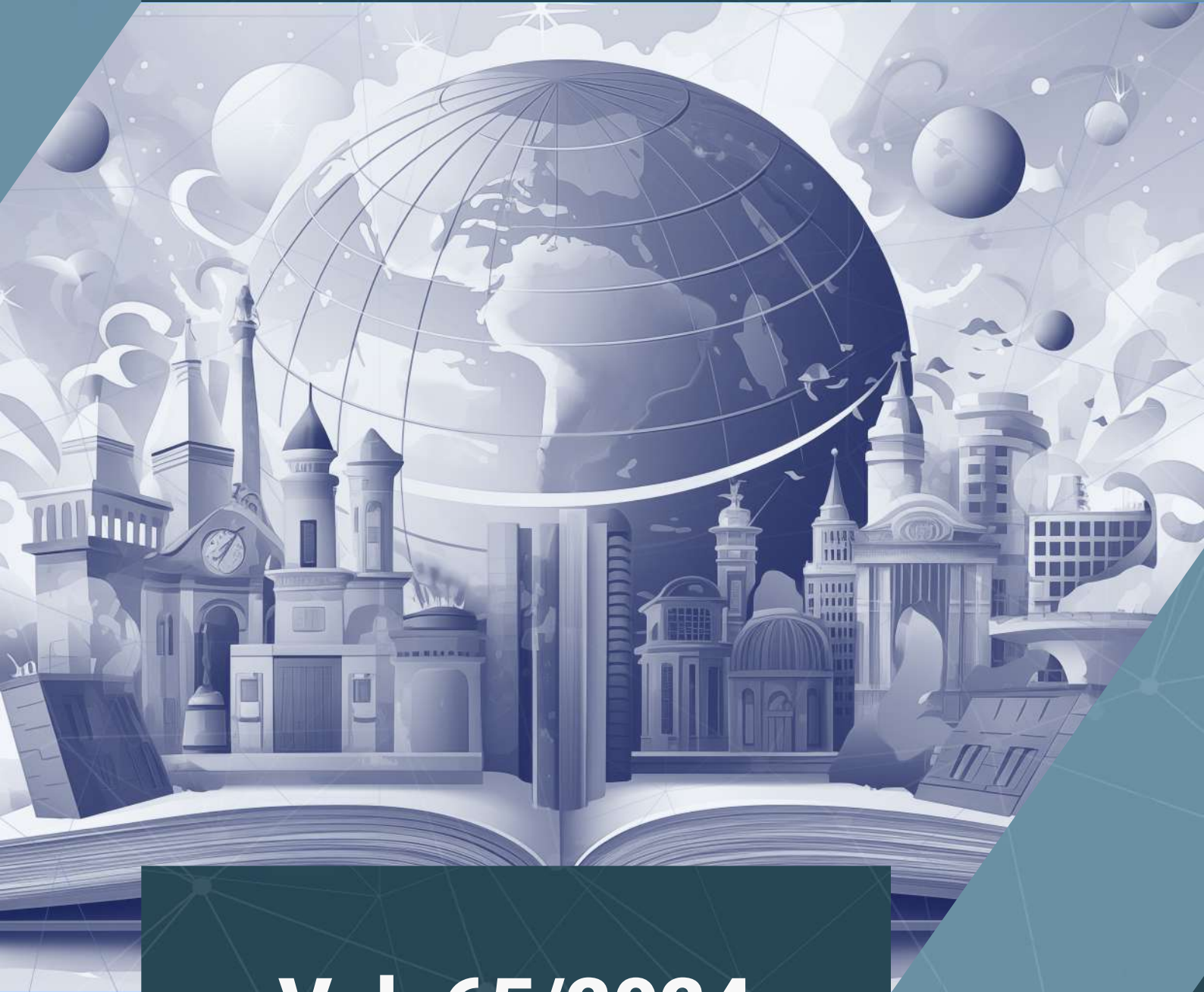




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LEGAL STUDY OF THE ROLE OF THE HONORARY BOARD OF ELECTION ADMINISTRATORS IN REALIZING DEMOCRATIC ELECTIONS

