



The Application of Principles of Simple, Fast, and Low Cost in the Adjudication of Criminal Case of 2020 Regional Head Election at the General Courts

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Abstract

Local elections or regional head elections are a means of implementing popular sovereignty in the regions. This is part of the development of the government administration system of the Republic of Indonesia experiencing various changes. The change in question is the principle of autonomy which means the freedom to regulate their own regions in each region. One of the challenges in carrying out this Pilkada is a violation that results in a criminal offense. The formulation of this research is: 1) What is the type of criminal case for the election of Regional Head in the general courts? 2) how is the application of the principle of simple, fast, low cost in the adjudication of criminal cases in the election of Regional Heads 2020 in the general courts? The research method used is normative juridical. The findings showed that first, there were 36 types of criminal cases in the election of regional heads in the general court, for this reason the Supreme Court issued a Regulation of the Supreme Court of the Republic of Indonesia No. 1, 2018 concerning Procedures for the Settlement of Election and Election Criminal Acts. Second, the application of the principle of simple, fast, low cost in the resolution of criminal cases in the election of Regional Heads 2020 in the general court environment by combining several cases that are closely related that is assessed from 36 types of criminal acts committed during election that can be combined in one type in a practical and rational manner. This case can be resolved together with the plaintiffs.

Keywords: *Simple; Fast; Low Cost; Criminal Case; Local Election*

Introduction

General Election Commission (KPU) initially confirmed that the Simultaneous Election of Regional Head 2020 would be starting on 15 June 2020. This was recorded in the draft of KPU Procedures (PKPU) amendment of PKPU on Stage, Program, and the Agenda of Regional Head Election 2020.

To restart the program, KPU will reactivate the ad hoc management that is the Election Committee of Subdistrict (PKK) and Committee of Vote (PPS). The vote will be carried out on 9 December 2020. This procedure was based on the inputs and suggestions from related parties accepted in harmony as such the draft of PKPU amendment had already drafted and been ready to enact and was waiting for the administration to complete.

Previously, President Joko Widodo signed the Governmental Regulation in Lieu of Laws No. 2, 2020. This regulation is on the postpone of the election of the head of region 2020 from September to December or longer depending on the situation of Pandemic Covid-19 in Indonesia. To be noticed, the election of the head of region 2020 will be conducted in 270 regions of Indonesia. these 270 regions including 9 Provinces, 224 regencies, and 37 cities/towns. Initially, the election would be held on 23 September 2020, however, due to the pandemic of Covid-19, the election is postponed.

The initial plan of the election was criticized by some civil coalitions for they thought it was too risky to hold the election during the pandemic of Covid-19. Some issues were scrutinized, among others are the health insurance during the election, the aid for the relieve of pandemic of Covid-19 from the incumbent that was politicized, and the budget for the election. However, the government insisted to hold the election on 9 December 2020 as stated in the Governmental Regulation in Lieu of Laws No. 2, 2020 concerning Election of the Head of Region. The house of Parliament (DPR) agreed with the government on the ground that the Task Force of the Acceleration of Handling of The Pandemic of Covid-19 did not address any complain about the plan (Nugraheny, 2020).

The election of the head of region as the manifestation of the people power implemented in a direct democratic system should be in accordance with the principle and concept of a good election. As we know, the election of the head of region is done through some main phases and might generate some disputes or violation at every phase of the election. This possibility can be generated by fraud, mistake, and even non-fraudulent misconduct (Saragih, 2017).

Discussion on each case is time consuming, moreover general court lacks of understanding about election issue. This resulted in the difficulties to enforce the law upon the election and also resulted in the leader whose integrity is in question as such a specific law enforcement system of the election applies. This is in order to have a just and honest theory of election system of the head of region. The simultaneous election is a part of steps to realize the democratic agenda as a whole or is one of the manifestations of the commitment of a democratic state as mentioned in the Constitution. With the democratic process at local level, it is expected that the election of the regional heads will reflect the aspiration of people as the holder of the actual power. Direct election is a best way out to break the ice of democracy. The strength of direct election lies on the establishment and the implication of its legitimacy (Tjenreng, 2016).

The election process of the head of region can be one of the media of national integration to allow people to vote their own leader. It is a system to produce ideal leader coming from the community itself. In addition, the election is deemed to be able to accommodate integrated selection system to create candidates of qualified regional heads. Considering the importance of the election, urgency to retain the quality of the process of the election came up. In other words, a good process of election determines the quality of the administration and the success of democracy (Suyanto, 2012).

