



**THE CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA
REGULATION OF THE CONSTITUTIONAL COURT
NUMBER 14 YEAR 2008**

**REGARDING
GUIDELINES ON THE JUDICIAL PROCEDURE IN CASES OF DISPUTE
OVER THE RESULTS OF GENERAL ELECTIONS OF MEMBERS OF THE
PEOPLE'S LEGISLATIVE ASSEMBLY, REGIONAL REPRESENTATIVE
COUNCIL, AND REGIONAL PEOPLE'S LEGISLATIVE ASSEMBLY**

**THE CONSTITUTIONAL COURT OF THE
REPUBLIC OF INDONESIA**

- Considering :
- a. whereas one of the constitutional authorities of the Constitutional Court based on Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia is to decide upon disputes over the results of general elections;
 - b. whereas based on Article 22E paragraph (2) of the 1945 Constitution of the Republic of Indonesia, referred to as general election includes general election of members of the People's Legislative

Assembly, Regional Representative Council, and Regional People's Legislative Assembly;

- c. whereas Regulation of the Constitutional Court Number 04/PM K/2004 regarding Guidelines on Judicial Procedure In Cases of Dispute over the Results of General Election needs to be improved and adjusted to the amendment of the law regulating the general elections of Members of the People's Legislative Assembly, Regional Representative Council, and Regional People's Legislative Assembly;
- d. whereas based on the aforementioned considerations in points (a), (b), and (c), it is necessary to stipulate Regulation of the Constitutional Court regarding Guidelines on the Judicial Procedure In Cases of Dispute over the Results of General Election of Members of the People's Legislative Assembly, Regional Representative Council, and Regional People's Legislative Assembly;

- In view of :
- 1. Law Number 24 Year 2003 regarding Constitutional Court (State Gazette of the Republic of Indonesia Year 2003 Number 98, Supplement to the State Gazette);
 - 2. Law Number 10 Year 2004 regarding the Formulation

of Laws and Regulations (State Gazette of the Republic of Indonesia Year 2004 Number 53, Supplement to the States Gazette of the Republic of Indonesia Number 4389);

3. Law Number 22 Year 2007 regarding the Organizer of General Elections (State Gazette of the Republic of Indonesia Year 2007 Number 59, Supplement to the State Gazette of the Republic of Indonesia Number 4721);
4. Law Number 10 Year 2008 regarding General Elections of Members of the People's Legislative Assembly, Regional Representative Council, and Regional People's Legislative Assembly (State Gazette of the Republic of Indonesia Year 2008 Number 51, Supplement to the State Gazette of the Republic of Indonesia Number 4836);

With due observance of : The resolutions of the Plenary Meeting of the Constitutional Court on May 5, 2008.

HAS DECIDED:

To stipulate : REGULATION OF THE CONSTITUTIONAL COURT REGARDING GUIDELINES ON JUDICIAL PROCEDURE IN CASES OF DISPUTE OVER THE RESULTS OF GENERAL

ELECTIONS OF MEMBERS OF THE PEOPLE'S
LEGISLATIVE ASSEMBLY, REGIONAL
REPRESENTATIVE COUNCIL, AND REGIONAL
PEOPLE'S LEGISLATIVE ASSEMBLY

CHAPTER I

GENERAL PROVISIONS

Article 1

Referred to herein as:

1. General Election shall be the General Election of Members of the People's Legislative Assembly, Regional Representative Council, and Regional People's Legislative Assembly.
2. President shall be the President of the Republic of Indonesia.
3. Court shall be the Constitutional Court of the Republic of Indonesia.
4. DPR shall be the People's Legislative Assembly of the Republic of Indonesia.
5. DPD shall be the Regional Representative Council of the Republic of Indonesia.
6. DPRD shall be the Regional People's Legislative Assembly.
7. DPRA shall be the People's Legislative Assembly of Aceh.
8. DPRK shall be the Regency/municipal People's Legislative Assembly of Aceh.
9. KPU shall be the General Election Commission as the Organizer of

General Elections.

