

Skck's Position In The Former Nomination Process Corruption Convicts As Legislative Candidates Based On Perspective On Election Law

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Abstract

This study analyzes the issuance of Police Clearance Certificates (SKCK) for former corruption convicts running as legislative candidates, explicitly addressing the relationship between the function of SKCK, the guarantee of political rights for former corruption convicts following Constitutional Court Decision No. 87/PUU-XX/2022, and the effectiveness of the candidacy verification process carried out by the General Election Commission (KPU). Using an empirical legal research method with statutory and conceptual approaches, primary data were gathered through interviews with local police departments and the KPU. The findings reveal three key results. First, both normatively and in practice at the Police Resort (Polres) level, SKCK functions purely as an administrative document that objectively records an applicant's criminal history, not as an instrument for assessing political eligibility; consequently, the political rights of former corruption convicts who meet the rights-restoration requirements under Constitutional Court Decision No. 87/PUU-XX/2022 having completed their sentence, passed a specified waiting period, not being a repeat offender, and having openly disclosed their status to the public remain protected and cannot be nullified solely on the basis of the criminal record noted in the SKCK. Second, the KPU's candidacy verification process remains formal-administrative in nature and is not yet supported by adequate data integration among the police, the Directorate General of Corrections (Ditjen PAS), and the KPU itself, leaving the KPU without an independent means of confirming the accuracy of a candidate's disclosed status. Third, this data-integration gap opens the door to double standards in candidacy verification, it risks clearing candidates whose disclosure has not been genuinely verified, while simultaneously permitting subjective judgments that could discriminate against former corruption convicts who have, in fact, met all requirements. The study recommends harmonizing regulations across the Election Law, police regulations on SKCK, and the KPU's technical rules, alongside strengthening inter-agency data integration, so that candidacy verification can proceed consistently, transparently, and without discrimination, without compromising the protection of citizens' political rights.

Keywords: SKCK, former convict, political rights, elections, legislative candidate, administrative discrimination.

A. Introduction

The right to be elected in general elections is a constitutional right of every citizen guaranteed by Article 28D paragraph (3) of the 1945 Constitution of the Republic of Indonesia. In its implementation, this right is realized through the legislative candidacy mechanism regulated in Law Number 7 of 2017 concerning General Elections. One of the administrative requirements that must be met by prospective legislative members is to attach a Police Record Certificate (SKCK) as a document that contains information about a person's legal history.

The problem arose when a former corruption convict who had completed his sentence submitted an SKCK for the purpose of candidacy as a legislative member. On the one hand, ex-convicts still have political rights protected by the constitution. On the other hand, corruption is a crime that has a wide impact on public trust, causing a debate on the feasibility of former corruptors to return to public office.

The debate has intensified after the birth of the Constitutional Court Decision Number 87/PUU-XX/2022 which emphasizes that restrictions on political rights must be carried out proportionally and must not contradict the principle of equality before the law. The decision has legal consequences for the meaning of SKCK in the legislative nomination process. SKCK can no longer be seen as an instrument of political rights restriction, but as an administrative document that functions to provide information about a person's legal track record.

Previous research on the political rights of former prisoners can generally be mapped into two major groups. The first group focuses on the constitutional aspects of the restoration of the political rights of former prisoners in general, including a study of the Constitutional Court's decisions that preceded Decision Number 87/PUU-XX/2022, with an emphasis on legitimacy and limits on the restriction of the right to vote. The second group discusses the administrative requirements for the nomination of legislative members in general, including the obligation to disclose the status of former prisoners to the public, but tends to treat all of these requirements as a whole without specifically examining the position and legal consequences of the SKCK in it. Throughout the author's search, no study has been found that specifically analyzes the relationship between the authority of the police in issuing SKCK and the authority of the General Election Commission in verifying the requirements for the candidacy of legislative members for former corruption convicts. This gap is the research gap that this research wants to fill. This gap is important to fill because the position of SKCK in the overall mechanism for nominating legislative members still leaves a fundamental ambiguity, namely whether the SKCK solely functions as a declarative administrative document, or whether it substantively determines a person's eligibility to run for office. This ambiguity has the potential to cause a disparity in interpretation between the police as the issuer of the SKCK and the KPU as the institution authorized to verify candidacy, thus having direct implications for legal certainty and the protection of the political rights of former corruption convicts.

