

LEGALITY OF MULTIPLE POSITIONS OF VICE CHAIRMAN OF THE COUNCIL OF INDRAMAYU REGENCY BASED ON THE DECREE OF THE KONI OF WEST JAVA PROVINCE NUMBER 084 OF 2021 CONCERNING ENHANCEMENT OF PERSONNEL IN INDRAMAYU REGENCY NATIONAL SPORTS COMMITTEE

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ABSTRACT

The legality of concurrent positions as Deputy Chairperson of the DPRD of Indramayu Regency Based on Koni Decree of West Java Province Number: 084 of 2021 concerning Strengthening the Personnel of the Management of the Indramayu Regency National Sports Committee for the 2021-2025 Service Period. This research was conducted in Indramayu to study and analyze the permissibility of a deputy chairman of the DPRD who is still active and concurrently serving as chairman of the Indonesian National Committee (KONI) at the district level even though this is very much against Article 40 of Law no. 3 of 2005 and the decision of the Constitutional Court No. 27/PUU-V/2007, dated 20 February 2007. Data analysis was performed using qualitative analysis. The findings obtained from this study include: (1). the issuance of the KONI Decree of West Java Province Number: 084 of 2021 concerning the Strengthening of Personnel for the Management of Indramayu Regency for the 2021-2025 service period, namely the Appointment of Deputy Chairperson of the Indramayu Regency DPRD dated 27 May 2021 contrary to Article 40 of Law no. 3 of 2005 concerning the National Sports System (2). the permissibility of a deputy chairman of the DPRD who is still active concurrently serving as chairman of the Indonesian National Committee (KONI) at the district level, even though this is very much against article 40 of Law no. 3 of 2005 and the decision of the Constitutional Court No. 27/PUU-V/2007, February 20 2007, While the West Java Province KONI legalized it and the Regent of Indramayu who understands law and legislation remained silent regarding the issuance of the KONI West Java Province Decree Number: 084 of 2021 concerning Strengthening the Personnel of District Administrators Indramayu Service period 2021-2025, even though this is very much against Article 40 of Law No. 3 of 2005 and the decision of the Constitutional Court No. 27/PUU-V/2007.

Keywords: Legality of multiple positions, Inauguration of KONI Indramayu Management, Service Period 2021-2025.

INTRODUCTION

The State of Indonesia is a State of Law as mandated in Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states "Indonesia is a State of Law". The consequence of a rule of law state is that every administration of the state and activities carried out in the life of the nation and state must be based on law. Law becomes commander in chief and is used as a guideline in the life of the state. In a scientific context, the law has characteristics,

which cannot be equated with other sciences. Actions and Authorities of the Government Theoretically government actions (bestuurshandelingen) are "actions or deeds of government equipment (bestuursorgaan) to carry out government functions (bestuursfunctie)." These government actions can be grouped into 2 (two), namely:

1. Actions based on the law (rechtshandelingen), namely government actions that can cause certain legal consequences to give birth to rights and obligations. These actions are directly related to the authority possessed or attached to their position.
2. Actions based on facts (feitelijkehandelingen), namely government actions that are not directly related to the authority they have so that they do not cause legal consequences. For example, the government provides assistance, the inauguration of bridges and others (Sadijono, 2008).

Government legal actions (rechtshandelingen) can give birth to private legal actions (privatrecht handling) and public legal actions (publiekerecht handling). Private legal actions are legal actions taken by the government with other (private) parties in the framework of carrying out governmental tasks, for example entering into contracts in the manufacture of physical infrastructure, purchasing certain goods and/or entering into contracts/agreements to do the work of the certain job. Meanwhile, public legal actions are government legal actions in the form of one-sided legal actions (eenzijdig publiekrechtelijke handelingen) and two-sided legal actions (meerzijdig publiekrechtelijke handelingen). One-sided legal actions are legal actions carried out with the unilateral will of the government, which can give birth to decisions both concrete and general. Meanwhile, two-sided legal actions are legal actions carried out by the government with the mutual will of the two parties (public legal entities) related to these legal actions.

PROBLEM FORMULATION

The problems that arise in this study, can be formulated as follows:

1. What is the legality of a deputy chairman of the DPRD who is still active concurrently serving as chairman of the Indonesian National Committee (KONI) at the district level, even though this is very much against article 40 of Law no. 3 of 2005 and the decision of the Constitutional Court No. 27/PUU-V/2007, dated 20 February 2007?
2. Is the Decree of the KONI of West Java Province Number: 084 of 2021 concerning the Strengthening of Personnel for Indramayu Regency Management for the 2021-2025 term, namely the Appointment of the Deputy Chairperson of the Indramayu Regency DPRD, contrary to Article 40 of Law no. 3 of 2005 concerning the National Sports System?

