

DYNAMICS OF THE APPLICATION OF THE PERCENTAGE OF VOTE DIFFERENCE IN THE RESOLUTION OF DISPUTES OVER THE RESULTS OF LOCAL HEAD ELECTIONS*DINAMIKA PENERAPAN PERSENTASE PERBEDAAN SUARA DALAM PENYELESAIAN SENGKETA HASIL PEMILIHAN KEPALA DAERAH***M. Abdim Munib***

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Abstract: the objective of this study is to analyze the formal requirements for filing a petition to annul the results of regional head elections and to examine the issues surrounding the application of the vote margin threshold in resolving disputes over regional head election results. This study employs a normative legal research method, using a statutory, conceptual, and case approach. The findings indicate that a petition for the annulment of regional head election results must satisfy two requirements, namely the existence of discrepancies in vote calculations between the election organizers and the petitioner, and the fulfillment of the vote margin threshold ranging from 0.5 percent to 2 percent as stipulated in Article 158 of Law Number 10 of 2016. The implementation of simultaneous regional head elections from 2015 to 2024 has generated a significant number of disputes totaling 743 registered cases. The Constitutional Court has demonstrated inconsistency in applying the vote margin threshold, as 24 out of 181 accepted cases did not meet the required percentage. The Constitutional Court's decision to accept cases that failed to meet the vote margin threshold is considered to deviate from the principle of legal certainty.

Abstrak: tujuan kajian ini yaitu menganalisis syarat formil permohonan pembatalan hasil pemilihan kepala daerah serta problematika penerapan ambang batas perbedaan suara dalam penyelesaian sengketa hasil pemilihan kepala daerah. Kajian ini menggunakan metode penelitian hukum normatif dengan pendekatan perundang-undangan, pendekatan konseptual, dan pendekatan kasus. Hasil kajian menunjukkan bahwa permohonan pembatalan hasil pemilihan kepala daerah harus memenuhi dua syarat yaitu adanya perbedaan dalam perhitungan suara oleh penyelenggara dan pemohon serta terpenuhinya ambang batas perbedaan suara dengan ketentuan 0,5 persen hingga 2 persen sebagaimana diatur dalam Pasal 158 Undang-Undang Nomor 10 Tahun 2016. Penyelenggaraan pemilihan kepala daerah serentak sejak tahun 2015 hingga 2024 menimbulkan banyak perselisihan dengan jumlah kasus teregistrasi mencapai 743 perkara. Mahkamah Konstitusi menunjukkan inkonsistensi dalam menerapkan ketentuan ambang batas perbedaan suara karena terdapat 24 perkara dari total 181 perkara yang diterima tidak memenuhi persentase. Keputusan Mahkamah Konstitusi untuk menerima perkara yang tidak memenuhi ambang batas perbedaan suara dinilai menyimpang dari prinsip kepastian hukum.

INTRODUCTION

Regional head elections are an essential component of implementing democratic principles and popular sovereignty at the local level. Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia stipulates that Governors as heads of provincial governments, Regents as heads of regency governments, and Mayors as heads of municipal governments shall be elected through a democratic process in accordance with their respective levels of governance. The interpretation of the term democratic within this constitutional provision has evolved in constitutional practice. Legislators ultimately opted to prioritize a mechanism whereby regional heads are elected directly by the people through regional head elections. This policy orientation was reflected in the enactment of Law Number 32 of 2004 on Regional Government, which formally regulated the direct election of regional heads. The implementation of this law consequently led to the organization of direct regional head elections across Indonesia beginning in 2005.

Regional head elections represent a form of political contestation aimed at securing public office. Such contestation often gives rise to objections from electoral participants that do not prevail following the official determination of vote recapitulation by election management bodies at the provincial, regency, or municipal levels. This situation has the potential to trigger conflicts over vote tallies in regional head elections. Disputes over regional election results were initially under the jurisdiction of the Supreme Court but were later transferred by legislative and executive decision to a Special Judicial Body with specific authority to adjudicate regional head election disputes. This arrangement was intended to be temporary pending the establishment of such a Special Judicial Body. The Constitutional Court, during this transitional period, has exercised authority to resolve disputes over regional head election results. This regulatory framework is explicitly affirmed in Article 157 paragraph (3) of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 on the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 on the Election of Governors, Regents, and Mayors into Law. Disputes concerning the determination of vote

acquisition results in regional head elections are examined and decided by the Constitutional Court until a specialized judicial institution with appropriate authority is established.

