

Analysis of Dispute over Authority to Conduct Journalist Competency Tests Following Constitutional Court's Decision No. 38/PUU/XIX/2021

<http://dx.doi.org/10.25008/jkiski.v9i1.1063>

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Submitted: April 20, 2023, **Revised:** May 15, 2024, **Accepted:** June 1, 2024

Accredited by Kemdikbudristek No. 152/E/KPT/2023

Abstract - This study discusses a dispute between the Press Council (DP) and the National Board for Profession Certification (BNSP) over the authority to conduct journalist competency tests (UKW) using Hans Kelsen's and Hans Kaviasky's Theory of Hierarchy of Law. This research was conducted through a qualitative approach using a normative judicial method in analyzing the Constitutional Court's Decision No. 38/PPU-XIX/2021 concerning the authority to conduct journalist competency tests. Secondary data of this research was obtained through literature and document studies. This research found that there has been no final clarification on the settlement of the legal dispute between DP and BNSP over the authority to conduct journalist competency tests following the Constitutional Court's Decision No. 38/PPU-XIX/2021 rejecting in full the applicants' plea. The legal implication of the decision is that both DP and BNSP can continue to conduct journalist competency tests respectively.

Key words: Dispute; Authority; Journalist competency tests; Constitutional Court's Decision

Introduction

Journalists need a certain skill called journalist competency to perform journalistic tasks. Article 1 of Government Regulation No. 23 of 2004 concerning the National Board for Profession Certification (BNSP) stipulates that job competency certification is the process of issuing competency certificates systematically and objectively through a competency test based on national and/or international job competency standards. The Press Council has its own definition of competency, that is "certain ability depicting a specific level of awareness, knowledge and skill", while according to the Press Council, journalist competency is a journalist's ability to understand, master and uphold journalism and authority to determine (decide) anything in the journalism field (Sukardi, 2010).

Journalist competency is important because the press is an institution which is transparent, inclusive, not gender-based, and democratic in recruiting journalists. Anybody can become a journalist without being governed by the law unlike other professions such as judge, prosecutor and lawyer that must graduate from the school of law. Likewise, a doctor must graduate from the school of medicine and a pharmacist must graduate from the school of pharmacy as mandated by the law.

Press Law No. 40 of 1999 does not govern journalist profession. Article 1 paragraph (4) of the law only stipulates that a journalist is a person who regularly and continuously performs journalistic

duties. Journalistic duty is defined as the act of seeking, obtaining, possessing, storing, processing and delivering information in the form of text, sound, picture, sound and picture, data and graph.

Under Law No. 40 of 1999, journalists are only ordered to have and comply with the journalistic code of ethics. In the absence of journalist-recruiting standard, anybody can become a journalist, regardless of their education and journalistic skill. The recruitment of prospective journalists is the press company's authority, while the law does not govern the standardization of press company. Article 9 paragraph (2) of Law No. 40 of 1999 only stipulates: "Any press company must be in the form of Indonesian legal entity" (Yusuf, 2021).

The absence of journalist-recruiting standard and press company standardization makes the profile of journalists' education vary highly, ranging from senior high school, S-1 (bachelor), S-2 (master's) to S-3 (doctoral) graduates. Even in several areas journalists only graduated from junior high school. Consequently, the number of Indonesian journalists is predicted to reach 235 thousand employed in 47,000 press companies pers (Pradopo, 2023; Antony, 2022).

In the absence of standard recruitment pattern and education pattern for prospective journalists, the competency of journalist professionalism cannot be measured. This prompts journalist organizations along with press companies to hold a meeting facilitated by the Press Council to discuss standard journalist competency on January 26, 2010. The results of the discussion were later endorsed by the Press Council into the Press Council's Regulation No. 1/Peraturan-DP/II/2010 concerning Standard Journalist Competency, as already amended the latest by the Press Council's Regulation No. 3/Peraturan-DP/XI/2023 concerning Standard Journalist Competency.