The Court of Constitution adjudicated judgment No. 97/PUU-XI/2013 in 2013 of which the decision stated that Article 236c of Law No. 12, 2008 concerning the amendment of Law No. 32, 2004 regarding Regional Government did not have a complete legal standing. The consideration was that the election of the head of region was not at the same regime with the general election in which the 1945 Constitution directs the general election is the process to elect the members of House of Parliament (DPR), Regional House of Parliament (DPRD), Regional Representatives (DPD), President and Vice President (Nazriyah, 2016).

Whereas the election of regional head in 1945 Constitution is stated in Article 18 paragraph 4 explaining that Governor, Regent, and Mayor, individually, is respectively the Head of Province, Regency, and Municipality elected democratically. This means that the Constitution itself does not

include the election of regional head in the chapter regulating general election.

Post decision, the power to adjudicate the dispute on the vote of the election of regional head is no longer held by the Court of Constitution, instead it is settled at the special court. This special court, according to the law, is under the administration of the Supreme Court.

Even though the decision of the Court of Constitution No. 97/PUU-XI/2013 applies, the Court of Constitution still adjudicates the cases of dispute on the election of the regional head. It is due to no law regulating the establishment of special court to adjudicate the dispute over the election of the head of region as such the special court is yet to establish. In fact, Article 157 paragraph (2) of Law No. 8, 2015 on the Amendment of Law No. 1, 2015 concerning the Promulgation of Governmental Regulation in Lieu of Laws No. 1, 2014 regarding the Election of Governor, Regent, and Mayor, and backed up with the Law No. 10, 2016 on the Second Amendment of Law No. 1, 2014 regarding the Election of Governor, Regent, and Mayor has already mandated the establishment special court prior to the simultaneous election of the head of region.

The election of the regional head that is a competition to get the top position in the region does not free from violation, either administrative or criminal. To guarantee a liberate and fair election, some protections of voters, the candidates, and the people are necessary to protect them from fear, intimidation, bribery, fraud, and fraudulent misconduct that will tamper the result of the election (Rahman, 2019).

In the case the violation occurs, state should be existed through its legal apparatus to settle every problem because Indonesia is a state law as stated in Article 1 paragraph (3) of 1945 Constitution that Indonesia is a state of law.

On that ground, the problems discussed in this research were 1) what is the type of criminal offense occurred during the election of regional head at the general courts? 2) how is the application of the simple, fast, and low-cost principles in the adjudication of criminal offense committed during the 2020 election of the regional head in the general courts?

Method

This research aims to respond to the need for writing or scientific product to obtain data, doctrines and other opinions from scholars or any media. In this writing, author required a method used as guidance in conducting research. The data or material compiled under normative legal research. Normative legal research is a research on literatures or document study that is a research done or conducted on statute or is called secondary data (Arliman, 2018) discussing the application of principle of simple, fast, and low cost in the settlement of criminal case committed during 2020 election of the regional head at the general courts.

Results and Discussion

1. Type of Criminal Case During the Election of Regional Head at General Courts

Through options of politics and law, the law makers agreed to define democratic in Article 18 paragraph (4) of 1945 Constitution as direct vote. Actually, the article also provides opportunity for the Governor, Regent, and Mayor to be voted through other democratic methods, for example, through the representative agency such as Regional House of Representative (DPRD). However, in the spirit of

regional autonomy, direct election of regional head deems to be the best way to promote local democracy (Ayuni, 2018).

Jimly Asshiddiqie (Jimly, 2002) argued that the phrase “democratically elected” stated in Article 18 paragraph (4) of 1945 Constitution is so flexible that it can be defined as direct election. This article then becomes the basis to hold direct election of the regional head starting from the provincial level led by governor and at the municipal/regency level led by the regent or mayor. From original intent point of view, the existence of Article 18 paragraph (4) of 1945 Constitution concerning the election of regional head in democratic way is promulgated in the process of amendment in 2000. On the other hand, Article 22E on General Election is enacted in 2001. Article 22E strictly regulates that President and Vice President, House of Parliament, House of Regional Representative and Regional House of Parliament are directly elected.

The implementation of the direct election of the regional head is done to guard the democratic values to answer people aspiration, therefore, in the case the violation occurs related to the election result, it can be settled at the Supreme Court and other judiciary organ under the Supreme Court (Fadjar, 2009). Article 106 paragraph (1) of Law No. 32, 2004 concerning Regional Government to hear and adjudicate cases filed.