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ABSTRACT

The primary goal of this research is to evaluate the role of the Honorary Council for the Implementation of Elections in prosecuting election organizers who break the code of ethics, as well as to understand how the DKPP imposes sanctions on election organizer members who breach the code of ethics. This study employed normative legal research. The author's study reveals that where Article 1 paragraph (24) indicates, "The Election Organizer Honor Council, hereinafter abbreviated as DKPP, is an entity in charge of dealing with infractions of the Election Organizer's code of ethics. The provisions that mention the sanctions for violations of the election organizer's code of ethics are regulated in DKPP Regulation No. 1 of 2021 concerning the Second Amendment to the regulation of the Election Organizer Honorary Council No. 3 of 2017 concerning Procedural Guidelines for the Code of Ethics for General Election Organizers Article 31 paragraph 4 indicates that if the DKPP's finalization judges that the Respondent and/or Reported Party breached, the DKPP imposes sanctions in the form of a written warning, temporary dismissal, or permanent dismissal. Thus, it is determined that the implementation of the code of ethics in Indonesia, particularly in the election management body, DKPP, must prevent violations of the code of ethics committed by election organizers in order to ensure democratic elections.

Keywords: *Legal Studies, DKPP, Election, Democratic, Election Law.*

1. PENDAHULUAN

According to Law Number 7/2017 on General Elections, the Election Organizer is a body that organizes elections and includes the General Election Commission (KPU), the Election Supervisory Body (BAWASLU), and the Honorary Council of Election Organizers (DKPP). Furthermore, Article 1 paragraph (24) indicates that the Honorary Council of Election Organizers, hereinafter abbreviated as DKPP, is an entity in responsibility of dealing with infractions of the Election Organizers' code of ethics. Meanwhile, the major authority of the Election Supervisor (Election Supervisory Agency) is to oversee the implementation of the election stages, receive complaints, and manage cases of administrative infractions, election offenses, and codes of ethics.¹

In regards of the facts on the ground, many members of election organizers have been proven to violate ethics and policies and act unprofessionally in carrying out their duties and functions, as we see where DKPP decisions are final and binding as stated in Article 458 paragraph (13) of Law Number 7/2017 concerning General Elections, resulting in the absence of a direct correction mechanism for DKPP decisions by the State Administrative Court (PTUN). In reality, the procedure for rectifying a choice in an election is critical due to the possibility of error in both the decision-making process and the substance of the decision itself. So it is not unforeseen that many parties regard the DKPP as an angel of death. This is because, once DKPP reads the decision to temporarily dismiss the defendant, his career as an election organizer will be over. Furthermore, no legislation or other requirement governs the duration of the defendant's prohibition from becoming an election organizer once the permanent

¹ Undang-undang Nomor 7 Tahun 2017 tentang Pemilihan Umum.

dismissal sentence is issued. As a result, a candidate will accept any decision read by the DKPP, even if he is dissatisfied or believes that his voting rights have been violated by the judgment. Related to this, it can be seen DKPP Decision Number 317-PKEDKPP/X/2019 which imposes a permanent firing sanction on Mr. Evi Novida Ginting from his capacity as a Member of the KPU RI.² Because the person concerned felt aggrieved and dissatisfied with the DKPP decision, the person concerned took legal action. The lawsuit filed by KPU members is not against the DKPP decision, but a follow-up to the DKPP decision through Presidential Decree Number 34 / P of 2020 issued by President Joko Widodo.”