On the other hand, since the downfall of New Order regime, the Indonesian press has been in a libertarian press system. Journalists can write news stories as freely as possible by ignoring journalistic norms. The press is free to report anything according to certain framing. The titles of news stories were made bombastic and unethical, such as news of dangdut singer SJ implicated in a criminal case as follows. The titles of news published by newspapers owned by Jawa Pos Group are: *Mau Puasa Senen Kemis Sahurnya Ngemut 'Burung' ABG. Si ABG Lapor Polisi Saipul Jamil Ditangkap. Lendir Misterius di Mulut Bang Ipul Bisa Jadi Barbuk Tuh.* (Intending to Fast on Monday and Thursday the Predawn Meal was Sucking the Youngster's Penis. The Youngster Reports to the Police to Arrest Saipul Jamil. The Mysterious Mucus on Bang Ipul's Mouth May Become Evidence).

The Press Council formulated journalist competency based on the interpretation of Article 15 of Press Law No. 40 of 1999. This article governs the Press Council's functions including (a) Protecting freedom of the press from other parties' intervention; (b) Conducting studies to develop the press life; (c) Stipulating and supervising the implementation of the journalistic code of ethics; (d) Providing considerations and striving for the settlement of the public's complaints about cases related to press reports; (e) Developing communication between the press, the public and the government; (f) Facilitating press organizations in drafting regulations in the press field as part of the effort to improve the quality of journalistic profession ; (g) Registering press companies.

On the other hand, the government in 2004 set up the National Board for Profession Standardization through Government Regulation No. 23 of 2004 concerning the National Board for Profession Certification, as already amended the latest by Government Regulation No. 10 of 2018 concerning the National Board for Profession Standardization. The establishment of the National Board for Profession Standardization (BNSP) is the mandate of Article 18 paragraph (5) of Law No. 13 of 2003 concerning Manpower.

BNSP is an independent institution tasked with conducting job competency certification for workers, both job training graduates and/or experienced workers. In this context, BNSP has endorsed the establishment of Profession Certification Institute (LSP) for the Press in 2021. LSP for the Press conducts profession certification for journalists. As a result, since 2021 the certification of journalist competency has no longer been conducted by the Press Council only. The certification of journalist competency is conducted by both the Competency Test Institute affiliated to the Press Council and LSP for the Press affiliated to BNSP. Both sides claim that they are authorized to conduct the certification of journalist competency.

Several journalists questioned the Press Council's authority to conduct journalist competency tests. On July 7, 2021, three journalists filed a petition for a judicial review of Law No. 40 of 1999 to the Constitutional Court with Application No. 38/PUU-XIX/2021. The applicants argued that the Press Council misinterpreted Article 15 paragraph (2) letter f: in that the Press Council "facilitated press

organizations in drafting regulations in the press field and improving the quality of journalistic profession”.

According to the applicants, the Press Council through the regulations it enacted, has gone beyond its authority, including conducting journalist competency tests. The applicants argued that the competency tests are the authority of BNSP based on Law No.13 of 2003 on Manpower, Government Regulation No. 10 of 2018 on the National Board for Profession Certification, and Manpower Minister's Regulation No. 2 of 2016 on National Job Competency Standardization System and Regulation of the National Board for Profession Certification No. 3/BNSP /III/2014 on Guide to General Provisions on Licencing Profession Certification Institutes.

The Constitutional Court Justices that investigated the basis of the petition on August 31, 2022 rejected the applicants' plea through the Constitutional Court's Decision No 38/PUU-XIX/2021. According to the Court, the realization of journalist competency tests is a concrete issue, while the Press Council's regulations are a matter of implementing norms rather than a matter of norm constitutionality so that it is not the authority of the Constitutional Court to assess it.

