

## THE LEGAL POWER OF PARTY COURT RULINGS IN RESOLVING INTERNAL PARTY DISPUTES RELATING TO THE EXISTENCE OF CIVIL SUITS IN THE STATE COURTS

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### ABSTRACT

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The Party Court is an internal political party settlement institution formed by the political party itself. The party court is an independent institution and is outside the political party management structure. The Party Court is regulated in Article 32 of Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties. The existence of the party court is designed to examine and decide internal political party disputes whose decisions are final and binding on both parties to the case. This research discusses the legal strength of party court decisions in resolving internal party disputes in relation to civil lawsuits in the District Court. This research aims to analyze and examine the legal strength of Party Court decisions in resolving internal party disputes in relation to civil lawsuits in the District Court. This research was carried out using normative juridical research methods, searching and collecting legal materials through literature study. Legal materials are then identified, classified, systematized according to the object studied and analyzed qualitatively juridically. The research results found that the Party Court had not been maximal in resolving internal disputes with the provisions of Article 33 which had implications for the strength of the Party Court's decisions.

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### INTRODUCTION

The dynamics and development of a pluralistic society require increased roles, functions and responsibilities. In the Indonesian constitutional system, political parties are known as a component in the implementation of democratic life as a system that we all recognize. Political parties in Indonesia as the main pillars of democracy have a very strategic position. Political parties can also be said to be a legal umbrella that can play an important role in advancing freedom, equality and togetherness to form a solid nation and state. The 1945 Constitution of the Republic of Indonesia as the Indonesian constitution provides strong guarantees for freedom of association. The constitution guarantees the protection of the existence of parties as a manifestation of freedom of association and assembly to express thoughts both orally and in writing in a democratic rule of law.

Political parties are civil alliances, so they have a high level of independence (autonomy) in managing both internal and external affairs and interests. Political Parties in Democratic Countries have the main goal of gaining power by winning general elections and implementing their public policies after coming to power. For these two purposes, it is very necessary to have an organization to gain government power, and to form the backbone of a unitary government that can carry out its policy programs.

Political parties in Indonesia as the main pillars of democracy have a very strategic position. Political parties can also be said to be a legal umbrella that can play an important role in advancing freedom, equality and togetherness to form a solid nation and state. The 1945 Constitution of the Republic of Indonesia as the Indonesian constitution provides strong guarantees for freedom of association.

A political party as a political organization is filled by members of political parties who have fulfilled the requirements set by law, some of whom have the position of administrators of political parties. In carrying out their management, political party administrators gain the trust of Political Party members to determine the direction of party policy which is outlined in the party's Articles of Association and Bylaws. Apart from that, party officials must also be guided by Pancasila as the state ideology and comply with applicable laws and regulations. In carrying out its management, it is inevitable that there will be disputes between Political Party members, Political Party members and Political Party administrators, and even disputes between fellow Political Party administrators. The state has the responsibility to provide legal certainty in resolving internal party disputes fairly.

Political parties are a common phenomenon in democratic life and their existence has a very important meaning. Political Parties start from the assumption that by forming an organizational platform they can unite people who have similar thoughts so that their thoughts and orientation can be consolidated. That way, they can have greater influence in making and implementing decisions.

The management of political parties cannot be separated from disputes between political party administrators, therefore a Political Party Court was formed as an internal political party resolution institution. The presence of the Party Court in Indonesia was an idea from the People's Representative Council (DPR) in agreement with the government, realized with the establishment of Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties. The aim of this political party law is to realize the structuring and improvement of political parties, which in principle builds parties that are patterned and systematic, so that parties can optimize their functions in the life of society, nation and state. The result of the changes to the Political Party Law is regarding fundamental issues regarding the independence of political parties in Indonesia. This was also mentioned in the past in the mass media, so that it can summarize the explanation of the deputy chairman of Commission II DPR RI for the period 2009- 2014 Ganjar Pranowo, regarding the Draft Law (RUU) on Amendments to Law Number 2 of 2008 concerning Political Parties. "The party court has been constructed by law as an internal justice mechanism. "Functionally, the party court is a state delegation through political parties to resolve internal disputes with attributive authority."