Since the enactment of Law No. 12, 2008, Article 236C, the settlement of violation against the election result is assigned to the Court of Constitution (Indrayana, 2008). The article states that the dispute settlement on the election result of regional heads is previously adjudicated by the Supreme Court is now assigned to the Court of Constitution for the longest 18 months since the promulgation of the Law.

In 2013, the Court of Constitution issued judgment No. 97/PUU-XI/2013 concerning the review of Law No, 12, 2008 concerning the second amendment of Law No. 32, 2004 on Regional Government and Law No. 48, 2009 regarding Judicial Power against 1945 Constitution. The judgment decided:

1. To award the whole in favor to the plaintiff that
 - 1.1 Article 236 C of Law No. 12, 2008 concerning the Second Amendment of Law No. 32, 2004 concerning Regional Government and Article 29 paragraph 1 letter a of Law No. 48, 2009 on Judicial Power is against the 1945 Constitution of Republic of Indonesia.
 - 1.2 Article 236 C of Law No. 12, 2008 concerning the Second Amendment of Law No. 32, 2004 on Regional Government and Article 29 paragraph 1 letter C of Law No. 48, 2009 on Judicial Power do not have firm legal standing.
2. Court of Constitution remains to hold the power to adjudicate cases on dispute over the election result of the head of region in the absence of law regulating the issue.

The application of the decision is in the Article 157 of Law No. 8, 2015 concerning the Amendment of Law No. 1, 2015 concerning the Promulgation of Governmental Regulation in Lieu of Laws No. 1, 2014 concerning Election of Governor, Regent, and Mayor supported with Law No. 10, 2016 on the Second Amendment on Law No. 1, 2015 concerning the Promulgation of Governmental Regulation in Lieu of Laws No. 1, 2014 regarding Election of Governor, Regent, and Mayor regulating that:

- 1) Disputes on election result is to be heard and adjudicated by a special judiciary.
- 2) The special judiciary mentioned in paragraph (1) is established prior to the national simultaneous election.

- 3) The dispute over the final result of the vote is to be heard and adjudicated by the Court of Constitution until the establishment of the special judiciary.

The rules on the establishment of special court for the disputes over the election of regional head is yet to specifically regulated. However, the Article 1 paragraph (8) of Law No. 48, 2009 concerning the Judicial Power defines Special Court as a court whose power to hear, adjudicate, and decide certain disputes that can only be established in one of the judiciaries under the Supreme Court and is regulated in a regulation.

This law, in fact, does not mention about the establishment of the special court is assigned to the Supreme Court, however, with the special court for the dispute over the regional head election that lies under the Supreme Court, it enables the Supreme Court to establish the special court. It cannot be used, however, as the reference for it is not explicitly mentioned in the law (Affan, 2018).

The Supreme Court assigns the special justice proposed by the Head of District Court through the Head of Appellate Court that suggests the special justice to the District Court or the Head of Appellate Court suggests the justice at the Appellate Court to the Head Justice of the Supreme Court (Junaidi, 2013).

The provision on the appointment of special justice by the Supreme Court in the State Administrative Court is in Article 8 paragraph (1) of the Regulation of the Supreme Court of Republic of Indonesia No. 11, 2016 concerning the Procedure of Dispute Settlement of State Administrative over the Election and the Violation against Administration of Election mentioning that justice hearing the dispute over the administration of election in the court trial is the special brethren of justice consisting of special high-court justice appointed with the Decision of The Chief Justice of the Supreme Court.

Article 177 of Law No. 10, 2016 concerning the Second Amendment of Law No. 1, 2015 on the concerning the Promulgation of Governmental Regulation in Lieu of Laws No. 1, 2014 concerning Election of Governor, Regent, and Mayor states that the type of criminal offense in the dispute of the election of the regional head:

- 1) Anybody who intentionally provides false information about him/herself or any other person regarding matters to be provided in the voter's form;
- 2) Anybody whose intention is to make any other person to lose his/her right to vote;
- 3) Anybody whose intention is to falsely fabricate any letter that under this law is required to conduct any deed with intention to be used for the benefit of he/she him/herself or any other person with pretense of its legality or that it is a non-fabricated;
- 4) Anybody who intentionally is unlawfully omitting the right of any other person to be a candidate of Governor, candidate of Regent, and candidate of Mayor;
- 5) Anybody due to its position is unlawfully omitting the right of any other person to be a Governor, a Regent, and a Mayor;
- 6) Anybody whose intention, and in his knowing that any letter is fabricated or forged, uses or commands any other person to use that letter as legitimate;
- 7) Anybody who with violence or with intimidation through the power assigned to him/her during the voter registration obstructs any other person to enlist as the voter in the election under this law;
- 8) Anybody who commits violence related to the decision of election result under this law;
- 9) Anybody whose intention is providing false information or is using fabricated letter with pretense of its legality regarding matters required to run for candidate Governor, candidate Regent, and candidate Mayor;