10. KIP shall be the Independent Election Commission as the Organizer of General Elections of Members of DPRA and DPRK in Aceh.
11. Panwaslu shall be the General Election Supervising Committee.
12. Bawaslu shall be the General Election Supervising Body.
13. TPS shall be the Polling Stations.
14. PPK shall be the Sub-district Election Committee.
15. PPS shall be the Polling Committee.
16. General Election Participants shall be:
 - a. the participants of General Election of members of the People's Legislative Assembly, Regional Representative Council, and Regional People's Legislative Assembly;
 - b. the participants of General Election of members of DPRA and DPRK in Aceh.
17. Dispute over the results of General Election shall be:
 - a. dispute between General Election participants and KPU as the organizer of General Election concerning the stipulation of the national vote tally resulting from General Elections by KPU;
 - b. dispute between participants of General Election of members of DPRA and DPRK in Aceh and KIP.
18. Registrar shall be the Registrar of the Constitutional Court of the Republic of Indonesia.

Article 2

- (1) Disputes on General Election Results shall be examined and decided upon in a quick and simple manner;
- (2) Decisions on disputes as intended in paragraph (1) shall be final and binding decisions in the first and final instance.

CHAPTER II

PETITIONER, RESPONDENT, AND PETITION SUBJECT MATTER

Article 3

Petitioner shall be:

- a. Individual candidate for DPD member participating in General Election;
- b. Political Party participating in General Election; or
- c. Political Party and Local Political Party participating in General Election for the members of DPRA and DPRK Members in Aceh.

Article 4

- (1) The Respondent shall be KPU;
- (2) In case of disputes over the results of vote count of candidates for members of provincial DPRD and/or DPRA, provincial KPU and/or KIP of Aceh shall be named as Co-Respondent;
- (3) In case of disputes over the result of vote count of candidates for members of regency/municipal DPRD and/or DPRK in Aceh, regency/municipal KPU and /or regency/municipal KIP in Aceh shall be named as Co-Respondent.

Article 5

The subject matter of the petition shall be the stipulation of national vote tally resulting from General Election announced by KPU which affects:

- a. the achievement of vote threshold of 2.5% (two point five percent) as intended in Article 202 paragraph (1) of Law Number 10 Year 2008 regarding General Election of DPR, DPD, and DPRD Members;
- b. the seat acquired by political parties participating in General Election and seats acquired by candidates for members of DPR, Provincial DPRD and regency/municipal DPRD nominated by political parties in an electoral district;
- c. the election of a candidate for DPD member.

CHAPTER III

PROCEDURE FOR THE SUBMISSION OF PETITION

Article 6

- (1) Petition for the reversal of the stipulation of national vote tally by KPU may only be submitted by General Election participants by no later than 3 x 24 (three times twenty four) hours following the announcement of the stipulation of national vote tally resulting from General Election by KPU;
- (2) The Petition shall be submitted in writing in Indonesian language by petitioner or his/her attorney to the Court in 12 (twelve) copies after being signed by:

- a. the General Chairperson and General Secretary of the Central Executive Board, or similar body using different names, of a Political Party participating in the General Election or his/her attorney;
 - b. the General Chairperson and General Secretary of the executive board, or similar body using different names, of a local political party or his/her attorney; or
 - c. a candidate for DPD member participating in General Election or his/her attorney.
- (3) Petition made by a candidate for DPD members and/or local political parties participating in General Election of members of DPRA and DPRK in Aceh may be submitted in the form of an online petition, by e-mail, or facsimile, provided that the original petition as intended in paragraph (2) shall have been received by the Court within 3 (three) days following the end of the time limit;
- (4) The Petition shall at least include the following:
- a. the name and address of the petitioner, including telephone numbers (office, house, hand phone), facsimile number, and/or e-mail;
 - b. clear description concerning:
 1. the mistakes in the vote tally announced by KPU and the correct vote tally according to petitioner;
 2. request for the reversal of the vote tally announced by KPU

and the stipulation of the correct vote tally according to the petitioner.

- (5) The submission of petition must be completed with evidence supporting the petition, such as certificates of vote tally, certificates of vote tally in each stage of vote counting, minutes of vote counting and statement of objection of General Election participants in each stage of vote counting as well as other written documents, which have been affixed with adequate duty stamps and legalized.