The Party Court which is regulated in the Political Party Law aims to create internal procedures and mechanisms to resolve internal conflicts, it aims to protect and respect the sovereignty and autonomy of the parties in resolving every internal problem with justice and legal certainty, using new procedures and mechanisms which introduces the principles of democratic rule of law in the institutionalization of the party, on the other hand these principles are institutionally divided into a regulating function, a management function and a decision-making function, so that the institution is sovereign and autonomous in managing all matters guaranteed in the Party's internal matters. Political.

Settlement of internal political party disputes can be carried out internally through the Political Party Court or externally through district courts and cassation at the Supreme Court, this is regulated in Article 32 and Article 33 of Law Number 2 of 2011 concerning Amendments to Law Number 2 2008 Concerning Political Parties. Article 32 paragraph (1) of Law Number 2 of 2011 states that Political Party disputes are resolved by internal Political Parties as regulated in the AD/ART, and dispute resolution as referred to in paragraph (1) is carried out by the Political Party Court or other designation. formed by Political Parties.

Disputes are internal political party disputes that can be forwarded to the district court, if the dispute has not been examined, tried and decided by the party court. In such a strategic function and position, the Party Court has become a role model for institutionalizing and strengthening the autonomy of a modern party. In reality, the existence of a party court cannot yet become an independent and effective internal dispute resolution institution for efforts to strengthen political party institutions.

In this context, we can see that in relation to the norms regulated in Article 32 of Law of the Republic of Indonesia Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties, it is explained that the mechanism for resolving internal disputes within Political Parties is as follows:

1. Political Party disputes are resolved by internal Political Parties as regulated in the AD and ART.
2. Settlement of internal political party disputes as referred to in paragraph (1) is carried out by a political party court or other designation established by a political party.
3. The composition of the Political Party court or other designation as intended in paragraph (2) is conveyed by the Political Party Leader to the Ministry.
4. Settlement of internal political party disputes as intended in paragraph (2) must be resolved no later than 60 (sixty) days.
5. The decision of the political party court or other designation is final and internally binding in the case of disputes relating to management.

The provisions of Article 32 paragraph (5) above contain the consequence that the decision of the Political Party Court in the event of a dispute relating to management, no further legal action can be taken because the decision of the Political Party Court is final and binding *as per* the authority provided attached to the Constitutional Court. However, unfortunately, the provisions in Article 33 paragraph (1) of Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties still provide for further legal action for parties who are not satisfied with the decision of the Political Party court, as stated below ; "(1) In the event that the dispute resolution as intended in Article 32 is not achieved, the dispute resolution shall be carried out through the district court."

Based on the explanation above, the issue that will be discussed in this article is how the legal force of Party Court Decisions in Settlement of Internal Party Disputes is related to civil lawsuits in the District Court.

## RESEARCH METHODS

The research method used in this article uses the Normative Juridical research method, namely a research carried out by examining laws and regulations relating to the legal issues being researched, to examine whether there is consistency and conformity between one law and other laws or between laws and the 1945 Constitution or between regulations. Meanwhile, the nature of this research is an analytical description.

The research for this article was carried out using one research stage, namely through secondary data in the form of tracing primary legal materials (legal materials consisting of statutory regulations, official minutes, court decisions and official state documents), secondary legal materials in the form of literature books and journals, and tertiary legal materials obtained from dictionaries, the internet and interviews were conducted as supporting data in the research. Then the legal material is studied in a way a particular way called documentary study.

The data collection technique used is by collecting library data, namely by searching and analyzing library materials related to the issue of the authority of the Party Manhkamah in resolving internal party disputes related to civil lawsuits in the District Court from the perspective of just legal certainty.

## RESULTS AND DISCUSSION

### Legal Strength of Party Court Decisions in Internal Party Settlements in Relation to Civil Lawsuits in Court

The Party Court is regulated in Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties. The Party Court is an internal political party settlement institution formed by the political party itself. The party court is an independent institution and is outside the political party management structure. The party court has the authority to decide internal political party disputes which are final and binding on both parties to the case.