Decisions of the Constitutional Court play a crucial role in ensuring legal certainty regarding the authority of judicial institutions to resolve disputes over regional head election results. Constitutional Court Decision Number 85 of 2022 affirmed that the phrase until a body with special authority is established, as contained in Article 157 paragraph (3) of Law Number 10 of 2016, is inconsistent with the 1945 Constitution of the Republic of Indonesia and therefore no longer possesses binding legal force. This ruling has significant implications as it strengthens the Constitutional Court's position and authority in resolving disputes over regional head election results. Authority that was previously transitional has become permanent and definitive.

Provisions concerning the vote margin threshold for candidate pairs submitting petitions for the annulment of vote count results are regulated in Article 158 of Law Number 10 of 2016. The determination of vote acquisition is based on the official vote count conducted by the Provincial General Election Commission in gubernatorial elections, the Regency General Election Commission in regent elections, and the Municipal General Election Commission in mayoral elections. These provisions indicate that not all candidate pairs possess legal standing to submit objections, except for those candidate pairs that satisfy the required vote margin threshold as stipulated by statutory regulations.

Candidate pairs submitting objections to the determination of election results by regional General Election Commissions to the Constitutional Court are required to fulfill formal requirements in the form of a vote margin difference ranging from 0.5 percent to 2 percent relative to the winning candidate pair. The determination of this percentage is based on the region's population size and the conduct of the regional head election. The application of Article 158 of Law Number 10 of 2016 in judicial practice before the Constitutional Court demonstrates a degree of inconsistency. Empirical data reveal that four cases arising from the 2017 simultaneous regional head elections and two

cases from the 2018 simultaneous elections that did not meet the vote margin threshold stipulated in Article 158 of Law Number 10 of 2016 were nevertheless examined by the Constitutional Court.

The implementation of the 2020 simultaneous regional head elections exhibited a similar pattern. The Constitutional Court proceeded to examine eight petitions for the annulment of regional head election results and granted four of them submitted by candidate pairs whose vote margins exceeded the percentage thresholds stipulated in regional election regulations. The conduct of the 2024 simultaneous regional head elections once again revealed deviations, including ten disputes over regional head election results submitted by candidate pairs for governor, regent, and mayoral positions, which did not satisfy the formal requirements for filing petitions.

The imposition of administrative requirements in the form of vote margin percentages for the submission of regional head election disputes aims to prevent non-substantive lawsuits that could disrupt political stability while simultaneously expediting the determination of elected regional heads. This policy is intended to realize legal certainty and judicial efficiency (Khastama & Wardana, 2023). Such administrative requirements also raise legal issues in light of the principles of a state governed by the rule of law (Azahary, 1995). Theoretical perspectives on the rule of law emphasize that every individual possesses equal constitutional rights to legal protection and equal treatment before the law (Handayani & Anggraini, 2019). The imposition of formal requirements in the form of vote-margin percentages can undermine this principle by restricting citizens' access to justice through judicial mechanisms. The norm in Article 158 of Law Number 10 of 2016 meets the clarity requirement and emphasizes a high degree of predictability. This condition simultaneously opens the possibility that substantive justice, which constitutes the primary objective of a state governed by the rule of law, may be neglected. Based on the foregoing discussion, this study examines the formal requirements for filing disputes over regional head election results and analyzes the problems arising from the application of vote margin thresholds in the filing process.