CHAPTER IV

REGISTRATION OF CASES AND SETTING OF HEARING SCHEDULE

Article 7

- (1) Petitions that have been received shall be examined by Registrar to check their compliance with the requirements and completeness of the required documents;
- (2) Petitions that are complete and meet the requirements shall be recorded in the Registry of Constitutional Cases, while petitions which are not complete and do not meet the requirements shall be notified to the relevant Petitioners for corrections within 1 x 24 (one time twenty four) hours;
- (3) In case that the petitioners fail to make the corrections related to the supporting documents and fulfillment of the requirements as intended in paragraph (2), the Registrar shall issue a deed stating that the petitions

- are not registered;
- (4) The Registrar shall submit the petitions that have been recorded in the registry of Constitutional Cases to KPU by no later than 3 (three) working days following the registration of the petitions in the Registry of Constitutional Cases along with a request for written statements from KPU which shall be completed with evidence of the disputed vote tally;
 - (5) The written statements from KPU as intended in paragraph (4) must have been received by the Court by no later than one day before the hearing day;
 - (6) The Court shall designate a date for the first hearing by no later than 7 (seven) working days following the recording of the petitions in the Registry of Constitutional Cases;
 - (7) The designation of the first hearing date shall be notified to the petitioners and KPU by no later 3 (three) days before the hearing date.

CHAPTER V

EXAMINATION OF PETITIONS

Part One

Preliminary Examination

Article 8

- (1) Preliminary Examination shall be conducted in an open hearing by a Panel of Justices consisting of at least 3 (three) constitutional court justices;
- (2) In the Preliminary Examination, the Panel of Justices shall examine the completeness and the clarity of the petitions' subject matters as intended

- in Article 4 and the Panel of Justices must give advice to the petitioners to complete and/or revise their petitions if they are deemed incomplete;
- (3) The relevant petitioners shall be obliged to complete and/or revise their petitions by no later than 1 x 24 (one time twenty four) hours;
 - (4) In the event that the petitioners fail to complete and/or revise their petitions within the time limit as intended in paragraph (3), the opportunity for make such revision may only be given in the following hearing court.

Part Two

Court Examination

Article 9

- (1) Court Examination shall be conducted in an open hearing by the Panel of Justices and/or Plenary Session of Justices
- (2) Court Examination as intended in paragraph (1) shall be conducted immediately after the completion of the preliminary examination or after the receipt of revised petitions by the Court;
- (3) Court Examination as intended in paragraph(1) shall include:
 - a. The Court's Authority;
 - b. The Petitioners' Legal Standing;
 - c. Principal Issue of Petition;
 - d. Statements from KPU; and
 - e. Evidence.
- (4) In the Court Examination, statements from related parties may be heard,

- namely the General Election participants other than the petitioners having interest in the petition filed by the petitioners;
- (5) For the purpose of substantiation, in addition to the provisions as intended in Article 3, the Court may summon provincial KPU and/or KIP of Aceh, regency/municipal KPU and/or certain regency/municipal KIP for their presence and to give statements before the court;
 - (6) If it is deemed necessary for the purpose of court examination, the Court may make interlocutory injunction and appoint officers in order to witness matters related to vote counting instructed by the Court.

Part Three

Evidence

Article 10

Evidence in disputes over General Election results shall consist of:

- a. statements of the parties;
- b. letters or writings;
- c. witness testimonies;
- d. clues; and
- e. other evidence in the forms of electronic information and communication.

Article 11

- (1) Letters or writings shall include the following:
 - a. minutes and copy of the announcement of general election vote

tally of political parties participating in the General Election and candidates for members of DPR, DPD, and DPRD in TPS;