Based on the background as described above, the formulas of this research are that: (1) How is the position of the Regulations of the Press Council and the National Board for Profession Certification in implementing journalist competency tests following the Constitutional Court's Decision No. 38/PPU-XIX/2021?; (2) What is the legal implication on journalist competency tests conducted by the Press Council and the National Board for Profession Standardization following the Constitutional Court's Decision No. 38/PPU-XIX/2021?

Meanwhile, the objective of this research is to see who is really authorized to conduct journalist competency tests following the Constitutional Court's Decision No. 38/PPU-XIX/2021. This research is important to get legal certainty in conducting journalist competency tests.

Theoretical Framework

Theory of Hierarchy of Laws and Regulations

Hans Kelsen and Hans Kaviasky in Suprpto (1998), stated that there are two categories of norms in law, namely inferior norms and superior norms. The inferior norms must not contradict the superior norms and the lower norms can be tested against the higher norms. Hans Kelsen and Hans Kaviasky formulated the inferior and superior norms in the form of legal building that they described as *stupa* or *stufenforming* (Pramesti, 2024).

As a *stupa*, the legal norm building consists of (1) state fundamental norm (*staatsfundamentanorm*); (2) state basic norm, although it is basic in nature it spreads in various forms of regulations (*staatsgrungezertz*); (3) concrete and detailed norm as formal law (*formellgezeitz*); (4) implementation regulation as joint regulation (*verordnungsatzung*) is an autonomous regulation or *autonome zatzung* (Susanti, 2017; Pramesti, 2024; Soeprapto, 1998).

Hans Kelsen's theory is the development of hierarchy of norms from Adolf Merkl called *das doppelte rech stanilitz* (Asshiddiqie & Safa'at, 2006; Asshiddiqie, 2005;). In essence, Merkl stated that norms consist of two levels, namely; (1) upward legal norm sourced from the norm above it and (2) Downward legal norm serving as a source of legal norms below it. Merkl also stated that the hierarchy of law (*die leher vom stufenbau der rechtsordnung*) can be seen from the low level to the higher level (Asshiddiqie & Safa'at, 2006). In the hierarchy of laws and regulations, the following principles are applied: (1) *Lex superiori derogat legi inferiori*, that a lower regulation must not contradict a higher regulation; (2) *lex specialis derogat legi generali*, that a special regulation rules out a general regulation (3) *Lex posteriori derogat legi priori*, that a newly-enacted regulation rules out an old regulation. The other principle is that a regulation can be cancelled only if the party cancelling it has equal position.

The hierarchy of laws and regulations in Indonesia is regulated based on Law No. 12 of 2011 concerning the Enactment of Laws and Regulations. The hierarchy of laws and regulations is based on Article 7 as follows (1) the 1945 Constitution; the People's Consultative Assembly's Decree, (3) Law/Government Regulation in lieu of Law; (4) Government Regulation; (5) Presidential Regulation; (6) Provicincial/Regional Regulation, and (7) Regency/Municipal Regulation (Asshiddiqie, 2005;).

Pers as Social Institution

The press is a social institution that lives and interacts with its environment. According to Koentjaraningrat (1972), a social institution is a system of code of conduct and relationship centered

towards a variety of activities to meet complex special needs in the community. As a social institution, the press has the function of providing information to the public after passing through the stages of journalistic job, ranging from seeking, processing, editing to publishing it in mass communication means.

The process of journalistic job is an integral part of job that needs competency as a journalist to do it. Therefore, the press is the result of cultural work and human dignity that contains a variety of information. As such, the press not only has the function of disseminating information but also plays a role in building public opinions. The press not only serves as a source of information but also grows the freedom of democracy.

Relation between the press and its environment is a reciprocal relation. The press influences the environment and vice versa. Such a relation is called a symmetric relation which is described by Kimbal Young in Sumardjan (1964) as a direct interaction and symbolic interaction. Direct interaction occurs through physical interaction, while symbolic interaction occurs through sound, motion, and language, both spoken and written. The press interaction occurs through symbolic interaction reflected on the published content. Jacob Oetama (2001) stated that the press is not a mirror but an institution influencing the public because the press selects news, even gives direction and colors to the news published.

