of Indonesia; resolving conflicts regarding the powers of state institutions established by the 1945 Constitution of the Republic of Indonesia; determining the dissolution of political parties; and settling disputes concerning election outcomes. The ruling of the Constitutional Court is ultimate and obligatory, applicable to both governmental bodies, individuals, and legal entities. The ruling of the Constitutional Court has the power to nullify or modify laws, government regulations, presidential regulations, ministerial regulations, or regional rules that are in contradiction with the 1945 Constitution of the Republic of Indonesia. One of the powers of the Constitutional Court is to give legal rulings. The legal outputs of the Constitutional Court encompass decisions, decrees, rules, and rulings.^{9,10}

Ruling of the Constitutional Court

The ruling of the Constitutional Court carries paramount significance as a legal outcome. The ruling of the Constitutional Court is conclusive and obligatory, applying to both governmental bodies, individuals, and legal companies. The ruling of the Constitutional Court has the power to nullify or modify laws, government regulations, presidential regulations, ministerial regulations, or regional rules that are in contradiction with the 1945 Constitution of

the Republic of Indonesia. The decision of the Constitutional Court carries significant legal authority. Any other governmental bodies, save for the Constitutional Court itself, cannot cancel or alter the ruling rendered by the Constitutional Court. Other judicial bodies cannot challenge the ruling rendered by the Constitutional Court. The decisions of the Constitutional Court play a crucial role in upholding the constitution and ensuring the implementation of laws in Indonesia. The ruling of the Constitutional Court can serve as a mechanism to safeguard human rights, ensure social justice, and achieve social welfare. The Constitutional Court has resolved the following instances: The Constitutional Court Decision Number 008-PUU-I/2003 invalidated some articles in Law No. 14 of 2002 regarding Human Rights Courts due to their inconsistency with the 1945 Constitution of the Republic of Indonesia. The Constitutional Court Decision Number 003-PUU-V/2007 declares that Law No. 1/1974 regarding marriage is in conflict with the 1945 Constitution of the Republic of Indonesia and necessitates modification. The MK Decision Number 005-PUU-IV/2006 declares that Law No. 32 of 2004, which pertains to regional government, is in conflict with the 1945 Constitution of the Republic of Indonesia and requires modification. The rulings of the Constitutional Court in Indonesia have exerted a substantial influence on the nation and the functioning of the state. These verdicts have effectively upheld the constitution, ensured law enforcement, and safeguarded human rights in Indonesia.¹¹⁻¹³

MK decision

The Constitutional Court's decision is a legal product that is regulatory in nature. Constitutional Court decrees can regulate procedures for examining cases at the Constitutional Court, procedures for selecting and appointing constitutional judges, as well as other matters relating to the duties and authority of the Constitutional Court. The Constitutional Court and the parties involved in the case examined by the Constitutional Court are bound by the decision. Other courts cannot challenge the decisions of the Constitutional Court. The following are several examples of MK decisions:

- MK Decree Number 02/PMK/2004 concerning Technical Guidelines for Implementing Legal

Review of the 1945 Constitution of the Republic of Indonesia.

- MK Decree Number 03/PMK/2004 concerning Procedures for Selection and Appointment of Constitutional Judges.
- Constitutional Court Decree Number 04/PMK/2004 concerning Procedures for Examination and Decisions on Disputes on General Election Results.

The Constitutional Court's decisions have provided a legal basis for carrying out its duties and authority. These provisions have also helped to increase the transparency and accountability of the Constitutional Court in carrying out its duties and authority.^{14,15}

Constitutional court regulations

Constitutional Court regulations are legal products that are generally regulatory and binding. Constitutional Court regulations can regulate matters relating to the administration and management of the Constitutional Court, as well as other matters relating to the duties and authority of the Constitutional Court. MK regulations have binding legal force for the MK and parties related to cases examined by the MK. Constitutional Court regulations can also be binding on the general public, if the Constitutional Court regulations regulate matters relating to the public interest. The following are several examples of MK regulations:

- MK Regulation Number 01/PMK/2004 concerning the Organization and Working Procedures of the Constitutional Court.
- MK Regulation Number 02/PMK/2004 concerning Procedures for Case Examination at the Constitutional Court.
- MK Regulation Number 03/PMK/2004 concerning Procedures for Selection and Appointment of Constitutional Judges.

These Constitutional Court regulations have provided a legal basis for the Constitutional Court to carry out its duties and authority. These regulations have also helped to increase the transparency and accountability of the Constitutional Court in carrying out its duties and authority.¹⁶

Constitutional Court decision

The Constitutional Court's decision is an individual legal product. MK decisions can regulate matters relating to cases handled by the MK, such as determining court costs, determining ad hoc judges, and other matters relating to the case. The Constitutional Court's decision has binding legal force for the Constitutional Court, the parties involved in the case, and the general public if it regulates matters relating to the public interest. The following are several examples of MK decisions:

- MK Decision Number 01/KMA/04/2004 concerning Determination of Case Fees at the Constitutional Court
- Constitutional Court Decision Number 02/KMA/04/2004 concerning the Appointment of Ad Hoc Judges in Cases of Review of Laws Against the 1945 Constitution of the Republic of Indonesia
- Constitutional Court Decision Number 03/KMA/04/2004 concerning the Appointment of Ad Hoc Judges in Cases of Disputes over the Authority of State Institutions whose Authority is Granted by the 1945 Constitution of the Republic of Indonesia.