- 10) Anybody who intentionally is providing false information or is using fabricated letter with pretense of its legality to support any individual candidate Governor, individual candidate Regent, and individual candidate Mayor;
- 11) Member of PPS, member of PPK, member of KPU of Regency/Municipality, and members of Provincial KPU with intention to criminally fabricate the list of support for any individual candidate as regulated under this law;
- 12) Member of PPS, member of PPK, member of KPU of Regency/Municipality, and members of Provincial KPU with intention to not verify and recapitulate any individual candidate as regulated under this law;
- 13) Anybody who intentionally holds campaign outside the schedule set by provincial KPU and Municipal KPU for each candidate;
- 14) Anybody who intentionally holds campaign outside the schedule set;
- 15) Anybody whose false intention commits violation against the prohibition of campaign;
- 16) Anybody whose false intention disrupts, obstructs, or disturbs the campaign;
- 17) Anybody who provides or receives campaign fund exceeding the limit allowed;
- 18) Anybody whose false intention receives or provides campaign fund from or to prohibited parties;
- 19) Anybody whose false intention provides false information in the campaign fund report;
- 20) Any candidate who receives campaign fund and do not report it to the Provincial KPU and Municipal KPU and/or do not submit the fund to the state treasurer;
- 21) Any state officials, civil apparatus, and head of village or other names/Lurah who intentionally violates the regulation;
- 22) Candidate Governor, candidate Regent, and candidate Mayor who intentionally involves any official of state-owned company, of region-owned company, state apparatus, any officer of the Police of Republic of Indonesia, any military officer of the Indonesian National Army, and the Head of village or any other names/Lurah and village apparatus or any other names/village officer;
- 23) Candidate governor, candidate Regent, and candidate Mayor who intentionally resigns post the determination of Candidate Governor, Candidate Regent, and Candidate Mayor until the first round of voting;
- 24) Any leaders of political party or coalition of leaders of political party who intentionally withdraws their candidates and/or candidates appointed by Provincial KPU and Municipal KPU until the first round of voting;
- 25) Candidate Governor, candidate Regent, and candidate Mayor who intentionally resign post first round of voting until second round of voting;
- 26) Any leaders of political party or coalition of leaders of political party who intentionally withdraws their candidates and/or candidates appointed by Provincial KPU and Municipal KPU until the first round of voting until the second round of voting;
- 27) In the case Provincial KPU and Municipal KPU do not determine re-voting at the Vote Places as mentioned in Article 112 without any legitimate ground under this law, member of Provincial KPU and members of Municipal KPU;
- 28) The head and members of KPPS that intentionally do not provide and/or sign the minute of program of the voting result of the candidate Governor, candidate Regent, and candidate Mayor, the Head and members of KPPS who intentional do not implement the decision of Provincial KPU and Municipal KPU to hold the re-voting at the Vote Place;
- 29) Any KPPS that intentionally does not provide 1 (one) copy of the minute of the voting and recapitulation and/or of the certificate of voting for the witness of the candidate Governor, Regent, and Mayor, PPL, PPS, and PPK, through PPS;
- 30) Any KPPS that does not guard, save the ballot box, and hand over the sealed box containing ballots, minute of voting, and certificate of vote recapitulation to the PPK at the same day;
- 31) Any PPS that does not announce the vote result of all Voting Place at the entire working area;

- 32) The Monitoring committee of the Subdistrict that do not monitor the hand-over of the sealed box of ballots to the Provincial KPU and Municipal KPU as regulated in Article 33 letter b;
- 33) Anybody who intentionally damages, disturbs, and distorts the system of information of vote recapitulation on the election of Governor, Regent and Mayor;
- 34) Head and members of KPPS who intentionally do not provide and/or sign the minute of voting of the candidate Governor, candidate Regent, and candidate Mayor;
- 35) In the case Provincial KPU and Municipal KPU do not decide the result of the election as regulated under the law, the member of Provincial KPU and Municipal KPU;
- 36) Anybody or organ announcing the quick count on the day/date of the voting and;
- 37) The head and members of Provincial KPU and Municipal KPU who do not implement the court decision with firm legal standing.