METHODS

The preparation of this study employs a normative legal research method. Normative legal research involves examining relevant legal materials, both primary and secondary, related to the subject matter under discussion (Nasution, 2008). Primary legal materials consist of statutory regulations, court decisions, and official state documents that have binding legal force and are relevant to the study's object. Secondary legal materials include legal textbooks, scholarly journals, prior research findings, and opinions of legal scholars that provide explanations and interpretations of primary legal materials. This study focuses on legal norms positioning positive law as the body of rules contained in statutory regulations, understood as binding guidelines applicable to society (Efendi & Ibrahim, 2018). The approaches applied in this study include the statutory, conceptual, and case approaches. A historical approach is also employed to examine the background and rationale underlying the formulation of legal norms within statutory regulations. Data analysis in this study is carried out using a qualitative method, interpreting, examining, and systematically correlating primary and secondary legal materials to derive conclusions consistent with the issues under investigation.

RESULTS AND DISCUSSION

Formal Requirements for Filing a Petition to Annul the Results of Regional Head Elections

Regulatory reforms concerning regional head elections represent a significant development in strengthening the democratic system at the local level. Government Regulation in Lieu of Law Number 1 of 2014 on the Election of Governors, Regents, and Mayors was enacted as Law Number 1 of 2015 following approval by the House of Representatives. This regulation constitutes an important milestone in the history of regulating regional head election contests in Indonesia. Provisions governing regional head elections were previously incorporated into laws regulating regional governance in general. Law Number 1 of 2015 provides a more detailed and systematic operational framework for the conduct of political contests at the local level, while simultaneously reflecting the legislature's effort to enhance legal certainty in regional democratic processes.

Law Number 1 of 2015 sets forth provisions on dispute-resolution mechanisms for disagreements over the final vote tally determined by regional election organizers. This mechanism serves as a means of resolution for candidate pairs that consider themselves disadvantaged by the vote count determination issued by the Provincial, Regency, or Municipal General Election Commission through the submission of objections known as disputes over regional head election results. The legislature granted the Supreme Court authority to adjudicate disputes over regional head election results, with the technical exercise of this authority delegated to the High Courts. This arrangement marked the return of jurisdiction over regional head election result disputes to the Supreme Court after approximately eight years during which such disputes had been handled entirely by the Constitutional Court.

Policy changes regarding the institution authorized to adjudicate disputes over regional head election results emerged from evolving constitutional dynamics and legal thought. The authority to examine and decide disputes over regional head election results was reassigned to the Constitutional Court by amending Law Number 1 of 2015 into Law Number 8 of 2015. Provisions regarding the Constitutional Court's authority to examine, adjudicate, and decide disputes over regional head election results are stipulated in Article 157 paragraph (3) of Law Number 8 of 2015, which states that disputes concerning the determination of vote results shall be examined and decided by the Constitutional Court until a Special Judicial Body is established. The second amendment to the law maintained the Constitutional Court's authority to adjudicate disputes over regional head election results despite differences in the wording of the legislation.

Article 157 paragraph (3) of Law Number 8 of 2015 explicitly states that disputes concerning the final vote tally of elections shall be examined and adjudicated by the Constitutional Court until the establishment of a special court. Recent developments are reflected in Constitutional Court Decision Number 85 of 2022, which carries significant implications for the nature of this authority. The decision declared the provisions of Article 157 paragraphs (1) and (2) of Law Number 8 of 2015 unconstitutional,

thereby affecting the nature of the Constitutional Court's authority as regulated in Article 157 paragraph (3) of the same law. The authority of the Constitutional Court in resolving disputes over regional head election results is no longer temporary but has become permanent.

The requirements for candidate pairs for regional head and deputy regional head seeking to submit petitions for the annulment of vote count determinations are stipulated in Law Number 8 of 2015. Article 156 paragraph (2) of Law Number 8 of 2015 explains that the vote margin that may serve as the basis for a petition must be significant and capable of affecting the final determination of the elected candidate pair. This provision indicates that candidate pairs filing petitions to annul vote count results must demonstrate the existence of a vote margin that can materially alter the election outcome. Fulfillment of this requirement must also be accompanied by compliance with the vote margin threshold as regulated in Law Number 10 of 2016.