RESEARCH OBJECTIVES

Based on the problems mentioned above, the objectives of this study are as follows:

1. To review and analyze the permissibility of a deputy chairman of the DPRD who is still active and concurrently serving as chairman of the Indonesian National Committee (KONI) at the district level, even though this is very

much against Article 40 of Law no. 3 of 2005 and the decision of the Constitutional Court No. 27/PUU-V/2007, dated 20 February 2007.

2. To review and analyze the legal legality of the KONI Decree of West Java Province Number: 084 of 2021 concerning the Strengthening of Indramayu Regency Management Personnel for the 2021-2025 service period, namely the Appointment of H. Sirajudin, SP. The deputy chairman of the Indramayu Regency DPRD dated May 27 2021 contradicts Article 40 of Law no. 3 of 2005 concerning the National Sports System.

The benefits of this research consist of academic, theoretical, and practical benefits, as follows:

1. Academically, this research is useful regarding matters concerning the world of national sports, related to the permissibility of a vice chairman of the DPRD who is still active and concurrently serving as chairman of the Indonesian National Committee (KONI) at the district level even though this is very contrary to Article 40 of Law no. 3 of 2005 and the decision of the Constitutional Court No. 27/PUU-V/2007, dated 20 February 2007;
2. Theoretically, this research can enrich the literature in terms of studying law, especially related to the legality of the KONI Decree of West Java Province Number: 084 of 2021 concerning the Strengthening of Personnel for the Management of Indramayu Regency for the 2021-2025 term of office regarding the Appointment of the Deputy Chairperson of the DPRD of Indramayu Regency dated 27 May 2021 contradicts Article 40 of Law no. 3 of 2005 concerning the National Sports System.
3. Practically
 - a. As information material for academics and the public for consideration and input for further research.
 - b. As input material for the government and state institutions, both structured and non-structural, to review the legality of the KONI Decree of West Java Province Number: 084 of 2021 concerning the Strengthening of Indramayu Regency Management Personnel. The term of service is 2021-2025, namely the Appointment of H. Sirajudin, SP. The Deputy Chairperson of the DPRD of Indramayu Regency dated May 27 2021 contradicts Article 40 of Law No. 3 of 2005 concerning the National Sports System.

Theoretical Framework

The theory of the legal system (legal system theory) was put forward by Lawrence M. Friedman who stated that the effectiveness and success of law enforcement depend on 3 (three) elements. The three elements of the legal system are (Friedman, 2013:6)

- a. "Legal Substance (the substance of the law)

The legal substance is the laws and regulations, norms, and real human behaviour patterns that are in the system. So, the legal substance concerns the applicable laws and regulations that have binding legal force and become guidelines for enforcement officials.

- b. Legal structure (structure of the law)

The legal structure is a pattern that shows how the law is implemented according to its formal provisions. When talking about the legal structure, it cannot be

separated from the law enforcement apparatus institutions involved in the process of upholding the law, starting from the police, prosecutors, courts and correctional institutions which all have their duties or roles, namely related to reporting or complaint activities, investigations, investigations. , prosecution, proof, imposition of sentences and imposition of sanctions, as well as efforts to reinstate (resocialize) convicts. The law cannot work properly or cannot be enforced if there is no credible, competent and independent legal apparatus.

c. Legal Culture

Law as a tool to change society or social engineering is nothing but ideas that the law wants to realize to guarantee the achievement of the function of law as engineering society in a better direction. So, the operation of law is not only a function of legislation but rather support from the legal culture of people involved in the legal system and society, the higher the legal awareness of the community, the better legal culture will be created.

Data Sources

Secondary data consisting of legal materials used can be divided into 3 (three) groups, namely:

Primary legal material, namely legal material consisting of legal rules contained in various legal instruments or statutory regulations related to unlawful acts, namely:

1. Law Number: 3 of 2005 concerning the National Sports System;
2. Government Regulation Number: 16 of 2007 concerning Organizing Sports;
3. Decision of the Constitutional Court Number: 27/PUU-V/2007;
4. Circular of the Minister of Home Affairs Number: 800/2398/SJ dated 26 June 2011 concerning concurrent positions;
5. Circular of the Corruption Eradication Commission (KPK) Number. B-903/01-15/04/2011 concerning the prohibition of concurrent positions as Public Officials in sports management;
6. Circular of the Minister of Home Affairs Number X.800/33/57 concerning concurrent positions as Regional Head / Deputy Regional Head, Structural and Functional Officers, and DPRD Members in KONI management.