Based on this description, this study affirms its novelty in two ways. First, this study explicitly positions the SKCK not as a stand-alone administrative document, but as a node in the overall mechanism for nominating legislative members that brings together the authority of the police and the authority of the KPU at the same time. Second, this study specifically

analyzes the relationship and limits of authority between the police in issuing SKCK and the KPU in verifying candidacy requirements—inter-institutional relationships that have not been touched much by previous research on the political rights of former prisoners and the requirements for the candidacy of legislative members in general. Thus, this study contributes in the form of an analytical framework that connects the constitutional dimension of political rights with the technical-administrative dimension of the issuance of SKCK and the verification of candidacy by the KPU.

B. Research Methods

This study uses normative juridical law research methods with qualitative analysis. Normative legal research was chosen because this research focuses on the study of the legal norms that govern the issuance of Police Record Certificates (SKCK) for former corruption convicts as one of the requirements for the candidacy of legislative members based on Law Number 7 of 2017 concerning General Elections, Constitutional Court Decision Number 87/PUU-XX/2022, and National Police Regulation of the Republic of Indonesia Number 6 of 2023 concerning the Issuance of Police Record Certificates.

This study uses a legislative approach to analyze the applicable legal provisions as well as a conceptual approach to examine legal concepts related to the political rights of former corruption convicts, the administrative authority of the Police, and the mechanism of administrative verification of the candidacy of legislative members.

The legal materials used consist of primary legal materials, namely laws and regulations, Constitutional Court Decision Number 87/PUU-XX/2022, as well as regulations related to the issuance of SKCK; secondary legal materials, in the form of books, scientific journals, legal articles, results of previous research, and expert opinions; as well as tertiary legal materials, in the form of legal dictionaries, legal encyclopedias, and other reference sources.

As supporting material, this study also uses the results of semi-structured interviews with two informants who were selected *purposively*, namely SKCK service officers at the Cirebon City Resort Police and employees of the Cirebon City General Election Commission who have authority and experience in the process of issuing SKCK as well as administrative verification of legislative member candidacy. The interview aims to strengthen normative analysis of the implementation of legal provisions in practice and is not used as the main source of research data.

The analysis of legal materials is carried out qualitatively through the stages of inventory, classification, interpretation, and systematization of all relevant legal materials. Furthermore, the results of the analysis of legal materials were compared with information obtained from interviews as a form of triangulation of sources, so that a comprehensive understanding was obtained of the position of SKCK in the mechanism for nominating legislative members, the relationship between the authority of the Police and the General Election Commission, and its implications for the protection of the political rights of former corruption convicts.

C. Results and Discussion

1. Juridical Implications of the Constitutional Court Decision on the Validity of the SKCK

The juridical implications of the Constitutional Court Decision No.8/PUU-XX/2022 on the validity of the Police Record Certificate (SKCK) must be understood within the framework of protecting citizens' constitutional rights, especially the political right to vote. In the ruling, the Constitutional Court affirmed that former prisoners, including corruption prisoners, continue to have political rights as long as they meet certain conditions, such as having completed their sentence and publicly announcing their status to the public. In addition, the law must be able to respond quickly to changes, overcome the complexities that arise, and fill the regulatory gaps that may arise due to developments that occur in society.¹ This affirmation is a form of protection of constitutional rights guaranteed in Article 28D paragraph (3) of the 1945 Constitution regarding the right to equal opportunities in government.²

Juridically, the Constitutional Court's decision has a direct impact on the meaning of SKCK in the legislative nomination process. The SKCK can no longer be positioned as an instrument that limits or aborts a person's political rights, but only as an administrative document that contains information about an individual's legal track record. This is in line with the provisions in Law Number 7 of 2017 concerning General Elections, especially Article 240 which does not explicitly allow former inmates to run for office, but provides additional conditions in the form of openness to the public.