As a result, enforcing the Code of Ethics is critical for controlling the execution of the noble principles enshrined in the Code of Ethics. and taking forceful action against any activity that is demonstrated to contravene it. It has been discovered that the particular institution charged with enforcing the Code of Ethics in Indonesia is still ineffectual. The bulk of existing code of ethics enforcement institutions, including the Judicial Commission (KY), the Press Council, the Indonesian Broadcasting Commission (KPI), and others, still use a closed trial model. It differs from DKPP, which uses an open trial model and is designed as an ethical court that applies all principles as in court. Moreover, the DKPP's decision is final and binding. As a result, the establishment of the DKPP can serve as an inspirational institutional model for other Code of Ethics enforcement agencies looking to modernize their practices. As we can see above, the DKPP gets a significant number of complaints or allegations of violations of election organizers' code of ethics. This shows that the DKPP, which is mandated by law as an independent organization enforcing election organizers' code of ethics, is capable of carrying out its duties and authority ideally in organizing elections and elections with integrity, allowing democratic elections to take place. However, as we all know, elections frequently generate issues or violate elections.³ These issues arise as a result of dissatisfaction with the election organizers, in this case the Election Organizing Commission (KPU), such as inappropriate and detrimental decisions/policies for election participants, inaccurate vote counting, and indications of partiality towards one of the election participants, which some people continue to accept. Bribery (Money Politics) in elections, vote buying, and even the manipulation of campaign records. Things like this must be avoided so that democratic elections may be held. As previously stated, election organizers can commit several types of breaches during the election and election implementation process. In addition to the

² Putusan DKPP Nomor 317-PKEDKPP/X/2019

³ Jurnal Santoso, T. (2021). Pakar Hukum: *Kasus Pelanggaran Kode Etik Meningkatkan Setelah Ada DKPP*. Makassar: Antaranews.com.

aforementioned modes of violation, the DKPP has received, investigated, and decided on a number of instances involving alleged violations of election organizers' code of ethics that are unrelated to the phases of organizing elections. The infractions in question include immoral acts, narcotics and illegal drug use, alcoholic beverage violations, and gambling crimes.⁴

So, according to Law No. 7/2017 on General Elections, the fourth book discusses election infractions, disputes over the election process, and election results. Chapter 1 of the fourth book of Law No. 7 of 2017 concerning Elections regulates election violations; in the second section on violations of the election organizer's code of ethics, Article 456 of Law No. 7 of 2017 states that "violations of the election organizer's code of ethics are violations of the ethics of election organizers based on oaths and/or promises before carrying out their duties as election organizers." The resolution of matters involving the code of ethics of election organizers is governed by DKPP laws, specifically DKPP regulation number 1 of 2022 concerning the third amendment to DKPP regulation number 3 of 2017 about guidelines for the code of ethics of election organizers. Ethics for election organizers.⁵

Based on the problem's background, the researcher wishes to undertake research under the heading "Legal Study of the Role of DKPP in Realizing Democratic Elections".

2. RESEARCH METHODS

2.1. Type of Research

This is normative legal study, which involving a literature review that examines written laws such as statutes, theories, history, comparisons, structure, scope, material, and general explanations. It prioritizes or binds to aspects of the law rather than its application or implementation

2.2. Problem Approach

The approach used in this research is the legislative approach. This approach is employed to produce more objective research.

2.3. Sources of Legal Materials

1. **Primary Legal Materials** include: the 1945 Constitution, Law No. 7 of 2017, and Government Regulation No. 1 of 2022 concerning the third amendment to DKPP Regulation No. 3 of 2017 on the procedural

⁴ Salam, A. (2021). *Setitik Noda Pemilu Indonesia Potret Penegakan Kode Etik Perkara Asusila Penyelenggara Pemilu tahun 2017 dan 2021*. Jakarta: Bina Karya. Hal. 23.

⁵ Peraturan DKPP No. 1 tahun 2022 tentang perubahan ketiga atas peraturan DKPP No. 3 tahun 2017 tentang pedoman beracara kode etik penyelenggara pemilihan umum.

guidelines for the code of ethics for election organizers.

2. **Secondary Legal Materials** in this research include official documents, legal publications such as textbooks, legal journals, and commentaries on court decisions.
3. **Tertiary Legal Materials** used include websites, legal dictionaries, and general dictionaries related to the legal issues or topics discussed in this paper.

2.4. Method of Legal Material Collection

The method of collecting legal materials in this research involves gathering secondary data, which includes primary and secondary legal materials relevant to the issues under investigation, specifically concerning the Election Organizer Honorary Council. The model used for collecting legal materials is the Library Research model.