The vote margin threshold based on population size is comprehensively regulated in Article 158 paragraphs (1) and (2) of Law Number 10 of 2016. Provinces with a population of fewer than 2,000,000 inhabitants require a vote margin of 2%, populations exceeding 2,000,000 up to 6,000,000 require 1.5%, populations between 6,000,000 and 12,000,000 require 1%, and provinces with populations exceeding 12,000,000 require 0.5%. Regencies or municipalities with populations below 250,000 require a vote margin of 2%, populations between 250,000 and 500,000 require 1.5%, populations between 500,000 and 1,000,000 require 1%, and populations exceeding 1,000,000 require 0.5%. Petitions for the annulment of regional head election results must satisfy several requirements, namely the existence of a significant discrepancy between the vote count determined by the election organizers and the vote count asserted by the petitioner candidate pair, as well as compliance with the vote margin threshold ranging from 0.5% to 2%.

The regulation of vote margin thresholds was influenced by prior experience resolving disputes over regional head election results, particularly following the transfer of dispute-resolution authority from the Supreme Court to the Constitutional Court. This condition

led to a significant increase in the number of election result dispute petitions submitted to the Constitutional Court, giving rise to the perception that the Court serves as a forum for resolving all regional head election disputes. The absence of clear benchmarks regarding structured, systematic, and massive violations further complicated the adjudication process, especially because the Constitutional Court assesses not only vote totals but also procedural violations that may affect election outcomes. The formulation of Article 158 of Law Number 10 of 2016 was intended to limit the submission of regional head election result disputes. The application of thresholds for filing disputes before the Constitutional Court constitutes a norm that should be maintained as it ensures that only cases with genuine significance to candidate selection are adjudicated, preventing the Court from becoming a channel for the expression of all forms of political dissatisfaction.

The application of such thresholds is not intended to negate justice or legal certainty. Vote margin thresholds aim to control the volume of election result disputes submitted to the Constitutional Court. The application of thresholds in Constitutional Court Decision Number 14/PHP.BUP-XV/2017 reflects the legalistic approach, which prioritizes legal certainty and statutory compliance, albeit at the expense of limiting substantive examination of electoral violations (Sofian, 2020). Considerations of potential political instability and the unrestricted use of constitutional rights to challenge regional head election results underscore the need to secure constitutional justice through clear statutory regulation. The formulation of Article 158 of Law Number 10 of 2016 was motivated by two primary considerations, namely reducing the number of election result disputes and fostering a more mature political ethics and culture (Anggono, 2020). Experience from the implementation of regional head elections across various regions demonstrates a significant increase in the number of petitions submitted to the Constitutional Court.

Problems of the Application of the Vote Margin Threshold on Regional Head Election Result Disputes

The application of the vote margin percentage in Constitutional Court Decision Number 115/PHP.KOT-XIX/2021 places the

Constitutional Court in a dilemmatic position between formal legal certainty and substantive justice. The vote margin threshold functions as a procedural instrument that effectively limits access to judicial review of alleged electoral violations that may affect the final vote count (Fazhara, Santoso, & Pandiangan, 2025). The regulation of the threshold is also intended to foster political maturity within Indonesian society, particularly among regional head candidate pairs, to discourage the indiscriminate submission of petitions seeking to annul regional head election results. The implementation of the vote margin threshold is closely linked to the institutional design of direct regional head elections conducted through a simultaneous election model, which has been agreed upon by the lawmakers. The conduct of simultaneous regional head elections has the potential to increase the number of candidate pairs that reject the election outcome and subsequently pursue legal remedies before the panel of judges of the Constitutional Court to obtain decisions deemed most favorable to their interests.

Simultaneous regional head elections in Indonesia have been conducted in several waves. The first wave was held on 9 December 2015 in 269 regions. The second wave was conducted in 2017 for regional heads whose terms of office ended between July and December 2016, as well as those whose terms expired in 2017. The third wave of simultaneous regional head elections took place in 2018 for regional heads whose terms ended that year, followed by the 2020 simultaneous regional head elections held for regional heads and deputy regional heads elected in December 2015. The national simultaneous regional head elections were conducted on 27 November 2024 to elect provincial, regency, or municipal regional heads throughout the territory of the Unitary State of the Republic of Indonesia.