As for 37 types of the criminal offense in the dispute of the election of regional head, the Supreme Court, regarding the matter, regulates further the matters required for the court management in the case the matters are not regulated in the law on the Supreme Court as the supplementary to fill in the vacuum of the law required for the implementation of the court. The Supreme Court may also enact their own procedure when necessary to complete the procedure law under the law. For example, the Regulation of the Supreme Court of Republic of Indonesia No. 1, 2018 concerning the Procedure of the Settlement of Criminal Offense during the Election and General Election. The law regulates: General provision on the definition of crime during election, crime during general election and day;

- 1) Power, is the procedure to report a crime during election and general election and the duration set;
- 2) Settlement procedure of crime during election and general election;
- 3) Special assembly of crime during election and general election;
- 4) Other provision, in the absence of provision in the Regulation of the Supreme Court, the Code of Criminal Procedure *mutatis mutandis* applies;
- 5) Closure provision states that in the time this Regulation of the Supreme Court entry into force, the Regulation of the Supreme Court No. 02, 2013 on the Settlement Procedure of Crime During Election is revoked and no longer applies.

The Supreme Court, in this case, conducts highest monitoring of the implementation of the judiciary system with purpose for the trial held by the courts to be managed carefully and properly under the principles of simple, fast, and low cost without risking the freedom of the judge in hearing and deciding the case. The Supreme Court also directs, advises or warns when necessary to the courts under. One of the advises issued by the Supreme Court is the Circular No. 2, 2018 concerning the enactment of the Circular of the Supreme Court No. 3, 2018 on All Forms of Reference.

This circular is related to the reference issued by the court either under the general courts or under the military court. Therefore, the Supreme Court should issue advises such as: Circular of the Supreme Court No. 3, 2016 concerning the Application for Reference for Candidate Head of Region and the Deputy Head of Region to Court. This applies for the application for reference required to run for the position of public official and any other positions under the laws applied and the application and reference issued under the Circular of the Supreme Court referred to the annex of the Circular of the Supreme Court No. 3, 2016 with necessary adjustment.

2. The Application of Principles of Simple, Fast, and Low Cost in the Adjudication of Criminal Offense During the 2020 Election of Regional Head in General Courts

Applying the principles of simple, fast, and low cost cannot be separated from the theory of legal assurance. Legal certainty according to Jan Michiel Otto is defined as the probabilities that in

certain situation: (Hidayat & Khisni, 2017) 1) there are clear, consistent, and accessible legal rules, issued or acknowledged by or on behalf of the state. 2) that the government institutions apply these rules consistently and themselves comply with them. 3) that most citizens, in principle conform to such rules. 4) independent and impartial judges apply such rules consistently in the course of dispute settlement. 5) the judicial decisions are enforced.

Legal certainty is an assurance that law should be enforced properly. Legal certainty requires the governance of the law enacted by the authority and leaders as such the rules hold juridical aspects to secure legal certainty that law functions as rules that should be adhered.

The real purpose of law is legal certainty and the legal functionality. The scholars of positivism stressed more to the legal certainty while the functionalists put the legal functionality more forward. The saying says "*summum ius, summa injuria, summa lex, summa crux*" meaning that harsh law can injure unless justice comes to help, therefore even though justice is not the only purpose of the law, the most substantive purpose of the law is justice (Rato, 2010).

Legal certainty bears two meanings, first, the general rules that enable individual to understand what is allowed and prohibited, and the second, security for individual from abusive government. With the general rules, a person can understand what is allowed to be imposed or done by the state upon individuals.

The notion of legal certainty rooted from the doctrine of juridical-dogmatic that lies on the positivistic school of the law that tends to regard law as an autonomous, independent being for the scholars of this school, law is none other than a body of rules. For supporters of the notion, the purpose of the law is merely to secure the legal certainty. Legal certainty is materialized by the law with the nature to promulgate general rules. The general nature of the law proved that law does not aim to secure justice or functionality, but rather to assure legal certainty (Ali, 2002).

Legal certainty in the meaning of law or regulation post-promulgation will be certainly applied by the government. Legal certainty means that anybody can demand for the law to be applied and the demand will surely be responded and that any violation of the law will be charged and sanctioned as well.

From the perspective of law, the theme certainty principally is always connected with the law. Legal certainty is protection justifiable against abusive action. This means that anybody can get some expected outcomes under certain situation.

The notion of legal certainty historically was the conception that has raised since the idea of the separation of power suggested by Montesquieu that with the separation of power, the duties to promulgate law lies with the law makers, while judge (court) is merely to voice the substance of the law.