Based on the results of the research in the SKCK service section at the Police level, it was obtained that the police still issue SKCK for former corruption convicts by including criminal history objectively.

This shows that administratively, SKCK functions as an information tool, not a moral assessment tool. This practice is in accordance with the provisions of the Indonesian National Police Regulation Number 6 of 2023 which states that SKCK is an official certificate containing police records about a person based on available data.

Another implication of this Constitutional Court decision is the emergence of an affirmation of the principle of non-discrimination in public services, including in the issuance of the SKCK, former prisoners cannot be treated differently administratively just because of their criminal history, as long as they are not treated differently administratively just because of their criminal history, as long as there is no strict legal prohibition. This is in line with the principle of *equality before the law* which becomes the basis in the state of law which states that the restriction of political rights must be carried out strictly, proportionally, and based on the public interest.³

¹ Sanusi et al., *Legal Science of Technological Implications in Legal Changes* (2024), II.

² Dudik Djaja Sidarta, Renda Aranggraeni, et al., "Juridical Studies on the Restoration of Political Rights of Ex-Prisoners in the Constitutional Court Decision Number 4/PUU/VII/2009 on the Protection of the Constitution of Human Rights" (2025).

³ Sahrina Safiuddin, Risman Setiawan, and Iksan Rompo, "Constitutional Analysis of Political Rights of Former Prisoners in General Elections Based on the Constitutional Court Decision Number 87/PUU-XX/2022," 7, no. 1 (2025): 167-83.

However, the sociological and ethical consequences of this decision pose a dilemma. According to data compiled by Indonesia Corruption Watch, 56 former corruption convicts are running for the 2024 elections, raising concerns about the quality of democracy and the integrity of the legislature.⁴ This shows that the existence of former corruption convicts in political consistency continues to arouse public resistance, even though it is allowed by law.

Thus, the juridical conclusion of the Constitutional Court on the validity of the SKCK is that the SKCK cannot be used to restrict political rights but only as a tool for the administration to provide information. The validity of the SKCK can only be maintained as long as the applicant meets the administrative requirements, without considering the applicant's past as an inmate. However, in this situation, an integrity-based election system must be strengthened apart from the administrative process.

2. The Practice of Issuing SKCK for Former Corruption Prisoners at the Police

Based on the results of research conducted in the service section of the Cirebon City Police SKCK by Bripka Tri Adiyanti, S.H. (Auxiliary Officer in the field of SKCK services) found that the procedure for obtaining SKCK for former corruption convicts is almost the same as other SKCK applicants. The National Police of the Republic of Indonesia Regulation Number 6 of 2023 concerning the Issuance of SKCK stipulates that applicants must meet administrative requirements, including showing their identity, filling out an application form, attaching a photo pass, and recording fingerprints. After all the requirements are met, the officer conducts a data check through the police system before issuing the SKCK.

More specifically, the basis for the authority to issue SKCK is regulated in the Indonesian National Police Regulation Number 6 of 2023 concerning the Issuance of SKCK, which emphasizes that SKCK is issued to provide information about a person's police records based on the results of data checks on the police information system. For applicants who have served a criminal sentence, including former corruption convicts, this provision requires the inclusion of a factual criminal history in the SKCK information column, without being accompanied by an assessment or recommendation regarding the applicant's eligibility for a certain position. This provision emphasizes that the function of including criminal records is purely informative, as a form of fulfilling the principles of openness and accountability of public services, not as a substantive screening mechanism for the applicant's moral or political track record.