2.5. Method of Legal Material Analysis

After reviewing the legal materials used, the next step is to proceed with the method of legal material analysis using qualitative analysis. This involves discussing the obtained legal materials with reference to the existing theoretical framework. The analysis is conducted by critiquing, examining, or analyzing the materials, and then writing conclusions based on the research findings, incorporating personal insights and supporting literature such as statutes, legal dictionaries, books, journals, and official websites.

3. PEMBAHASAN

3.1. DKPP's role in pursuing action against election organizers who break the code of ethics

According to Law No. 7/2017 on General Elections, the Election Organizer is an election organizing body that includes the General Election Commission, the Election Supervisory Board, and the Honorary Board of Election Organizers. The Election Organizer's unified function is to elect members of the People's Council of Representatives, Council members, Regional Representatives, President and Vice President, and members of the Regional People's Representative Council are elected directly by the people (Article 1, paragraph 7). Furthermore, Article 1 paragraph (24) indicates that the Honorary Council of Election Organizers, hereinafter abbreviated as DKPP, is an institution responsible with investigating infractions of election organizers' code of ethics.⁶

Normatively, the election law clearly states that the EMB consists of three institutions, namely the KPU, Bawaslu, and DKPP. The three institutions are based on the instructions of the election law as "legislative"

⁶ Undang-Undang Nomor 7 Tahun 2017 tentang Pemilihan Umum.

institutions or given the role and function of overseeing the entire process of organizing elections, while DKPP is mandated by law to function as a "judicial" or judicial institution that resolves problems. A violation of the election organizer's code of ethics. It has several jobs and functions. KPU can be considered a "executive" entity because it carries out substantive technical implementation, specifically the stages of execution from planning to determining election results. Article 159 paragraph 3 letter C of Law (UU) no. 7/2017 on Elections indicates that the DKPP is passive. The DKPP performs its duties, powers, and authorities to enforce the Election Organizer Code of Ethics (KEPP). The Honorary Board of Election Organizers (DKPP) is exceptionally effective in organizing elections in Indonesia. This institution, which controls the code of ethics, might make election organizers more attentive in carrying out their obligations. "The legal basis for the DKPP's functions and authority are:⁷

- a. Receive complaints about alleged violations of election organizers' code of ethics;
- b. Conduct investigations, verifications, and examinations;
- c. Determining the decision;
- d. Delivering the decision to the relevant parties for follow-up,

DKPP is regulated in detail in Chapter III, Article 155-Article 166. DKPP's duties in Article 156 paragraph (1), namely:⁸

1. Receive complaints and reports of alleged violations of the code of ethics by election organizers.
2. Investigate and verify the complaints and reports.

Furthermore, DKPP has the authority, among others:

1. Requesting an explanation and defense from an Election Organizer suspected of breaking the code of ethics.
2. Questioning reporters, witnesses, and other relevant parties, including obtaining papers and evidence.
3. Sanction Election Organizers for violating the code of ethics.
4. Enforcing the Code of Ethics (Article 159, paragraph 2).

DKPP's obligations are explained in Article 159 paragraph (3), namely:⁹

⁷ Sudrajat, A. (2019). *Dewan Kehormatan Penyelenggara Pemilu (DKPP) dalam Sistem Pengawasan Penyelenggaraan Pemilu di Indonesia*. Jurnal Ilmu Sosial dan Ilmu Politik, 23(3), Hal 187-206.

⁸ Undang-undang nomor 7 tahun 2017 tentang pemilihan umum pasal 156 ayat 1

⁹ Undang- undang nomor 7 tahun 2017 tentang pemilihan umum pasal 159 ayat 3

1. Commit to fairness, independence, impartiality, and transparency principles.
2. Implement ethical criteria for election organizing.
3. Maintain neutrality and avoid using personal popularity.
5. Communicate the decision to the appropriate parties for follow-up."