Discussion

Definition of the Indonesian National Sports Committee

The national sports system is all aspects of sports that are interrelated in a planned, systematic, integrated and sustainable manner as a single unit which includes regulation, education, training, management, coaching, development and supervision to achieve national sports goals.

The phrase "sports committee" in several articles of the National Sports System is defined or refers to the Indonesian National Sports Committee (KONI) as the main sports organization in Indonesia as well as a state public body attached to KONI which is under the Indonesian Ministry of Youth and Sports. This is based on Presidential Decree Number 72 of 2001 concerning the Formation of KONI, meaning that the Presidential Decree remains in force even though the SKN Law has been enacted. This is because the National Sports System Law (UU SKN) it is stated that all laws and regulations relating to the sports sector remain in effect. As long as the said laws and regulations are not contradictory or have not been replaced based on the SKN Law.

The National Sports Committee (KONI) is an organization affiliated with the Government of the Republic of Indonesia "Sports committee" in several articles refers to KONI affiliated with the government (Minister of Youth and Sports of the Republic of Indonesia), this is reinforced in Article 36 paragraph (1) of the SKN Law using the term national sports branch organization. Following the meaning of the word national, of course, the intended organization covers all of Indonesia.

his means that KONI as regulated in Article 36 paragraph (1) is 1). concurrent with the Government. 2). Until now the government has recognized its existence and the founders of the main sports branches have recognized that they are the Indonesian National Committee," 3). regarding the existence of provincial and district sports committees is a consequence of the existence of KONI. 4). The law gives KONI authority to carry out activities or in other words as a leader in organizing sports activities at both the district, provincial, national and even international levels (for example the National Sports Week (PON), Asian Games, Olympiad, etc.).

Basis, Functions, and Objectives of the Indonesian National Sports Committee

The Basis, Functions, and Objectives of the Indonesian National Sports Committee are as follows (Articles 2, 3 and 4 of Law Number: 3 of 2005)::

1. National sports are held based on Pancasila and the 1945 Constitution of the Republic of Indonesia.
2. National sports have the function of developing physical, spiritual and social abilities as well as forming dignified national character and personality.
3. National sports are aimed at maintaining and improving health and fitness, achievement, human quality, instilling moral values and noble character, sportsmanship, discipline, strengthening and fostering national unity and integrity, strengthening national resilience, and raising national dignity and honour.

Principles of Organizing Sports

Sports are held with the principles of:

- a. democratic, non-discriminatory and upholding religious values, cultural values, and national pluralism;
- b. social justice and civilized human values;
- c. sportsmanship and upholding ethical and aesthetic values;
- d. civilizing and openness;
- e. development of healthy and active living habits for the community;
- f. empowering community participation;
- g. safety and security; And
- h. physical and spiritual wholeness.

The role of the National Sports Committee

The role of the Government in fostering and developing national sports which can guarantee equal access to sports, improve health and fitness, increase achievement, and sports management that is able to face challenges and demands for changes in national and global life requires a national sports system;

Therefore the national sports system is all aspects of sports that are interrelated in a planned, systematic, integrated and sustainable manner as a single unit which includes regulation, education, training, management, coaching, development and supervision to achieve national sports goals. KONI's function

refers to Law Number 3 of 2005 concerning the National Sports System, its roles include:

- Assisting the Government in making National policies in the field of management, coaching and development of sports achievements at the national level.
- Coordinate the main sports branch organizations, functional sports organizations, as well as provincial sports committees and regency/city sports committees. Carry out the management, coaching and development of achievement sports based on their authority; and Carry out and coordinate the activities of multi-championship sports at the national level

Functions of the Indonesian National Sports Committee

Improving the quality of Indonesian people and fostering and strengthening national unity and integrity through national sports development; Promoting sports achievements fostered by its members to achieve optimal sports achievements.

Position of the National Sports Committee

- The Indonesian National Sports Committee (KONI) is the sports authority agency and the only organization authorized and responsible for managing, fostering, developing and coordinating the entire implementation of sports achievement activities for every member in Indonesia (kompas.com:2021)..
- The Indonesian National Sports Committee (KONI) is the sports authority in Indonesia (KONI) is the sports authority in Indonesia. This is based on Law Number 3 of 2005 concerning the National Sports System and Government Regulation Number 16 of 2007 concerning Organizing Sports.