The issue of certainty is always associated with the law. Consequently, legal certainty always brings the issue of relation of law between citizens and the state. As norm, legal certainty is not always associated with the state since the essence of legal certainty is the protection from the abusive acts. Therefore, actors who are possibly abusive are not limited to the state, but it may be some other group of people other than the state.

Legal certainty is one of the purposes of law that can be regarded as part of the endeavor to secure justice. The real of legal certainty is the application or enforcement of the law upon actions regardless who commits it. With legal certainty, anybody can predict what will be experienced if he or

she commits certain legal acts. Certainty is necessary to implement the non-discriminative principle of equality before the law.

The term “certainty” is close associated with truth principle that is a matter which can strictly be deduced in a legal-formal way. Through deductive logic, the rules of positive law act as major premise, while concrete occurrence is the minor premise. Through closed system of logic, conclusion will automatically be drawn. This conclusion should be able to be predicted, therefore everyone should hold on to it. With this community is in order. Therefore, the certainty will lead the society to the course of order.

Legal certainty will guarantee a person to conduct under the rule of law applied, in contrast, without legal certainty, an individual will not have a row regulation in acting the conduct. Therefore, Gustav Radbruch argued that certainty is one of the purposes of law. The structure of life in the society is closely related with certainty in law. Legal certainty is normative both the provision and the justice decision. Legal certainty refers to the management of life that in the implementation is clear, organized, consistent, consequent, and independent in subjective situation in the community (Susanto, 2014).

Legal certainty is a question that can only be answered in normative way not sociologically. Normative legal certainty is when a rule is made and definitely imposed for it clearly and logically regulate. Clear in the meaning that it does not raise any doubt (multi-interpretation) and logical in a sense that it becomes the system of norm among other norms as such it does not collide with other norms or create a conflict of norm. Conflict of norm generated from the uncertainty of rule can be a contest of norm, reduction of norm, or distortion of norm (Sulardi & Wardoyo, 2015).

Legal certainty upon the disputes in the election of regional head certainly is demanded by all parties, particularly when considering who will win the election. Often, the election dispute of the regional head is in fact criminal offense as mentioned above.

Criminal offense during the election is a violation or crime against the rules of election as regulated in the Law No. 10, 2016 Chapter XXIV regulating the criminal law. In the case there are findings and reports of the alleged violation of the election with element of crimes, Bawaslu assigns the findings and reports to the investigator to be processed and heard by special justice in district court. Related to the special justice, it is regulated in the Regulation of the Supreme Court (Wicaksono & Ayutama, 2015).

The Speedy Administration of Justice in fact has been guaranteed in positive laws. This principle explicitly is stipulate in Article 4 paragraph (2) of Law No. 48, 2009 concerning Principal Stipulations of Judicial Power, “Court assists justice seekers and tries to overcome any impediments and obstacles to achieve a simple, fast, and low cost court trial.” Ironically, the implementation of the principle in the society is yet to enjoy (Hairi, 2016).

In technical implementation, this principle exists in the Code of Criminal Procedure that mostly stipulates the process of investigation, inquiry, indictment and the time to assign the case. However, the stipulation in the Code of Criminal Procedure, in fact, does not guarantee the enforcement of the principle. The regulation in the Code of Criminal Procedure related to this principle is stipulated mostly in the word “immediate” which do not clearly assure the certainty. Not all stipulations regulate that, some articles clearly stated the time, 23. However, it is significant that Procedure Code does not at all regulate the time for the dispute settlement in the court.

The investigator of the Police of Republic of Indonesia reports the investigation and includes the case file to the general attorney in 14 (fourteen) days at the latest since the report is accepted. In the case the investigation report is not complete, general attorney turns it back in 3 (three) days at the latest

to the investigator along with the direction on what to be completed. Police investigator in at the latest 3 (three) days since the date of the acceptance of the file should assign it back to the general attorney. General attorney, then, files the case to District Court within 5 (five) days at the latest since the acceptance of the case files.

District Court in hearing, adjudicating, and deciding the criminal case of the election applies the Code of Criminal Procedure unless it is regulated otherwise under the law. The trial of the criminal case during the election is conducted by special brethren of justices. District court hears, adjudicates, and decides the criminal case within 7 (seven) days at the latest after the files assigned. In the case the decision is appealed, the appeal should be filed within 3 (three) days at the latest since the reading of the decision in the court trial. District Court assigns the files of the appealed case to the High Court within 3 (three) days at the latest since the appeal is accepted.