The press is also an integral part of the community, so that it lives and develops as a reflection of the community. As such, on one hand, the press plays an important role in guiding the public, while on the other hand it serves the public by disseminating information in addition to conducting education process and political socialization (Alfian, 1987; Budiardjo, 2013). Therefore, in a country the press functions as a reflection of social, economic, political and cultural life as well as defense and security in the community of a nation.

Press Theory and Press System

In performing journalistic duties, journalists comply with the press system, political system, and legal system in place. In general, there are four press systems, namely: (1) Liberal Press; (2) Authoritarian Press; (3) Press with social responsibility, and (4) Soviet Communist Press (Siebert, Peterson & Schramm, 1986; Rachmadi, 1990). The press is also divided into three categories, namely: Western Press; Communist Press and Third World Press.

The Theory of Authoritarian Press developed in the Renaissance period starting from early 16th century to 17th century, as a form of absolute monarchy to support and perpetuate power. According to the theory of authoritarian press, truth is the result of thoughts from a handful of people so that it must be used to defend elite interests. Therefore, the press is not free and is always controlled by the ruler. This is different from the theory of libertarian press which emerged from the thoughts of philosophers such as John Locke and John Stuart Mill who stated that seeking truth is human rights so that the press must be free to perform duties. This press system not only voices truth but also supervises the government's attitudes.

The theory of press with social responsibility emerged after media technology developed with the presence of radio and television. The mass media has responsibility for disseminating information so that media owners are the authority holder of truth in disseminating information. The assumption of the press with social responsibility is that freedom entails responsibility. The press must be responsible to the public in carrying out its mass communication function in the modern community by providing information, discussions and debates on the problems facing the public; giving enlightenment to the public so that the public can govern themselves and control the government.

The theory of communist press developed in the Soviet Union (before this country was dissolved). This press system resembles the press system in fascist countries and German Nazi when Adolf Hitler came to power. The communist press system aims to support the success of the party's programs. Following the dissolution of the Soviet Union, only North Korea, China and Cuba adopt the communist press system.

The Indonesian press system currently adopts the principles of liberal press system as a consequence of political democratization following the downfall of the New Order regime in 1998. During the New Order period, the press system in place was authoritarian press which was "softened" into Pancasila press. The concept of Pancasila press was made during the 25th plenary session of the Press Council in Solo (Wonohito, 1986). Pancasila press is oriented and take stand in accordance with

the values of Pancasila and the 1945 Constitution. Pancasila press is the fruit of the effort to find a system satisfying individualism and collectivism called integralism of Indonesian model that is not oriented towards totalitarianism and liberalism (Arifin, 2017). Pancasila press is also called free and responsible press, which according to Sukarno (1986), is the press working for national interests so that the press takes caution in producing news with credible news sources.

During the post-New Order regime, the Indonesian press returns to the liberal age and until now freedom of the press is part of the press life. The freedom of the press leads to the increasing number of journalists recruited without an adequate recruitment pattern. Likewise, the number of press companies also increases significantly along with the development of digital technology which makes it very easy to establish a press company at a little cost. The condition makes the Indonesian press “go beyond the limit”. As a result, news does not comply with journalistic norms, is tendentious, and serves the interests of certain groups. Even some press company owners concurrently become political party elites and use their media for their political party’s interests.

Materials and Methodology

This study uses a qualitative approach with normative judicial method or statute approach to analyze the Constitutional Court’s Decision No. 38/PPU-XIX/2021 regarding the authority to conduct journalist competency tests. Normative legal research is used to analyze research-related problems using the existing legal norms and principles (Suteki, 2020; Ashshafa, 2007; Sugiyono, 2012).

Secondary data for this research was obtained through literature and document studies, while primary data is not needed for this research, bearing in mind that this research uses a normative judicial approach which, in essence, serves as a research procedure to find the certainty and truth based on the normative side.