Based on the results of interviews with SKCK service officers, it shows that the police do not have the authority to determine whether a person is fit or not to run for legislative member. The police only provide official information about the applicant's police records based on the data they have. Therefore, former corruption convicts can obtain SKCK if they meet the administrative requirements.

In practice, SKCK continues to record the criminal history of former corruption convicts to increase transparency and accountability of information. The purpose of this

⁴ Edi Agusdin, "Mapping Former Corruption Prisoners in the List of Permanent Candidates for Legislative Members of the 2024 Election" (2024), <https://antikorupsi.org/id/temuan-icw-dalam-daftar-calon-tetap-calon-anggota-legislatif-56-mantan-terpidana-korupsi>.

inclusion is to provide an objective understanding of the applicant's legal track record without depriving them of their right to obtain administrative services from the police. Therefore, the SKCK is not intended to be used as a tool to determine a person's political feasibility, but rather as a source of information that contains legal facts.⁵

Nonetheless, there are still some problems with implementing it. One of them is that there are differences of opinion in the community about the function of SKCK. Some people believe that the SKCK is issued as an approval or recommendation from the police that a person is worthy of public office. However, legally, SKCK only functions as administrative information. In addition, the absence of special rules governing how data in the SKCK relates to the legislative candidacy process can also lead to different interpretations among the parties involved in the implementation of elections. Therefore, to avoid misunderstandings in its application, a clearer understanding of the position and functions of the SKCK is needed.

3. Analysis of the Conformity between the Constitutional Court Decision, the Election Law, and the Practice of Issuance of SKCK

Analysis of the Constitutional Court Decision, the Election Law, and the practice of issuing SKCK shows that there is a close connection in the regulation of the political rights of former corruption convicts who want to run for legislative office. Normatively, the Constitutional Court Decision No. 87/PUU-XX/2022 stipulates that the right to vote is a constitutional right of citizens that can only be limited based on reasonable and proportionate reasons. Basically, the decision strengthens the political rights of former inmates after serving their sentences. Thus,

Law Number 7 of 2017 concerning General Elections allows former inmates to run for legislative membership if they meet certain requirements, one of which is to make the public know that they are ex-convicts. Therefore, the Constitutional Court's decision and the Election Law are appropriate to guarantee the political rights of ex-convicts as a constitutional right of citizens.⁶

From the perspective of legal certainty, the Constitutional Court's ruling makes clearer rules about the position of ex-convicts in the process of nominating legislative members. There are differences of opinion regarding the limits of the political rights of former prisoners, especially those who have been involved in corruption crimes, before the affirmation through the verdict. With this decision, it is clear that the political rights of former prisoners cannot be automatically revoked just because they have been sentenced. The police continue to issue SKCKs to former corruption convicts who meet the administrative requirements, which shows legal security in terms of the issuance of SKCK. As a result, the SKCK is not used as a tool to restrict political rights.⁷ Instead, it is used as a source of information about a person's legal track record.

⁵ M. Arif, "Juridical Analysis of the Existence of SKCK in Relation to the Purpose of Criminalization," 12 (2025): 4192, <https://doi.org/10.31604/jips.v%25vi%25i.%25Y.%25p>.

⁶ Anita Felicya, "The Urgency of an Election Judiciary in Indonesia: A Review Based on Law Number 7 of 2017 Concerning Elections," 1, no. 1 (2025): 1-10, <https://doi.org/10.62885/consci.v1i1.925>.

⁷ Eddy Purnama, "The Legal Force of the Constitutional Court's Decision towards Revocation of the Prohibition on Involvement of Former Convicts," 3, no. 7 (2019): 266-80.

From the perspective of political rights protection, the conformity between the Constitutional Court's decision, the Election Law, and the practice of issuing SKCK shows the government's efforts to protect citizens' rights without ignoring the principle of transparency. Article 28D paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that every citizen has the right to equal opportunities in government, which is part of human rights. Therefore, former corruption convicts who have served criminal sentences can still take part in the political process. In reality, the police did not reject the SKCK application submitted by former corruption convicts; Instead, they only ask for their criminal history for information disclosure. This shows that political rights are still protected without eliminating the public's right to know the track record of candidates who will participate in political contests.

