



**CONSTITUTIONAL COURT OF THE REPUBLIC OF INDONESIA**

**CONSTITUTIONAL COURT REGULATION**

**NUMBER: 05/PMK/2004**

**ON**

**FILING COMPLAINTS PROCEDURES ON**

**2004 PRESIDENTIAL/VICE PRESIDENTIAL ELECTION RESULT**

**CONSTITUTIONAL COURT OF THE REPUBLIC OF INDONESIA**

- Considering :
- a. whereas, that result of Presidential/Vice Presidential voting could be disputed and brought to the Constitutional Court
  - b. Whereas, the Constitutional Court can further regulate necessary matters for the expedition of its duties and jurisdictions;
  - c. Whereas, Constitutional Court regulation No. 04/PMK/2004 on Guidelines for The Hearing of Dispute on Election Result as related to the Presidential/Vice Presidential Election needs to be perfected;
  - d. Whereas, in accordance with the considerations as stipulated in sub-paragraphs a, b, and c, a Constitutional Court Regulation on Filing Complaints Procedure on 2004 Presidential/Vice Presidential needs to be determined.

- Bearing in mind :
1. Article 24 C paragraph (1) of the 1945 Constitution of the Republic of Indonesia;
  2. Article 68 and Article 85 Law Number 12 of 2003 on General Election of President and Vice President (State Gazette of the Republic of Indonesia year 2003 Number 93, State Gazette Supplemental of the Republic of Indonesia Number 4311);
  3. Article 10 paragraph (1), Article 28 to Article 49, Article 74 to Article 79, and Article 86 Law Number 24 of 2003 on Constitutional Court (State Gazette of the Republic of Indonesia year 2003 Number 98, State Gazette Supplemental of the Republic of Indonesia Number 4316);
  4. Constitutional Court Regulation No. 04/PMK/2004 on Guidelines for The Hearing of Dispute on Election Result
  5. Election Committee Decrees:
    - a. Number 27 in 2004 dated April 15, 2004
    - b. Number 36 in 2004 dated May 22, 2004
    - c. Number 37 in 2004 dated May 26, 2004
    - d. Number 38 in 2004 dated May 26, 2004

Attending to : Result of the Plenary Session of the Constitutional Court on 28 June 2004

**H A S D E C I D E D**

To enact : **REGULATION OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF INDONESIA ON FILING COMPLAINTS PROCEDURES ON 2004 PRESIDENTIAL/VICE PRESIDENTIAL ELECTION RESULT**

**CHAPTER I**  
**GENERAL PROVISIONS**

**Article 1**

In this regulation, those which are meant by:

1. President is the President of the Republic of Indonesia.
2. Vice President is the Vice President of the Republic of Indonesia.
3. MPR is People's Consultative Assembly of the Republic of Indonesia
4. Constitutional Court is the Constitutional Court of the Republic of Indonesia.
5. Election is Presidential and Vice Presidential Election
6. KPU is the National Election Commission, as the institution in charge and administrator of the Elections
7. Candidate Pair is the pairing of a Presidential and A Vice Presidential Candidate participating in Presidential/Vice Presidential Election as stipulated in KPU Decree No. 36 in 2004 dated May 22, 2004 about Final Presidential and Vice Presidential Candidates to Participate in 2004 Presidential and Vice Presidential Election
8. Panwaslu is Election Supervisory Committee

**Article 2**

Adjudication of election disputes shall be prompt and straightforward in nature, and is the first and final stages of court proceeding, of which the decision is final.

**CHAPTER II**  
**PARTIES IN DISPUTE**

**Article 3**

Parties in dispute relating to the election result are:

- a. Candidate Pair as Complainant
- b. KPU as Defendant

**CHAPTER III**  
**SUBSTANCE OF COMPLAINTS**

**Article 4**

- (1) Substance of complaints is an election result announced by KPU nationally
- (2) Substance of complaints as stated in (1) only applies to vote results which affect:
  - a. The determination of pairs of candidates eligible to enter the second round of the election, or;
  - b. The election of Presidential/Vice Presidential candidate pair;

**CHAPTER IV**  
**DEADLINE**

**Article 5**

- (1) A complaint can only be submitted within no later than 3 x 24 (three times twenty-four hours) since the KPU announces its determination on the result of the Elections nationally.
- (2) A Constitutional Court decision on complaints shall be made within no later than 14 (fourteen) working days from the registration of the complaint in Constitutional Court Registered.

