



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

**REGULATION OF THE CONSTITUTIONAL COURT
NUMBER 15 YEAR 2008**

**REGARDING
GUIDELINES ON THE JUDICIAL PROCEDURE IN CASES OF DISPUTE
OVER THE RESULTS OF REGIONAL HEAD ELECTION**

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF INDONESIA

- Considering :
- a. whereas one of the constitutional authorities of the Constitutional Court is to decide upon disputes over the results of General Election including the results of Regional Head Elections;
 - b. whereas the handling of disputes over the results of regional head elections has been transferred from the Supreme Court to the Constitutional Court;
 - c. whereas the applicable procedure for disputes over the results of general elections has not cover disputes over the results of regional head elections;

- d. whereas the Constitutional Court has the authority to further regulate the matters required for the uninterrupted implementation of its duties and authorities;
- e. whereas based on the considerations as intended in points (a), (b), (c), and (d), it is necessary to stipulate a Regulation of the Constitutional Court concerning Guidelines on Judicial Procedure In Cases of Dispute over the Results of Regional Head Elections;

- In view of :
- 1. Article 18 paragraph (3) and paragraph (4), Article 24, and Article 24C of the 1945 Constitution of the State of the Republic of Indonesia;
 - 2. Law Number 24 Year 2003 concerning the Constitutional Court (State Gazette of the Republic of Indonesia Year 2003 Number 98, Supplement to the State Gazette of the Republic of Indonesia Number 4316) as amended based on the Constitutional Court Decision Number 066/PUU-II/2004 dated April 12, 2005;
 - 3. Law Number 4 Year 2004 concerning Judicial Authorities (State Gazette of the Republic of

Indonesia Year 2004 Number 8, Supplement to the State Gazette of the Republic of Indonesia Number 4358);

4. Law Number 10 Year 2004 concerning the Formulation of Laws and Regulations (State Gazette of the Republic of Year 2004 Number 53, Supplement to the State Gazette of the Republic of Indonesia Number 4389);
5. Law Number 22 Year 2007 concerning General Election Organizer (State Gazette of the Republic of Year 2007 Number 59, Supplement to the State Gazette of the Republic of Indonesia Number 4721);
6. Law Number 12 Year 2008 concerning the Second Amendment to Law Number 32 Year 2004 concerning Regional Government (State Gazette of the Republic of Indonesia Year 2008 Number 59, Supplement to the State Gazette of the Republic of Indonesia Number 4844);

With due observance of: The resolutions of Constitutional Court Plenary Meeting on October 23, 2008;

HAS DECIDED:

To stipulate : **REGULATION OF THE
CONSTITUTIONAL COURT
CONCERNING GUIDELINES ON THE
JUDICIAL PROCEDURE IN CASES OF DISPUTE
OVER THE RESULTS OF REGIONAL HEAD
ELECTION**

**CHAPTER I
GENERAL PROVISIONS**

Article 1

Referred to herein as:

1. Court shall be the Constitutional Court of the Republic of Indonesia.
2. Regional Head Election, hereinafter referred to as *Pemilukada*, shall be the election of head and deputy head of provincial and regency/municipal region.
3. Provincial General Election Commission, hereinafter referred to as provincial KPU, shall be the provincial *Pemilukada* organizer.
4. Provincial Election Independent Commission, hereinafter referred to as provincial KIP shall be the organizer of *Pemilukada* in Aceh Province.
5. Regency/municipal General Election Commission, hereinafter referred to as regency/municipal KPU shall be the organizer of regency/municipal *Pemilukada*.
6. Regency/municipal Election Independent Commission, hereinafter

referred to as regency/municipal KIP shall be the organizer of regency/municipal Pemilukada in Aceh Province.

7. Pair of Candidates shall be pairs of candidates participating in Pemilukada.
8. Petition shall be the submission of objection to the decision on Pemilukada vote tally.
9. Petitioner shall be the pair of candidates participating in Pemilukada.
10. Respondent shall be provincial KPU/KIP or regency/municipal KPU/KIP as Pemilukada organizer.
11. Registrar shall be the Registrar of Constitutional Court of the Republic of Indonesia.

Article 2

Court proceeding on disputes over the results of Pemilukada shall be quick and simple as the first and final court whose decisions shall be final and binding.

CHAPTER II

PARTIES TO AND OBJECT OF DISPUTE

Article 3

- (1) Parties who have direct interest in disputes over the results of Pemilukada shall be:
 - a. pairs of candidates as Petitioners;

- b. Provincial KPU/KIP or regency/municipal KPU/KIP as Respondent.
- (2) Apart from being Petitioners, pairs of candidates may become Related Parties in disputes over the results of Pemilukada;
 - (3) Petitioners, Respondent, and the Related Parties may be represented and/or accompanied by their respective attorneys who obtain Special Power of Attorney for it.

Article 4

The dispute object of Pemilukada shall be the vote count result stipulated by the Respondent influencing:

- a. the determination of the pair of candidates who may take part in the second round of Pemilukada; or
- b. the Pair of Candidates elected as regional regional head and deputy regional head.

CHAPTER III

PROCEDURE FOR PETITION SUBMISSION

Article 5

- (1) Petition for the reversal of Pemilukada vote tally shall be submitted to the court by no later than 3 (three) working days after the Respondent has stipulated Pemilukada vote tally of the concerned region;
- (2) Petitions submitted after exceeding the time limit as intended in

paragraph (1) cannot be registered.