KONI Decree of West Java Province No. 3 of 2005 concerning the National Sports System

West Java Provincial KONI Decree Number: 084 of 2021 concerning the Indramayu Regency Management Personnel Stipulation for the 2021-2025 service period, namely the appointment of H. Sirajudin, SP Deputy Chairperson of the Indramayu Regency DPRD dated 27 May 2021 is against the law.

Decisions that violate the Law

The basis for the appointment of the chairman of the KONI who concurrently holds the position of chairman of the DPRD of Indramayu Regency is very and very contrary to the law but still implemented anyway, if it is enforced it will be a bad precedent, reaping storms and criticism and protests from both legal experts and sports circles throughout Indonesia, Why. Because the appointment of the deputy chairman of the DPRD to become chairman of the Koni will hinder 1). the creation of good governance where koni financing comes from state funds, 2). KONI's independence is constrained because it will interfere with the effectiveness of the official himself in carrying out his main duties as a public official; 3). there is an abuse of the function of the koni for the personal benefit of the official concerned; 4). the administrators of the national sports committee, provincial sports committee and regency/municipal sports committee are independent and not bound by the activities of structural positions and public positions; 5). Structural officials and public officials who hold concurrent positions as KONI administrators violate the principle of professionalism because: (a). They do not have the knowledge, skills, and abilities for the profession they carry out; (b). Potential conflicts of interest arise

in carrying out the main duties as structural officials and public officials; (c). Not implementing the code of ethics; and (d). Not implementing the applicable laws and regulations; and 6). there has not been a legislative review of Law No.: 3 of 2005 concerning SKN Article 40 and amendments Revising KONI AD/ART.

Apart from contradicting Law no. 3 of 2005 Article 40, the appointment of the Chairman of KONI Indramayu (H. Sirajuddin, SP, who is the Deputy Chairman of the DPRD of Indramayu Regency) is also contrary to the Constitutional Court Decree No.: 27/PUU-V/2007, dated 20 February 2007, which rejected the committee's management of national sports committees, provincial sports committees, and district/city sports committees are independent and not bound by the activities of structural positions and public offices. (Saleh Ismail Mukadar, SH, Chairman of the Surabaya KONI as well as a public official (Chairman of Commission E DPRD East Java), meaning that for the sake of justice, if the appointment of H. Sirajuddin, SP, who is Deputy Chairperson of the Indramayu Regency DPRD, is annulled by the Central KONI (accepted/approved/recommended/encouraged by the regency/provincial KONI government, then, in fact, this is a disharmony of the duties and responsibilities of the regional government (not accusing, or recommending officials from elements of the party that carries it), where the authority of the PEMDA is not to accuse the chairman of the KONI from the supporting party element let alone the chairman The KONI is currently serving as deputy chairman of the DPRD, but the task of the regional government itself is to participate in organizing recreational sports in the SKN Law with Law No.: 23 of 2014 concerning Regional Government. The guidance and development of recreational sports is only the authority of the district government and/or city Article 32 paragraph (1) PP No.: 16 of 2007 concerning Organizing Sports only provides obligations to regional governments and the community to build recreational sports infrastructure and facilities, facilitate the establishment of sports studios and sports associations as well as facilitate recreational sports festivals and competitions, meaning enforcement the law as commander in chief is just nonsense or the existence of the Constitutional Court in Indonesia is as barren as a tiger on paper.

The appointment of a public official (Deputy Chairperson of the Indramayu Regency DPRD) as Chair of the KONI who concurrently serves as Deputy Chairman of the Indramayu DPRD, apart from being contrary to Law no. 3 of 2005 Constitutional Court Decree No.: 27/PUU-V/2007, PP No. 16 of 2007, article 56 paragraph (1) concerning Organizing Sports, Circular of the Minister of Home Affairs Number 800/2398/SJ dated 26 June 2011 concerning concurrent positions which state "Prohibiting Regional Heads, Public Officials, including People's Representatives and ASN from holding multiple positions in sports organizations such as KONI and Sports Parent", Circular Letter of the Corruption Eradication Commission (KPK) No.: B-903/01-15/04/2011 dated April 4, 2011, concerning the results of the KPK Study which found concurrent positions as Public Officials in organizing sports in the regions could lead to conflicts of interest, Circular of the Minister of Home Affairs No.: X.800/33/57 dated March 14, 2016, regarding concurrent positions as Regional Head / Deputy Head Regions, Structural and Functional Officials, as well as DPRD Members in KONI management.