This research is analytic descriptive to depict facts and conditions that become the object of this research to clarify the facts in answering the research-related problems. This approach is conducted by studying all laws and regulations related to the problems that become the object of this research.

Results and Discussion

Condition of Indonesian Press

The press life in Indonesia is governed in Press Law No. 40 of 1999. Operationally, the Press Council as an independent state institution is responsible for nurturing the press. For the first time ever, Indonesia had Press Council in 1968 as a follow up to the enactment of Law No. 11 of 1966 concerning Main Provisions on the Press. Article 6 of the law stipulates that the Press Council has the function of accompanying the government in fostering the growth and development of the national press. Under article 7 of the law, the Chairman of the Press Council is the Information Minister who is responsible to the President in performing his duties. Consequently, the Press Council is not independent due to the government’s intervention. The phrase “accompanying” in article 6 suggests that the Press Council is not an independent institution in performing its duties.

The change in government regime from Old Order to New Order following the abortive communist coup during early hours of October 1, 1965 (G30S/PKI) did not bring about a significant change to the Press Council and the national press. The government continued to intervene in the development of the national press although Acting President Soeharto amended Law No. 11 of 1966 into Law No. 4 of 1967 concerning Appendix to Law No. 11 of 1966 concerning Main Provisions on the Press. The amendment included the revocation of “provisions in Presidential Decree No. 4 of 1965 on safeguarding print materials, particularly bulletin, daily newspaper, magazine and periodical publication whose contents may disrupt public order”.

With the revocation of provisions in Presidential Decree No. 4 of 1963, the New Order government gave an impression that the national press was freer than in the Old Order regime which often banned press publications using Presidential Decree No. 4 of 1963. President Soeharto stressed the matter while delivering a state-of-the-nation address in 1968. In his address, he touched on the task of the national press as a government partner in fostering democratic life.

There was no freedom of the press at that time although the constitution ensures freedom of expression and association. Before the second amendment of the 1945 Constitution, article 28 stipulated that "Freedom of association and assembly as well as freedom of thought spoken, written and the like are stipulated by the law." The national press was governed in Law No. 11 of 1966 and various

derivative regulations which basically negated freedom of the press, for example, a press company must hold a press publication permit in accordance with Information Minister's Regulation No.1/Per/Menpen/1984 concerning Provisions on Press Publication Permit.

When the New Order government issued Law No. 21 of 1982 concerning Amendment to Law No. 11 of 1966 concerning Main Provisions on the Press as already amended by Law No. 4 of 1967, there was no freedom of the press because the main task and function of the Press Council remained unchanged. If there was a change, it only changed the function of the Press Council from "accompanying" the government in nurturing the growth and development of the press life into "being the adviser" of the government in nurturing the press life. However, the Information Minister continued to hold the post of the Press Council Chairman. It sounds odd that the Press Council Chairman who was concurrently the Information Minister advised himself when it came to press problems.

Freedom of the press emerged after the downfall of New Order regime on May 21, 1998. President B.J. Habibie gave a room for freedom of the press by revoking regulations shackling freedom of the press. On June 5, 1998 Information Minister Yunus Yosfiah annulled Information Minister's Regulation No.1/Per/Menpen/1984 concerning Provisions on Press Publication Permit; Information Minister's Regulation No.2/Per/Menpen/1969 concerning Provisions on Journalists; Information Minister's Decision No. 214 A concerning Procedures and Requirements of Applying for Press Publication Permits (SIUPP); Information Minister's Decision No.47/1975 concerning the Inauguration of the Indonesian Journalists Association (PWI) and the Association of Newspaper Publishers (SPS) as the only Organization of Journalists and Organization of Press Publishers in Indonesia; Information Minister's Decision No.184/1978 concerning the Inauguration of the Press Graphics Association (SGP) as the only Organization of National Press Publications; and Information Minister's Decision No.226/1984 concerning Compulsory Broadcast Relay from State-Owned Radio Broadcast Station (RRI) and News Broadcast Stations by Non-RRI Broadcast Radio Stations (Ritonga, 2001).