The protection of the political rights of former corruption convicts is not absolute, but is subject to the principle of proportionality as affirmed in the Constitutional Court Decision Number 87/PUU-XX/2022. This principle requires that any restriction on political rights must meet three elements, namely clearly regulated in laws and regulations, aimed at protecting legitimate interests such as the integrity of the election administration and public trust, and proportionate between the burden imposed on individuals and the goals to be achieved. Based on this framework, the condition is that they have completed their criminal service, have passed a certain period of time, are not recidivist, and the disclosure of status to the public is a form of proportionate restriction because it does not permanently eliminate political rights, but only adds procedural prerequisites. On the other hand, if the record in the SKCK is used as a basis for aborting the candidacy without considering the fulfillment of the conditions for the restoration of the right, such an action has the potential to exceed the proportionality limit outlined by the Constitutional Court and therefore risks being unconstitutional.

In state administrative law, a Police Record Certificate (SKCK) is a type of administrative service provided by the National Police of the Republic of Indonesia to the public based on the authority granted by laws and regulations. The National Police Regulation of the Republic of Indonesia Number 6 of 2023 concerning the Issuance of SKCK regulates this authority. The regulation states that SKCK is an official certificate issued by the National Police regarding whether or not a person has a police record. Thus, the issuance of SKCK is one of the government administrative actions carried out in the context of public services.⁸

The implication of this suitability in the candidacy of legislative members, former corruption convicts have the opportunity to re-participate in the democratic process through a process regulated by law. The police issue the SKCK, which is one of the administrative documents that supports the candidacy process, but is not the primary basis for evaluating a person's political viability. Ultimately, the democratic mechanism, which is shaped by the disclosure of information to the public and the political choices of the people in elections, is responsible for determining whether a candidate is worthy

⁸ Philipus M. Hadjon et al., *Introduction to State Administrative Law*, 16th ed. (Yogyakarta: Gadjah Mada University Press, 2024), <https://ugmpress.ugm.ac.id/id/product/hukum/pengantar-hukumadministrasi-indonesia>.

or not.⁹ Therefore, the Constitutional Court's ruling, the Election Law, and the practice of issuing SKCK are basically qualified to protect the political rights of former corruption convicts. However, to maintain the integrity of the election administration and increase public trust, it is still necessary to strengthen regulations and supervision.

The division of authority between the Police and the KPU in this context needs to be firmly emphasized. The issuance of SKCK is entirely in the administrative realm of the police, which is limited to providing official information about the existence or absence of a person's criminal record based on data available in the police information system, without the authority to assess a person's eligibility in the context of politics or public ethics. On the other hand, the assessment of whether or not the requirements for the candidacy of legislative members are met, including the requirements for disclosure of status as former prisoners as stipulated in Law Number 7 of 2017 concerning General Elections, is the attributive authority of the General Election Commission as the election organizer. This separation of powers is important to prevent overlapping functions between agencies and to ensure that decisions about a candidate's political eligibility remain with the institution that is constitutionally mandated to do so, not with an institution that only serves to provide administrative data.

4. Implications of the Constitutional Court Decision on the Fulfillment of Legislative Candidacy Requirements by Former Corruption Convicts

The Constitutional Court's Decision Number 87/PUU-XX/2022 has significant legal consequences for fulfilling the requirements needed to nominate former corruption convicts as legislative members. Through this decision, the Constitutional Court affirmed that former prisoners still have the political right to be elected as members of the legislature as long as they meet the requirements set by laws and regulations. In principle, the court places certain limitations on ex-convicts; However, they must be done with proportionality and preserve the constitutional rights of citizens.¹⁰