From the description above it is clear that the appointment of the chairman of

the KONI who still serves as the deputy chairman of the DPRD is prohibited as contained in Law No.: 3 of 2005 concerning the National Sports System Article 40, that "Managers of the national sports committee, provincial sports committee, and district sports committee/ the city is independent and not bound by the activities of structural positions and public positions (except early retirement), meaning:

1. Independent in this provision means free from the influence and intervention of any party to maintain neutrality and guarantee the professionalism of sports management (free from political elements, group interests and power).
2. Structural position in this provision is a position that shows the duties, responsibilities, authorities and rights of a civil servant (ASN) and the military to lead a state or government organizational unit, among others, an echelon position in a department or non-departmental government institution.
3. Public position in this provision is an office obtained through a process of direct election by the people or through the election in the DPR RI, including the President/Vice President and cabinet members, governors/deputy governors, regents/deputy regents, mayors/deputies the mayor, members of the DPR-RI, members of the DPD-RI, members of the DPRD, supreme judges, members of the judicial commission, the National Police Chief and the TNI Commander.

Therefore, the issuance of the KONI Decree of West Java Province Number: 084 of 2021 concerning the Strengthening of Personnel for the Management of Indramayu Regency for the 2021-2025 service period, namely the Appointment of the Deputy Chairperson of the Indramayu Regency DPRD which was signed by the General Chairperson of the KONI of West Java Province, dated May 27, 2021, as Bestuursdwang described as actions that are contrary to Law no. 3 of 2005 Article 40, and against the Constitutional Court Decision No. 27/PUU-V/2007, dated 20 February 2007, which rejected the management of national sports committees, provincial sports committees, and district/city sports committees to be independent and not bound by the activities of structural positions and public positions which are prohibited by a rule of administrative law or do what should be abandoned by the citizens because it is against the law.

CONCLUSION

From the description it can be concluded as follows:

- Issuance of KONI West Java Province Decree Number: 084 of 2021 concerning the Indramayu Regency Management Personnel Inauguration for the 2021-2025 service period, namely the Appointment of H. Sirajudin, SP Deputy Chairperson of the Indramayu Regency DPRD which was signed by the General Chairperson of the KONI of West Java Province, dated May 27, 2021, as Bestuursdwang which is described as actions that are clearly contrary to Law no. 3 of 2005 Article 40, and against the Constitutional Court Decision No. 27/PUU-V/2007, dated 20 February 2007, which rejected the management of national sports committees, provincial sports committees, and district/city sports committees to be independent and not bound by the activities of structural positions and public positions which are prohibited by a rule of administrative law or do what should be abandoned by the citizens because it is against the law.

- Appointment of KONI Chairman who concurrently holds the position of chairman of the DPRD of Indramayu Regency, according to KONI Decree of West Java Province Number: 084 of 2021 concerning Strengthening Personnel of Indramayu Regency Management The term of service is 2021-2025 namely Appointment of Deputy Chairperson of the Indramayu Regency DPRD signed by the General Chairperson of the Provincial KONI West Java, dated May 27 2021, is very and very contrary to the law, because the appointment of the deputy chairman of the DPRD to become chairman of the Koni will hinder 1). the creation of good governance where koni financing comes from state funds, 2). the independence of KONI is constrained because will interfere with the effectiveness of the official himself in carrying out his main duties as a public official; 3). there is an abuse of the function of the koni for the personal benefit of the official concerned; 4). the management of the national sports committee, provincial sports committee, and district/city sports committee are independent and not bound by the activities of structural positions and public positions; 5). Structural officials and public officials who hold concurrent positions as KONI administrators violate the principle of professionalism because (a) They do not have the knowledge, skills and abilities of the profession they carry out; (b) Potential conflicts of interest arise in carrying out the main duties as structural officials and public officials; (c) Not implementing the code of ethics; and (d) does not implement the applicable laws and regulations; and 6). there is no legislative review of Law No. 3 of 2005 concerning SKN Article 40 and changes to revising the AD/ART KONI.

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CONSTITUTION

1. Law Number 3 of 2005 concerning the National Sports System;
2. Government Regulation Number 16 of 2007 concerning Organizing Sports;
3. Decision of the Constitutional Court Number 27/PUU-V/2007;
4. Circular of the Minister of Home Affairs Number: 800/2398/SJ dated 26 June 2011 concerning concurrent positions;
5. Circular of the Corruption Eradication Commission (KPK) Number B-903/01-15/04/2011 concerning the prohibition of concurrent positions as Public Officials in sports management;
6. Circular of the Minister of Home Affairs Number X.800/33/57 concerning concurrent positions as Regional Head / Deputy Regional Head, Structural and Functional Officers, and DPRD Members in KONI management.