Dwi Darajatun P. Suwito in his book gives the opinion that the political party court is an institution that is formed and exists within an internal political party which obtains authority by attribution from the law to resolve internal political party disputes as a reflection of judicial power.

The Political Party Court was born during the reform era and the Draft Law was an initiative of the DPR. The idea of establishing a Political Party Court in Law Number 2 of 2011 was also inspired by the PKB's internal conflict which entered the legal realm. According to

Chudry Sitompul, this is a new history in law, namely the emergence of political party dispute law regulated in Article 32 and Article 33 of Law No. 2 of 2011 concerning Political Parties. The institutional characteristics of the Political Party Court are not clearly visible, namely in terms of:

1. Establishment of political party tribunals;
2. Accountability of political party courts;
3. The composition and position of political party courts;
4. Process and procedures in political party courts;
5. Legal remedies for political party court decisions.

From the provisions of these two articles, it appears that the Political Party Court is an institution that was born based on law, while one of the basic characteristics that state institutions must have is that the institution was born from the mandate of an official state product, namely from the Constitution (UUD) or Laws. Invitation and accountability of the Party Court. The Political Party Court Institution was formed by political parties based on a statutory mandate but carries out public functions.

The history of the formation of the Political Party Court is to resolve internal party disputes that occur within a political party, as a form of carrying out obligations, to carry out the law in a trustworthy manner. Law Number 2 of 2008 concerning Political Parties, explains that political party disputes are resolved by deliberation which includes alternative methods of resolution such as mediation, arbitration and justice. After the amendment to Law Number 2 of 2008, namely the enactment of Law Number 2 of 2011 concerning Political Parties, a party judicial body was formed which was called the Political Party Court. With the update to this article, political parties now have their own party court to resolve all internal cases that occur within the party.

The Political Party Court is a political party organ that must and must be formed by every political party based on Law Number 2 of 2011 as an amendment to Law Number 2 of 2008 concerning Political Parties. The importance of being formed in this political party is as an internal court that examines, adjudicates and decides disputes and problems that occur within the political party quickly, simply, fairly and with certainty.

Juridically, the position of the party court as the executor of judicial power outside an independent judicial system is seen as having freedom as an important substance in upholding the law and protecting human rights. The concept of freedom of party courts should be confirmed in law so that the law can act as a charter that guarantees human rights.

The juridical basis is a consideration or reason that illustrates that the regulations formed to overcome the legal vacuum take into account regulations that already exist, will be amended, or will be revoked in order to guarantee legal certainty and the community's sense of justice.

The establishment of a Political Party Court is a mandate from Law Number 2 of 2011 concerning Political Parties Article 32 paragraph (2) which reads: the resolution of internal political party disputes as referred to in paragraph (1) is carried out by a Party Court or other designation submitted by the party leadership politics to the ministry. The article in question is the legal basis for the formation of the Political Party Court as an institution with the authority to adjudicate cases of political party disputes.

Provisions regarding political party courts in Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2011 concerning Political Parties are regulated in article 32 paragraph (2) stating that in order to strengthen the implementation of democracy and an effective party system in accordance with the Constitution Republic of Indonesia 1945, it is necessary to strengthen institutions and increase the function and role of political parties.

The party court is an internal political party institution which has an important role and function in resolving internal party disputes. The following are the roles and functions of political party courts:

- a. Political party courts in resolving internal party conflicts are regulated in articles 32 and 33. The provisions of Article 32 were amended so that Article 32 reads as follows:
  - 1) Political party disputes are resolved by internal political parties as regulated in the AD and ART.
  - 2) Settlement of disputes by internal political parties as intended in paragraph (1) is carried out by a political party tribunal or other designation established by the political party.