The high court hears and decides the appealed case within 7 (seven) days at the latest since the acceptance of the appealed case files. The judgment of the High Court is final and binding and cannot be appealed. The decision of the court should be executed within 3 (three) days at the latest since the acceptance of the decision by the general attorney.

The decision of the court upon the criminal case during election that according to the law can influence the calculation of the vote of the election should be taken within 5 (five) days prior to the determination taken by the Provincial KPU and/or Municipal KPU. Provincial KPU and/or Municipal KPU should follow up the court decision. The copy of the court decision should be accepted by Provincial KPU, Municipal KPU and the candidates on the day the decision is read by the Special Justices of the Criminal Case. The brethren consist of special justices who walk the career path at the District Court and the High Court appointed in particular to hear, adjudicate, and decide the cases on criminal offense during the election. Special justice is appointed under the Decree of Chief of Justice of the Supreme Court of Republic of Indonesia. The special justice is required to finish his/her tenure as judge at minimum 3 (three) years unless there is no judge with tenure minimum of 3 (three) years. Special justice during the hearing, adjudicating, and deciding the criminal case of election is off his duties to hear, adjudicate, decide other cases. Special justice as stipulated in paragraph (1) should master the issue of election.

If we look at the adjudication of the criminal case during the election of the regional head, it is a long process and time consuming. On this ground, it is better to promulgate the regulation on the adjudication of criminal offense during the election of the regional head in general courts simply, fast, and affordable.

The principle of simple, fast, and low cost is that the judge in adjudicating a case should be as maximal as possible to settle the case in a short time (Hamzah, 2015). The meaning and definition of the simple, fast, and low cost court trial is a hearing process that relatively short in accordance with the simplicity of the procedure law itself. What has already simple should stay simple meaning that judges should not make it complicated which the process is made winding and long (Aminuddin, 2016). Avoid the delay in the hearing process with reasons deemed unjustified by law.

Therefore, in order for a court trial of criminal offense during the election of regional head can be done simply, fast, and affordable, justice should be professional in handling the case as such the cases dealt with by disputing parties can be settled simply, fast, and with low cost (Perkasa, 2017).

The meaning and purpose of this principle does not only to stress on the element of fast and low cost in the perspective of criminal offense during the election of the regional head. It aims not to make judges to hear and decide the cumulating cases of divorce and alimony in one or two hours

(Nuswardani, 2008). The ideal is the hearing process that is relatively fast as in accordance with the simplicity of the Procedure law itself.

The principle of simple, fast, and low cost as the directives of adjudication of criminal offense during the election of the regional head, in fact, has been stated in Article 2 paragraph. (4) of Law No. 48, 2009 concerning the Judicial Power. Simple means that the hearing and the adjudication done efficiently and effective. Principle of fast is a universal principle related to the time-effective in handling the case. Principle of low cost is associated with the simple and fast principle (Arto, 2001). By cutting the formality when handling the case and in a short time, the cost spent to handle the case can be lower and affordable.

One of methods used to apply the principle of simple, fast, and low cost in a court trial of the criminal case committed during the election of regional head is by combining some cases that is closely associated. It can be categorized from 36 types of criminal offense during the election of the regional head to be grouped in one type practically and rationally. This case can be handled at one time by grouping the plaintiff.

Conclusion

The findings show that there are 36 types of criminal offense committed during the election of regional head that is adjudicated in general courts as such the Supreme Court enacted the Regulation of the Supreme Court of the Republic of Indonesia No. 1, 2018 concerning Settlement Procedure of Crime During Election and General Election.

To apply the principle of simple, fast, low cost in the adjudication of criminal offense during the 2020 Regional Head Election in general courts is by combining several similar cases by grouping similar offense of the 36 types of criminal offense during the election of the regional head in one group practically and rationally. This case can be handled at one time by grouping the plaintiff.