The revocation of various regulations amid reform euphoria 1998 made the national press behave as freely as possible in writing news stories without complying with the journalistic rules in place. Consequently, "freedom of the press" turned into "the press going beyond the limit" as journalistic norms were not complied with. The press is free to report anything according to their framing. Bagir Manan (2010) noted that Indonesia is one of the freest countries in the world in terms of the press but it did little to improve the competency of its journalists. Moreover, the Information Ministry and the Social Service Ministry were dissolved during President Abdurrahman Wahid's term of office on the grounds that "information is the business of the community".

Dispute over Authority to Conduct Journalist Competency Tests

Anomaly in freedom of the press prompted the Press Council which has become independent since the enactment of Law No. 40 of 1999, to draft a regulation to improve journalist professionalism through competency tests. The regulation was made on the basis of Article 15, letter (f) of Law No. 40 of 1999 stipulating that the Press Council facilitates press organizations in drafting regulations in the press field to improve the quality of journalist profession. The regulation that the Press Council made along with a number of its constituents is Regulation No 1/Peraturan-DP/II/2010 concerning Journalist's Standard Competency. Journalist competency tests are conducted by competency testing institutions verified by the Press Council, including association of journalists, press company, and institute of higher learning which has a communication/journalistic study program.

In the course of its implementation, a number of journalists considered the regulation irrelevant to the spirit of reform. In addition, the journalists also saw that the Press Council's act of issuing the regulation has created a legal problem because it has endorsed competency-testing institutions which have the same licence as profession certification institutions. In fact, it is BNSP which has the authority to issue the licence.

Three journalists later brought the dispute over the authority to conduct journalist competency tests before the Constitutional Court with Application No. 38/PUU-XIX/2021. The three journalists are (1) Heintje Grontson Mandagie; (2) Hans M. Kawengian, and (3) Soegiharto Santoso. They filed a petition for a judicial review of Article 15 paragraph (2) letter f and Article 12 paragraph (5) of Press Law No. 40 of 1999. Article 15 paragraph (2) letter f of the Press Law stipulates that: "The Press Council shall carry out its function of facilitating press organizations in formulating regulations in the press field and improve the quality of journalism profession"; while Article 15 paragraph (5) stipulates

that: “The membership of the Press Council as referred to in paragraph (3) shall be stipulated in Presidential Decree.” The applicants felt that their constitutional right was harmed to obtain legal certainty and protection as individuals due to the unclear interpretation of Article 15 paragraph (2) letter f and Article 15 paragraph (5) of the Press Law.

According to the applicants, the two articles contradict freedom of the press which is one of the manifestations of people’s sovereignty and serves as an essential element to create a democratic communityhood, nationhood and statehood life. In the applicants’ view, it is the BNSP that has the authority to conduct journalist competency tests based on Law No. 13 of 2003 on Manpower, Government Regulation No. 10 of 2018 on National Board for Profession Certification, Manpower Minister’s Regulation No. 2 of 2016 on National Job Competency Standardization System, and National Board for Profession Certification’s Regulation No. 3/BNSP/III/2014 on Guide to General Provisions on Licencing Profession Certification Institutions.

The applicants pointed out that Article 15 paragraph (2) letter f and Article 15 paragraph (5) contradict Article 28; Article 28C paragraph (2); Article 28D paragraph (1); Article 28I paragraph (2) of the 1945 Constitution. Article 28 of the 1945 Constitution stipulates that: “Freedom of association and assembly, and freedom of thoughts spoken, written and the like are stipulated in law”; Article 28C paragraph (2) stipulates that: “Anybody is entitled to advance themselves to struggle for their rights collectively to develop their community, nation and state”; Article 28D paragraph (1) stipulates that: “Anybody is entitled to recognition, guaranty, fair legal certainty and equal treatment before the court” and Article 28I paragraph (2) stipulates that: “Anybody is free from discriminative treatment on any basis and is entitled to protection against discriminative treatment.”