- 3) The composition of the political party court or other designation as intended in paragraph (2) is conveyed by the political party leadership to the ministry.
  - 4) Settlement of internal political party disputes as intended in paragraph (2) must be resolved no later than 60 (sixty) days.
  - 5) Political party court decisions or other designations are final and internally binding in cases of disputes relating to management.
- b. The provisions of Article 33 paragraph (1) are amended so that Article 33 reads as follows:
- 1) In the event that the dispute resolution as intended in article 32 is not achieved, the dispute resolution shall be carried out through the district court.
  - 2) District court decisions are decisions of the first and final level and can only be appealed to the Supreme Court.
  - 3) The case as intended in paragraph (1) shall be resolved by the district court no later than 60 (sixty) days after the case complaint is registered at the district court clerk's office by the supreme court, no later than 30 (thirty) days after the cassation memorandum is registered at the Supreme Court clerk's office.

The existence of the political party court is as an institution that will ensure that the sovereignty of political parties is well maintained. The role of the political party court is as an institution that will ensure that the highest authority within the party is respected and ensure that all internal processes comply with the provisions of applicable regulations. Even the political party court can be considered as a foundational institution in ensuring the integrity of a political party.

The Party Court is given the authority to resolve internal party disputes in accordance with the provisions contained in Article 32 paragraph (5) that its decisions are final and binding on the disputing parties, however when referring to Article 33 paragraph (1) it is stated that the Party Court cannot resolve internal party disputes, then the way is open to file a lawsuit in the District Court. Of course, the provisions of Article 33 paragraph (1) are contrary to the principle of legal certainty for parties in dispute. The phrase "not achieved" in Article 33 paragraph (1) is ambiguous, it can contain several meanings: in this case whether the Party Court cannot resolve internal party disputes, and/or because one of the parties in the dispute is dissatisfied with the decision of the Party Court.

Political matters are special and/or specific. District courts will also refuse to hear political party dispute cases because of the law's order to first try them at the Political Party Court. Besides that, the process of resolving this dispute takes quite a long time. Therefore, it is best for the Political Party Court's decision on political party dispute cases to be final and binding.

The Political Party Court is the highest political court. So, it would be highly inappropriate if the party's court decision had to be filed again as a lawsuit in the district court. Failure to resolve party disputes as stipulated in Article 32 will open up the interpretation that the high court can resolve party management issues. In fact, it is clearly stated that the decision of the High Party Court is final and binding.

Universally, the sound of the judge's decision is: (1) stating that the application cannot be accepted, (2) stating that the application or lawsuit is rejected, (3) stating that the lawsuit is granted. When the judge states that the lawsuit cannot be accepted or *niet ontvankelijke verklaard*, in fact such a decision does not touch on the subject of the dispute, but concerns issues of formality and procedures followed. This kind of situation is categorized as "not reached in the dispute" as intended in Article 3 paragraph (1). And this opens the door to court forums to resolve disputes. If the decision has been determined, the decision is final and binding and has permanent legal force. Decisions that are legally binding will still have three powers, namely:

1. Binding power in the sense of *res judicata* is referred to, namely that the court is bound not to carry out a review of what has been decided and of any other issues that can be concluded from the arguments contained in the decision.
2. Executorial power, namely a decision that has legal force with the power mentioned in letter (a) above has a basis for implementation, as stated in the decision.
3. Strength of evidence, namely a court decision that has permanent legal force and can be submitted as perfect evidence of the matters considered therein.

## CONCLUSION

The legal force of the Court's decision is final and binding on the parties to the dispute in accordance with the provisions stated in Article 32 paragraph (5). However, the provisions of Article 33 paragraph (1) in this case exclude Party Court decisions regarding internal party disputes which cannot be submitted to the District Court. However, the existence of the provisions of Article 33 paragraph (1) raises doubts with the clause which states "in the event that a dispute resolution is not reached, the dispute resolution shall be carried out through the District Court", therefore, the formulation of norms must be immediately revised or deleted, so that does not give rise to different judge's interpretations. In this way, the process of resolving internal party disputes can be resolved quickly and at low cost so that the parties immediately obtain legal certainty regarding their disputes and by revising or deleting the provisions of Article 33 paragraph (1) of Law Number 2 of 2011 concerning Political Parties. then the decision of the Political Party Court is truly final and binding.

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