In relation to the candidacy of legislative members, the main implication of the decision is that there is an affirmation of the conditions that must be met by former prisoners before they can participate in political contestation. These requirements include the completion of the criminal term, having passed a certain period of time after serving a sentence, not as a repeat offender, and honestly and openly announcing his status as a former prisoner to the public. The provision aims to create a balance between the protection of the political rights of former prisoners and the public interest to obtain candidates for representatives with integrity.¹¹

SKCK's position in the nomination process also has consequences. Although the SKCK is still an important administrative document, criminal records do not

⁹ Jimly Asshiddiqie, *Introduction to Constitutional Law* (Jakarta: RajaGrafindo Persada), https://simpus.mkri.id/uploaded_files/temporary/DigitalCollection/MjZmYjgyZjZkZDI3NDVIODNkNjkyYW E4YTJjMWI5MjU1YTAwYTU0YQ==.pdf.

¹⁰ Nanang Nur Wahyudi and Nynda Fatmawati Octarina, "Juridical Review of Constitutional Decisions of the Constitutional Court on the Right of Ex-Convicts to Become Elected Public Officials," *SALAM: Jurnal Sosial dan Budaya Syar-i* 8, no. 5 (2021): 1449–62, <https://doi.org/10.15408/sjsbs.v8i5.22472>.

¹¹ Muhammad Haikal, "Human Rights Views and the Constitutional Court (MK) Decision Number 87/PUU-XX/2022 concerning Former Corruption Convicts Running for Elections" (2023).

automatically prevent former corruption convicts from running for legislative office. While the provisions of election law and the applicable Constitutional Court decisions are used to assess the fulfillment of candidacy requirements, SKCK only provides information about the candidate's legal track record. Thus, the Constitutional Court Decision Number 87/PUU-XX/2022 strengthens the political rights of former prisoners and emphasizes the importance of providing information to the public.¹²

Thus, the Constitutional Court's decision Number 87/PUU-XX/2022 does not remove the political rights of former corruption convicts. Instead, it sets out the procedures and requirements that must be met before the individual can run for legislative office. This ruling shows the Constitutional Court's efforts to regulate the constitutional rights of citizens and the need to maintain the holding of elections with integrity.

D. Conclusions and Recommendations

Based on the results of the research, the issuance of Police Record Certificates (SKCK) for former corruption convicts is the administrative authority of the National Police of the Republic of Indonesia based on the National Police Regulation of the Republic of Indonesia Number 6 of 2023. The SKCK only functions as a document that contains police records and does not determine a person's political eligibility to run for legislative office. The assessment of the fulfillment of the candidacy requirements is the authority of the General Election Commission (KPU) based on Law Number 7 of 2017 concerning General Elections and the Constitutional Court Decision Number 87/PUU-XX/2022. Thus, the authority of the Police and the KPU is complementary, with the SKCK as a supporting document in the administrative verification process.

The study also found the potential for data insynchronization between the Police, the Directorate General of Corrections, and the KPU that could affect the accuracy of the candidate's criminal history information. This condition shows the need to strengthen data integration and affirm the position of SKCK in the legislative candidacy process to ensure legal certainty, transparency, and protection of citizens' political rights.

It is necessary to harmonize regulations between the Election Law, the provisions of the Police regarding SKCK, and the technical regulations of the KPU to prevent differences in interpretation in legislative candidacy. In addition, it is necessary to build a data integration system between the Police, the Directorate General of Corrections, and the KPU to ensure the accuracy of information in the candidate verification process. The KPU needs to increase the transparency of information regarding the status of former prisoners as legislative candidates, while the Police must ensure that the issuance of SKCK is carried out objectively and non-discriminatory. Political parties also need to strengthen the selection process and information disclosure to the public. These efforts are expected to realize a transparent, accountable, and still secure legislative candidacy process that ensures the protection of citizens' political rights.

¹² Edward Benedictus Roring, "Reformulation of SKCK Policy as a Guarantee of Non-Discrimination Rights and Access to Work for Ex-Prisoners" (2025): 246–57.

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