As we all know, the DKPP's responsibility in upholding the code of ethics of election organizers has been effectively carried out by handling complaints and/or allegations of suspected violations of the code of ethics of election organizers. However, this is insufficient to ensure quality and dignified elections because the harm to democracy is produced not only by the poor quality and integrity of election organizers, but also by political parties, election participants, success teams, communities, and the general public. State Civil Apparatus: Regional Head and Deputy Head. Region and so on. Ironically, the DKPP did not approach these parties. As a result, the DKPP (Honorary Council of Election Organizers) was formed, an entity that plays an essential role in supervising infractions of the code of ethics by Indonesian election organizers. The DKPP is in responsibility for examining violations of the code of ethics by election organizers, including members of the KPU (General Election Commission) and Bawaslu (Election Supervisory Agency).¹⁰

Thus, DKPP has a very important role in maintaining the integrity and professionalism of election organizers in Indonesia and providing assurance that they operate in accordance with the applicable code of ethics, so that the electoral process can take place in a fair and transparent manner and the implementation of democratic elections can be realized."

3.2. DKPP's authority in imposing sanctions on members of election organizers who violate the code of ethics

Where DKPP follows up on violations of the code of ethics committed by election organizers, such as members of the KPU (General Election Commission) and Bawaslu (Election Supervisory Agency).¹¹ Institutionally, Law Number 7 of 2017 mandates three (three) institutions as election organizers: the General Election Commission (KPU), the General Election Supervisory Agency (Bawaslu), and the Honorary Board of Election Organizers (DKPP). Whereas the context of DKPP as an ethical court for election organizers is specifically constructed to handle and resolve alleged violations of the code of ethics committed by organizers, so it is not in the context of

resolving cases related to disputes over the stages, processes, and results of elections, but in practice, there are also other institutions that directly or indirectly deal with our electoral problems, such as the Constitutional Court and the State Adm.¹²

In Law Number 7 of 2017, the formulation is contained in Article 456 of Law Number 7 of 2017, which states that a violation of the election organizer's code of ethics is a violation of the ethics of election organizers based on the oath / promise before carrying out their duties as election organizers.¹³ According to the Election Law, an election organizer is a body made up of the General Election Commission, the Election Supervisory Board, and the Honorary Board of Election Organizers that works together to elect members of the DPR, DPD, President, and Vice President. President, and elect members of the House of Representatives. So in addition to the KPU and Bawaslu, DKPP is an election organizing body whose duties and authorities are different from those of the KPU and Bawaslu. The Honorary Board of Election Organizers (DKPP) according to the Election Law has the authority to resolve violations of the code of ethics of election organizers, including violations of the code of ethics committed by PPLN, KPPSLN, and Panwaslu Overseas.

The definition of DKPP in the Law is strengthened by its secretariat, and DKPP can form a Regional Audit Team (TPD) to investigate suspected violations of the code of ethics by regional election organizers. TPD serves as a regional judge, assisting DKPP members in conducting inquiries into infractions of the regional election organizers' code of ethics. TPD functions as a regional judge, assisting DKPP members in conducting inquiries into infractions of the regional election organizers' code of ethics. In addition to having the jurisdiction to investigate, TPD can rule on violations of the code of ethics committed by PPK, PPS, KPPS, District Panwaslu, Village / Sub-district Panwaslu, and TPS Supervisors.

DKPP can reach a decision after conducting investigation and/or verifying the complaint, listening to the defense and witnesses' testimonies, and reviewing additional evidence. According to the DKPP plenary meeting, decisions addressing alleged ethical infractions made by election organizers may take the shape of sanctions or rehabilitation. Election organizers can face sanctions in the form of a written warning, temporary dismissal, or permanent dismissal. DKPP decisions are final and binding, and they must be implemented.

In the context of violating the election organizers' code of ethics, that is, if an individual or group of persons is suspected of violating the code of ethics, they

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¹¹ Supriyadi, H. (2018). *Penegakan Kode Etik Anggota Komisi Pemilihan Umum (KPU) oleh Dewan Kehormatan Penyelenggara Pemilu (DKPP)*. Jurnal Konstitusi, 15(2), Hal 313-335.