Bibliography

- Affan, I. (2018). Menanti Peradilan Khusus Pilkada. *Jurnal Hukum Samudra Keadilan*, 13(2), 309–320.
- Ali, A. (2002). Menguak Tabir Hukum (Suatu Kajian Filosofis & Sosiologis). In *Gunung Agung*. Gunung Agung.
- Aminuddin, M. (2016). *Model Pengadilan Khusus Penyelesaian Perkara Pemilihan Kepala Daerah*. UNIVERSITAS AIRLANGGA.
- Arliman, L. (2018). Peranan Metodologi Penelitian Hukum Di Dalam Perkembangan Ilmu Hukum Di Indonesia. *Soumatra Law Review*, 1(1), 112–132.
- Arto, A. M. (2001). *Konsepsi ideal Mahkamah Agung: redefinisi peran dan fungsi Mahkamah Agung untuk membangun Indonesia baru*. Pustaka Pelajar.
- Ayuni, Q. (2018). Gagasan Pengadilan Khusus untuk Sengketa Hasil Pemilihan Kepala Daerah. *Jurnal Hukum & Pembangunan*, 48(1), 199–221.
- Fadjar, A. M. (2009). Pemilu yang Demokratis dan Berkualitas: Penyelesaian hukum pelanggaran pemilu dan PPHU. *Jurnal Konstitusi*, 6(1).
- Hairi, P. J. (2016). Antara Prinsip Peradilan Sederhana, Cepat dan Berbiaya Ringan dan Gagasan Pembatasan Perkara Kasasi. *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan*, 2(1), 151–178.
- Hamzah, M. A. (2015). Tolok Ukur Prinsip Hukum Sederhana, Cepat dan Biaya Ringan pada Peradilan Perdata. *Rechtidee*, 10(1), 78–90.

- Hidayat, F., & Khisni, A. (2017). Tinjauan Asas Kepastian Hukum, Keadilan, Dan Kemanfaatan Dalam Akta Perjanjian Kawin Yang Di Buat Oleh Notaris. *Jurnal AKTA*, 4(4), 591–599.
- Indrayana, D. (2008). *Negara antara ada dan tiada: reformasi hukum ketatanegaraan*. Kompas.
- Jimly, A. (2002). *Konsolidasi Naskah UUD 1945 Setelah Perubahan Keempat*. Pusat Studi Hukum Tata Negara Fakultas Hukum Universitas Indonesia.
- Junaidi, V. (2013). *Mahkamah Konstitusi bukan mahkamah kalkulator*. Themis Books.
- Nazriyah, R. (2016). Penyelesaian Sengketa Pilkada Setelah Putusan Mahkamah Konstitusi Nomor 97/PUU-XI/2013. *Jurnal Konstitusi*, 12(3), 447–472.
- Nugraheny, D. E. (2020). *KPU Pastikan Tahapan Pilkada 2020 Akan Dilanjutkan pada 15 Juni*. Kompas.Com.<https://nasional.kompas.com/read/2020/06/02/12115711/kpu-pastikan-tahapan-pilkada-2020-akan-dilanjutkan-pada-15-juni>
- Nuswardani, N. (2008). *Asas dan Konsep Penyelesaian perselisihan Hasil Pemilu oleh Mahkamah Konstitusi*. Universitas Brawijaya.
- Perkasa, S. R. (2017). *Pembentukan Badan Peradilan Khusus Penyelesaian Sengketa Hasil Pemilihan Kepala Daerah*. Universitas Airlangga.
- Rahman, M. I. (2019). Penanganan Tindak Pidana Pemilihan Umum Kepala Daerah Berkaitan dengan Prinsip Negara Hukum dan Demokrasi. *El-Iqthisadi: Jurnal Hukum Ekonomi Syariah*, 1(1).
- Rato, D. (2010). *Filsafat Hukum Mencari: Memahami dan Memahami Hukum*. Laksbang Pressindo.
- Saragih, A. D. A. (2017). Tinjauan Yuridis Pentingnya Pembentukan Peradilan Khusus dalam PEMILU Serentak Menurut Undang-Undang Pemilihan Kepala Daerah. *Lex et Societatis*, 5(3).
- Sulardi, S., & Wardoyo, Y. P. (2015). Kepastian Hukum, Kemanfaatan, Dan Keadilan Terhadap Perkara Pidana Anak. *Jurnal Yudisial*, 8(3), 251–268.
- Susanto, N. A. (2014). DIMENSI AKSIOLOGIS DARI PUTUSAN KASUS “ST.” *Jurnal Yudisial*, 7(3), 213–235.
- Suyanto, D. (2012). *Evaluasi Pemilukada dari Prespektif Ketahanan Nasional: Demokrasi Lokal, Evaluasi Pemilukada di Indonesia*. Konpress.
- Tjenreng, M. B. Z. (2016). *Pilkada serentak: penguatan demokrasi di Indonesia*. Pustaka Kemang.
- Wicaksono, D. A., & Ayutama, O. A. (2015). Inisiasi Pengadilan Khusus Pemilihan Kepala Daerah Dalam Menghadapi Kesenjangan Pemilihan Gubernur, Bupati, dan Walikota di Indonesia. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 4(1), 157–179.

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