The Constitutional Court on August 31, 2022 issued Decision No 38/PUU/XIX/2021 rejecting in full the applicants’ petition for a judicial review. The Constitutional Court argued that norm provisions in Article 15 paragraph (2) letter f and Article 15 paragraph (5) of Law No. 40/1999 neither violate freedom of association and assembly nor create legal uncertainty and discrimination as claimed by the applicants based upon Article 28, Article 28C paragraph (2), Article 28D paragraph (1), and Article 28I paragraph (2) of the 1945 Constitution.

The Court also stated that there was no legal reason for the applicants to argue that Article 15 paragraph (5) of Law No. 40 of 1999 has led to unclear interpretation that deprived them of being endorsed as members of the Indonesian Press Council that they chose by themselves.

According to the Court, if the applicants had objections to not being endorsed as members of the Press Council through a Presidential Decree, this was a concrete problem rather than a norm constitutionality problem. Moreover, that the President issued the decision is merely an administrative matter to endorse Press Council members elected through a process as referred to in Article 15 paragraph (3) of Law No. 40 of 1999.

The Constitutional Court’s Decision does not make a new norm so that both the Press Council and BNSP can constantly conduct journalist competency tests in accordance with the law. The Constitutional Court’s Decision which does not make a new norm means that the Press Council’s Regulation No. 1/Peraturan-DP/II/2010, as already amended the latest by Regulation No. 3/Peraturan-DP/XI/2023 concerning Journalist’s Standard Competency, does not contradict Article 28C paragraph (2) and Article 28 D (1) of the 1945 Constitution. This means that the Constitutional Court neither bans nor confirms which of the two institutions are authorized to conduct journalist competency tests.

Government Regulation No. 23 of 2004, as already amended the latest by Government Regulation No. 10 of 2018 concerning the National Board for Profession Standardization as an implementation regulation of Article 18 paragraph (5) of Law No. 13 of 2003 concerning Manpower, is equal to the Press Council’s Regulation No. 1/Peraturan-DP/II/2010, as already amended the latest by Regulation No. 3/Peraturan-DP/XI/2023 concerning Journalist’s Standard Competency as a mandatory implementation of Article 15 paragraph (2) letter f of Press Law No. 40 of 1999.

The Press Council’s Regulation is not known in the hierarchy of regulations in Indonesia based on Article 7 of Law No. 12 of 2011 concerning the Enactment of Laws and Regulations. But because Law No. 40 of 1999 is *lex specialis*, then the adage *lex specialis derogat legi generali* is applicable, meaning that a regulation which is specially made rules out a general regulation.

Consequently, Government Regulation No.10 of 2018 concerning the National Board for Profession Standardization is neither superior nor inferior to the Press Council’s Regulation No. 3/Peraturan-DP/XI/2023 concerning Journalist’s Standard Competency.

Conclusions

This research concludes that there has been no final and binding solution to the legal dispute between the Press Council (DP) and the National Board for Profession Certification (BNSP) over the authority to conduct journalist competency tests following the Constitutional Court's Decision No. 38/PPU-XIX/2021. This is because the Constitutional Court declared that Article 15 paragraph (2) letter f serving as the basis for the issuance of the Press Council's Regulation concerning journalist competency test does not violate the 1945 Constitution.

The legal implication of the Constitutional Court's Decision No. 38/PPU-XIX/2021 is that both the Press Council and the National Board for Profession Standardization do not violate the law in conducting journalist competency tests following the Constitutional Court's Decision. Therefore, they can continue to conduct journalist competency tests.

To give legal certainty in conducting journalist competency tests, the Press Council and the National Board for Profession Standardization are suggested to synergize and compromise through cooperation in conducting journalist competency tests without questioning who has the most authority to do so. Hence, legal certainty in conducting journalist competency tests can be achieved through a frame of progressive law.

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