Article 6

- (1) Petitions shall be submitted in writing in Indonesian language in 12 (twelve) copies signed by the Petitioners or their attorneys obtaining special power of attorney from the Petitioners;
- (2) The petition shall at least include:
 - a. complete identity of the Petitioners along with copies of Identity Cards and evidence as Pemilukada participants;
 - b. clear description concerning:
 1. the errors in vote tally stipulated by the Respondent;
 2. request/petition to annul the vote tally stipulated by the Respondent;
 3. request/petition to stipulate the right vote tally according to the Petitioners.
- (3) Petitions submitted shall be completed with evidence.

CHAPTER IV

CASE REGISTRATION AND SETTING OF HEARING SCHEDULE

Article 7

- (1) The Registrar shall examine the requirements and the petition completeness;
- (2) The Registrar shall records meeting the requirements and complete in

the Registry of Constitutional Cases (BRPK);

- (3) If a petition has not met the requirements and has not been complete, the Petitioners may make corrections to the extent as it is still in the time limit of petition submission as intended in Article 5 paragraph (1) of this regulation;
- (4) The Registrar shall deliver copies of the petition which have been registered to the Respondent along with the notice of the first hearing date and the request for written statement completed with the evidence of the disputed vote tally;
- (5) The determination of the first hearing date and notice to parties shall be conducted not later than 3 (three) working days since registration.

CHAPTER V

HEARING

Article 8

- (1) The hearing to examine petitions may be held by a Panel of Justices which at least consists of 3 (three) constitutional justices or Plenary Justices with at least 7 (seven) constitutional justices;
- (2) The hearing process shall be conducted in the following stages:
 - a. clarification of petition and correction in case of necessity;
 - b. The Respondent's response;
 - c. statements of related parties if any;
 - d. authentication by Petitioners, Respondent, and Related

- Parties; and
 - e. conclusion.
- (3) For the purpose of substantiation, the Court may conduct the examination by way of long distance hearing (*video conference*);
- (4) For examination purposes, the Court may issue interlocutory decisions.

CHAPTER VI

EVIDENCE

Article 9

The evidence in the dispute over Pemilukada result may consist of:

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

Article 10

- (1) Letters or writings shall consist of:
- a. minutes and copy of the announcement of vote tally from TPS;
 - b. minutes and copy of vote tally certificate of PPS (PPS);
 - c. minutes and copy of the amount of vote recapitulation of PPK;

- d. minutes and copy of the amount of vote recapitulation of provincial or regency/municipal KPU/KIP;
 - e. minutes and copy of stipulation of vote tally of the pair of candidates of provincial or regency/municipal regional head and deputy regional head;
 - f. minutes and copy of vote tally recapitulation of provincial KPU/KIP;
 - g. stipulation of elected candidates of provincial or regency/municipal; and/or
 - h. other written documents.
- (2) Evidence as intended in paragraph (1) shall be the evidence directly related to the object of dispute over Pemilukada result petitioned to the Court.
- (3) The evidence as intended in paragraph (1) shall be sufficiently sealed in accordance with the applicable laws and regulations.

Article 11

- (1) The witnesses in dispute over Pemilukada result shall consist of:
- a. official witnesses of Pemilukada participants; and
 - b. Pemilukada observers.
- (2) The Court may summon other necessary witnesses, among others, general election supervising committee or Police officials;
- (3) Witnesses as intended in paragraph (1) and paragraph (2) shall be the witnesses who personally see, hear, or experience the disputed vote counting process.

CHAPTER VII

CONSTITUTIONAL COURT JUSTICES CONSULTATIVE MEETING

Article 12

- (1) Constitutional Court Justices Consultative Meeting shall be held to make decision after the court examination is deemed sufficient;
- (2) Constitutional Court Justices Consultative Meeting shall be held behind closed doors Plenary Board of Constitutional Court Justices, which shall be attended by at least 7 (seven) constitutional justices;
- (3) 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;
- (4) In the event that such consensus as intended in paragraph (4) cannot be reached, decisions shall be made based on the majority of votes;
- (5) 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.

BAB VIII

DECISIONS

Article 13

- (1) Decisions on disputes over Pemilukada results shall be pronounced by

- no later than 14 (fourteen) working days since the petition was registered in the Registry of Constitutional Cases;
- (2) Decisions made in the Constitutional Court Consultative Meeting shall be pronounced in the Plenary Hearing Court in the presence of at least 7 (seven) constitutional justices;
 - (3) The decision may declare:
 - 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 final and binding;
 - (5) The Court's decision shall be delivered to the Petitioners, Respondent, the regional people's legislative assembly, the Government, and the Related Parties;
 - (6) Provincial or regency/municipal KPU/KIP, regional people's legislative assembly, and the Government shall be obliged to follow up the Court's Decision properly;

CHAPTER IX
MISCELLANEOUS

Article 14

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

CHAPTER X
CLOSING PROVISION

Article 15

This Regulation shall come into effect on the date of its stipulation.

Stipulated in Jakarta

on October 23, 2008

Chairperson,

Ketua,

Moh. Mahfud MD