**CHAPTER V**  
**PROCEDURE FOR SUBMITTING COMPLAINTS**

**Article 6**

- (1) Complaint is submitted in the form of a Petition to the Court;
- (2) A complaint is submitted in writing in Bahasa Indonesia by the complainant or his/her proxy to the Constitutional Court in 12 (twelve) copies after being

signed by the participating Presidential and Vice Presidential candidate pairs or their attorney who has Power of Attorney from the Candidate Pair

- (3) The Petition at least contains:
  - (1) Complete identity of the Complainant, with photocopy of ID card and evidence as an Election participant
  - (2) A clear description of:
    - 1) the [allegedly] erroneous vote count as announced by the KPU and the asserted correct vote count according to the Complainant;
    - 2) request to annul the vote count result as announced by the KPU and determination of the correct vote count as asserted by the Complainant.
- (4) A Petition is filed with supporting evidences

## **CHAPTER VI**

### **CASE REGISTRATION AND COURT SCHEDULING**

#### **Article 7**

- (1) The fulfillment of requirements and completeness of incoming complaints shall be verified by the Registrar of the Constitutional Court.
- (2) Registrar notes the complete complaints in the Constitutional Case Register Book (BRPK)
- (3) Registrar provides Complainant an opportunity to amend an incomplete Petition within the deadline as stipulated Article 5 (1).
- (4) The Registrar of the Constitutional Court shall submit the complaint recorded in the Constitutional Case Register to the KPU following such registration together with written statement by the KPU accompanied by evidence pertaining to the vote counting result being disputed
- (5) The first court hearing will be conducted 3 (three) days after the Petition is registered

- (6) Notification on the first court hearing must be received by the Complainant and KPU no later than 1x24 (one time twenty four) hours prior to the court hearing
- (7) Notice as referred to in paragraph (6) may be delivered via court bailiff, letter, telephone, and facsimile.

## **CHAPTER VII**

### **EVIDENCE AND KPU STATEMENTS**

#### **Article 8**

- (1) Complainant may submit evidences in the form of letters or writings, testimonies from witnesses, or other evidences
- (2) Evidence in the form of letters or writings that may be presented are copy official report of vote result or recapitulation of vote count result at the disputed level, and statement of objection from the witnesses of election participant at the disputed level as legalized by authorized KPU official at all levels, signed and attached with sufficient stamp
- (3) Testimonies from witnesses is information from witnesses hold mandated from the election participants at each vote count level as stipulated in Law No. 23 in 2003 jo KPU Decree No. 37 in 2004 and KPU Decree No. 38 in 2004
- (4) Other evidences may be brought to the Court are the vote count result issued by Police Department, Panwaslu, Election Observer, including testimonies from Panwaslu and Election Observer.
- (5) Witnesses as stated in (3) and Election Observer as stated in (4) provides testimonies to the Court shall be under oath

#### **Article 9**

- (1) KPU Statement would be written statements and/or verbal testimonies in court hearing

- (2) KPU testimonies would be equipped with formal evidences, official report of vote result or recapitulation of vote count result, as well as witness testimonies from all KPU levels

#### **Article 10**

Letter evidence as presented by Copmlainant and KPU shuld be submitted to the Registrat in 12 (twelve) copies and the original evidence should be attached by sufficient stamp.

### **CHAPTER IX COURT HEARINGS**

#### **Article 11**

- (1) Constitutional Court examines, conducts trials and decides cases on relating to Presidential/Vice Presidential Election in the Constitutional Court Plenary Session attended by the 9 (nine) Constitutional Judges, or at least 7 (seven) Constitutional Judges, and which is open to the public
- (2) In order to speed up the court hearing, Panel of judges could be formed
- (3) Complainant and KPU may be accompanied or represented by attorney
- (4) Complainant may amend the Petition only during the first court hearing

### **CHAPTER X COURT DELIBERATION SESSION**

#### **Article 12**

- (1) Court Deliberation Session shall be held to obtain a decision after the hearing is deemed to be sufficient.
- (2) Court Deliberation Session shall be a closed session held by the Court's Judges Plenary Session attended by at least 7 (seven) Constitutional Judges.

- (3) Decision making in the Court Deliberation Session shall be conducted by amicable discussion for a consensus.
- (4) In the event the amicable discussion a referred to in paragraph (4) fails to reach a consensus, a decision shall be made through a majority vote.
- (5) In the event that majority vote cannot be reached in the Constitutional Court Deliberation Session as referred to in paragraph (5), the final vote cast by the Chairperson of the Constitutional Court Deliberation Session shall be the deciding vote.

## **CHAPTER XI DECISION**

### **Article 13**

- (1) Decisions made during the Court Deliberation Session shall be read in the Constitutional Judges Plenary Session which is open to public.
- (2) The sentencing of the Constitutional Court decision may declare that:
  - a. Complaint is dismissed in the event that the Complainant and/or his/her complaint is does not meet the necessary requirements;
  - b. Complaint is granted in the event that the complaint has legal grounds and further declare as annulled the vote count result as announced by the KPU and determine the correct vote count result;
  - c. Complaint is denied in the event that it laces legal grounds.
- (3) Constitutional Court decisions on Presidential and Vice Presidential election result shall be submitted to People’s Consultative Assembly, President, KPU, Political parties or coalition of Political Parties nominating the candidates, and Candidate Pairs.

## **CHAPTER XII CONCLUDING PROVISIONS**

### **Article 14**

This regulation is effective as of the enactment thereof.

Enacted in : Jakarta

On : 28 June 2004

**Constitutional Court of the Republic of Indonesia**  
**Chairperson,**

**Prof. Dr. Jimly Asshiddiqie, S.H.**