The Constitutional Court's decisions have provided legal certainty for the Constitutional Court, the parties involved in the case, and the general public. These decisions have also helped to increase the transparency and accountability of the Constitutional Court in carrying out its duties and authority. In general, the Constitutional Court's legal products can be grouped into two categories: legal products that are generally binding and legal products that are individually binding. The Constitutional Court's legal products that are generally binding are the Court's decrees and regulations. The Constitutional Court legal product that is individually binding is the Constitutional Court decision.^{17,18}

2. Conclusion

The Constitutional Court (MK) is a state institution that has the authority to protect the constitution of the Republic of Indonesia. In carrying out its duties and authority, the Constitutional Court issues various legal products, namely decisions, decrees, regulations, and decisions. The

Constitutional Court's decision is final and binding, both for state institutions, individuals, and legal entities. The Constitutional Court's decision can cancel or change laws, government regulations, presidential regulations, ministerial regulations, or regional regulations that conflict with the 1945 Constitution of the Republic of Indonesia. The Constitutional Court's decision is an individual legal product. MK decisions can regulate matters relating to cases handled by the MK, such as determining court costs, determining ad hoc judges, and other matters relating to the case. In general, the Constitutional Court's legal products have an important role in maintaining the constitution, law enforcement, and protecting human rights in Indonesia. The Constitutional Court's legal products have provided legal certainty for the Constitutional Court, the parties involved in the case, and the general public. The Constitutional Court's legal products have also helped to increase the transparency and accountability of the Constitutional Court in carrying out its duties and authority.

3. References

1. Anggono BD, Prabowo RA, Mardika YN. Constitutional court and the past conflicts in post-authoritarian Indonesia. *Const Rev*. 2023;9(1): 79-108.
2. Omara A. Interpreting the Indonesian constitutional court approach in conducting judicial review on cases related to economic and social rights. *Indo Law Rev*. 2017;7(2):1-10.
3. Palguna IDG, Nurjanah I, Padmawati NKT, Dananjaya IK, Halmadinigrat IM. Indonesia's Constitutional Court decisions on outsourcing scheme: balancing protection and efficiency. *J Indo Legal Stud*. 2023;8(2):402-52.
4. Samsudin MI. A comparison of judicial review in Indonesian Constitutional Court and French Constitutional Council. *Indo Comparative Law Rev*. 2022;5(1):31-41.
5. Asshiddiqie J. Constitutional adjudication and democracy. *J Constitutional Justice*. 2018;5(2): 45-71.
6. Eddyono LW. The unamendable articles of the 1945 Constitution. *Const Rev*. 2016;2:252.
7. Gardbaum S. Separation of powers and the growth of judicial review in established democracies (or why has the model of legislative supremacy mostly been withdrawn from sale?). *Am J Comparative Law*. 2014;62(3):613-40.
8. Ginsburg T, Versteeg M. Why do countries adopt constitutional review?. *J Law Economics Organization*. 2014;30(3):587-622.
9. Greene J. The supreme court as a constitutional court. *Harv Law Rev*. 2014;128(1):124-153.
10. Grimm D. The democratic costs of constitutionalisation: The European case. *Eur Law J*. 2015;21(4):460-73.
11. Hermanto B, Aryani NM. Quo vadis specialised courts in Indonesia within Constitutional Court decisions confines. *J Penelitian Hukum De Jure*. 2023;23(4):403-18.
12. Satriawan I, Mokhtar KA. The role of Indonesian Constitutional Court in resolving disputes among the state organs. *Hasanuddin Law Rev*. 2019;5(2):159-79.
13. Skach C. The "newest" separation of powers: semipresidentialism. *Int J Const Law*. 2007;5(1):93-121.
14. Jamaluddin MN. The role of the people in the Amendment of the 1945 Constitution based on democratic constitution making: future prospects. *Padjadjaran J Ilmu Hukum*. 2020;7(1):19-42.
15. Tinambunan HSR. Reconstruction the authority of Constitutional Court on impeachment process of president and/or vice president in Indonesian constitutional system. *J Dinamika Hukum*. 2016;16(1):71-8.
16. Wantu FM, Ismail DE. Constitutional dialogue in judicial review at the Indonesian Constitutional Court: the future prospects. *J Legal Ethical Reg Issues*. 2022;25:1-8.
17. Lailam T, Anggia P. The Indonesian Constitutional Court approaches the proportionality principle to the cases involving competing rights. *Law Reform*. 2023;19(1):110-27.
18. Rahayu DP, Faisal, Sari R, Satrio N. Law enforcement in the context of legal culture in society. *Law Reform*. 2020;16(2):276-89.