- b. minutes and copy of certificate of vote tally of political parties participating in the General Election and candidates for members of DPR, DPD, and DPRD from PPS;
- c. minutes and copy of recapitulation of votes for political parties participating in the General Election and candidates for members of DPR, DPD, and DPRD from PPK;
- d. minutes and copy of recapitulation of votes for political parties participating in the General Election and candidates for members of DPR, DPD, and DPRD from regency/municipal KPU;
- e. minutes and copy of the stipulation of vote tally of regency/municipal DPRD members;
- f. minutes and copy of recapitulation of votes from provincial KPU;
- g. minutes and copy of the stipulation of vote tally of provincial DPRD members;
- h. minutes and copy of recapitulation of votes from KPU;
- i. minutes and copy of the national vote tally for candidates for members of DPR, DPD, and DPRD from KPU;
- j. copy of court decision which has obtained permanent legal force affecting the votes obtained by political parties participating in General Election and candidates for members of DPR, DPD, provincial DPRD, and regency/municipal DPRD; and

- k. other written documents.
- (2) Letters or writings as intended in paragraph (1) shall be the letters or writings directly related to the object of the disputed General Election results petitioned to the Court;
- (3) Letters or writings as intended in paragraph (1) shall be affected with sufficient stamp duty in accordance with the applicable laws and regulations.

Article 12

- (1) Witnesses in dispute over General Election results shall consist of:
 - a. official witnesses of General Election participants; and
 - b. certified General Election observers.
- (2) The Court due to its position may summon other witnesses such as Bawaslu/Panwaslu and Police officials;
- (3) Witnesses as intended in paragraphs (1) and (2) shall be witnesses who personally see, hear, or experience the disputed vote counting process.

BAB VI

CONSTITUTIONAL COURT JUSTICES CONSULTATIVE MEETING

Article 13

- (1) Consultative Meeting of Constitutional Court Justices shall be held to make decision after Court Examination is deemed sufficient;
- (2) Consultative Meeting of Constitutional Court Justices shall be held behind

- closed doors Plenary Board of Constitutional Court Justices, which shall be attended by at least 7 (seven) Constitutional Court Justices after the Panel Meeting of Constitutional Court Justices;
- (3) Consultative Meeting of Constitutional Court Justices shall hear the report of the Panel of Constitutional Court Justices and the proposed draft decision;
 - (4) Decisions shall be made in Consultative Meeting of Constitutional Court Justices by way of deliberations to reach a consensus upon hearing the legal opinions of Constitutional Court Justices;
 - (5) In the event that such consensus as intended in paragraph (4) cannot be reached, decisions shall be made based on the majority of votes;
 - (6) In the event that decisions based on majority of votes cannot be made by the Plenary Meeting of Constitutional Court Justices as intended in paragraph (5), it shall be determined by the last vote to be cast by the Chairperson of the Plenary Meeting.

CHAPTER VII

DECISIONS

Article 14

- (1) Decisions made in Constitutional Court Justices Consultative Meeting shall be pronounced in a plenary session open for public;
- (2) Decisions of the Constitutional Court concerning petition of dispute over General Election results shall be made by no later than 30 (thirty) working

days following the recording of the petition in the Registry of Constitutional Cases;

- (3) The content of decisions of the Constitutional Court concerning petition for the reversal of vote tally may include:
 - a. The petition cannot be accepted if the petitioner and/or the petition does not meet the requirements;
 - b. The petition is granted if it is proved to be legally grounded and furthermore the Court shall reverse the vote tally issued by KPU, and stipulate the correct vote tally;
 - c. The petition is denied if it is proved groundless.
- (4) The Court's decision shall be delivered to the petitioner, KPU. and the President;
- (5) Copies of the Court's Decision may be delivered to the Related Parties;
- (6) The Court's Decisions shall be final;
- (7) KPU, provincial KPU, and regency/municipal KPU shall be obliged to follow up the Court's Decisions.

CHAPTER VIII

MISCELLANEOUS

Article 15

Other matters that are not provided for herein shall be further stipulated by the Plenary Meeting of Constitutional Court Justices.

CHAPTER VIII

CLOSING PROVISIONS

Article 16

- (1) As this regulation comes into effect, the Constitutional Court Regulation Number 04/PMK/2004 regarding Guidelines on Judicial Procedure In Cases of Dispute over the Results of General Election shall be revoked and declared inapplicable;
- (2) This regulation shall come into effect on the date of its stipulation.

Stipulated in Jakarta

on July 18, 2008

Chairperson,

Jimly Asshiddiqie