¹² Soekanto, S., & Mamudji, S. (2018). *Tata Hukum Tata Usaha Negara di Indonesia*. Jakarta: Kencana. Hal. 12

¹³ Undang-undang nomor 7 tahun 2017 pasal 456 tentang pemilihan umum.

will face code of ethics consequences. Of course, if the individual in question is reported to DKPP, and DKPP determines that he fits the administrative and material requirements, the defense is heard based on facts, witness testimony, or expert opinion, and in accordance with the material. Based to the principles of the election organizers' code of ethics, the consequences in question include written warnings, temporary dismissal, or permanent dismissal, also known as dismissal. Article 24D of Law No. 7/2017 on Elections controls the Honorary Council of Election Organizers (DKPP) and its jurisdiction to impose sanctions on members of election organizers who breach the DKPP's code of ethics in accordance with Law No. 7/2017¹⁴

The provisions for sanctions for violations of the election organizer's code of ethics are regulated in DKPP Regulation Number 1 of 2021 concerning the Second Amendment to the Election Organizer Honorary Council Regulation Number 3 of 2017 concerning Code of Conduct. Code of Ethics for General Election Organizers Article 31 paragraph 4 which explains in terms of decision making. DKPP states that the Respondent and / or Reported Party is proven to have committed a violation, DKPP imposes sanctions in the form of a written warning, temporary dismissal, or permanent dismissal. The forms of Sanctions include written warnings in the form of reprimands, strong warnings, and very strong warnings, as well as temporary dismissals in the form of dismissing division coordinators, chairpersons, and members."

3. PENUTUP

3.1. Kesimpulan

The role of the DKPP is based on Article 155, (2) "DKPP is established to examine and decide complaints and / or reports of alleged violations of the code of ethics committed by members of the KPU, members of the Provincial KPU, members of the Regency/City KPU, members of Bawaslu, Provincial Bawaslu members and members of Regency/City Bawaslu".

The Honorary Board of Election Organizers (DKPP) has a very effective role in organizing elections in Indonesia. This institution, which controls the code of ethics, might make election organizers more attentive in carrying out their obligations. Thus, the DKPP plays a crucial role in protecting the integrity and professionalism of Indonesian election organizers, as well as offering guarantees that the election process will be conducted fairly and democratically.

So based on its authority, DKPP can impose sanctions on members of election organizers who commit violations of the code of ethics, so that DKPP follows up on acts of violations of the code of ethics committed by election organizers, for example members

¹⁴ Undang-Undang Nomor 7 Tahun 2017 pasal 24D tentang Pemilihan umum.

of the KPU (General Election Commission) and Bawaslu (Election Supervisory Agency). The DKPP's decision on suspected ethical infractions committed by election organizers can take the shape of fines or rehabilitation, according to the DKPP plenary meeting. Election organizers can face sanctions in the form of a written warning, temporary dismissal, or permanent dismissal. In the context of violations of election organizers' code of ethics, that is, if a person or group of persons is suspected of breaking the code of ethics, they will face code of ethics punishments. Of course, if the person in question is reported to DKPP, then DKPP determines that they meet the administrative and material requirements, then The defense is heard based on evidence, witness testimony, or expert opinions, and in compliance with the materials. Contained in the norms of the code of ethics of election organizers, then the sanctions referred to are in the form of a written warning, temporary dismissal, or permanent dismissal or dismissal in accordance with statutory regulations."

3.2. Suggestion

The author suggests that the role of DKPP in enforcing the code of ethics in Indonesia, especially in the election management body, namely DKPP, which in taking action or taking action against election organizers who violate the code of ethics must be even better. future and prevent violations of the code of ethics committed by members of the election organizers. Therefore, the role of DKPP is needed in supervising election organizers so that in the future they are better and aware of their respective duties and responsibilities so that democratic elections can be realized in the future.

The author suggests that in the future the authority of DKPP must be truly implemented and more effective in organizing elections in Indonesia. Where the DKPP Institution, which has the authority to organize this code of ethics, can make election organizers more careful in carrying out their duties so that there are no violations of the code of ethics.

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