The simultaneous regional head elections held from 2015 to 2024 covered both provincial, regency, and municipal levels. Regional head elections in 2015 were conducted in 9 provinces, 224 regencies, and 36 cities; in 2017, in 7 provinces, 76 regencies, and 18 cities; in 2018, in 17 provinces, 115 regencies, and 39 cities; in 2020, in 9 provinces, 224 regencies, and 73 cities; and in 2024, in 37 provinces, 415 regencies, and 259 cities. Simultaneous regional

head elections at the provincial, regency, and municipal levels were held in 1,356 regions. The conduct of regional head elections from 2015 to 2024 has not been free from various problems or electoral irregularities. These conditions have contributed to an increasing number of regional head candidate pairs bringing election result disputes before the Constitutional Court.

The first wave of simultaneous regional head elections was held on 9 December 2015 across 269 regions, comprising 9 provinces, 224 regencies, and 36 cities. The Constitutional Court recorded 152 petitions submitted by regional head candidate pairs originating from 7 provinces, 118 regencies, and 12 cities. These petitions were registered as cases concerning disputes over regional head election results. Cases totaling 132 were filed by regent candidate pairs, 13 by mayoral candidate pairs, and 7 by gubernatorial candidate pairs. The Constitutional Court, from 2015 until the end of 2016, resolved all registered disputes concerning regional head election results. The resulting decisions varied, including rulings declaring petitions withdrawn, rejected, granted, or inadmissible due to the filing deadline having expired. Several cases were decided as administrative violations, others were declared to involve incorrect objects of dispute, one case was found not to meet statutory requirements, and two cases were filed by parties that were not candidate pairs. Petitions that failed to satisfy the vote margin threshold requirement were explicitly declared inadmissible.

The second wave of simultaneous regional head elections was held on 15 February 2017 across 101 regions, comprising 7 provinces, 78 regencies, and 18 cities. The Constitutional Court recorded a total of 60 petitions concerning disputes over regional head election results originating from 4 provinces, 37 regencies, and 9 cities. Candidate pairs submitted the majority of petitions, accounting for 53 cases, while the remaining petitions were filed by prospective candidates, civil society organizations serving as election monitors, and individual applicants. The Constitutional Court had resolved all registered cases with variations in rulings, with 7 cases rejected, 2 granted, and 51 declared inadmissible due to the expiration of the filing deadline. Several other cases were declared to lack an object of dispute, one case proceeded

to the vote recount stage, several cases failed to meet the vote margin threshold requirement as stipulated in Article 158 of Law Number 10 of 2016, and two cases were declared to lack legal standing. The Constitutional Court exempted the application of the vote margin threshold in four regions, including Intan Jaya Regency, Tolikara Regency, Puncak Jaya Regency, and Yapen Islands Regency.

The third wave of simultaneous regional head elections was held on 27 June 2018 in 171 regions, comprising 17 provinces, 115 regencies, and 39 cities. The Constitutional Court recorded 72 petitions concerning formally registered disputes over regional head election results. Totaling 66 cases were submitted by candidate pairs, while the remainder were filed by non-candidate pair parties and election observers. All cases were adjudicated by the Constitutional Court, resulting in 2 granted, 6 rejected, 1 withdrawn, 61 declared inadmissible, and 2 dismissed. The cases declared inadmissible included 5 that fell outside the Constitutional Court's jurisdiction, 17 that were filed beyond the statutory time limit, and 39 that failed to meet the vote margin threshold. Exceptions to the threshold provision were made in two cases, including the elections for the Regent and Deputy Regent of Mimika and Paniai, which were nevertheless allowed to proceed to the subsequent examination stage.

The fourth wave of simultaneous regional head elections was held on 9 December 2020 across 270 regions, comprising 9 provinces, 224 regencies, and 73 cities. The Constitutional Court registered 150 petitions concerning disputes over regional head election results, the majority of which were submitted by candidate pairs. The examination of these cases was carried out in 2021 and resulted in 148 decisions, comprising 22 cases granted, 18 cases rejected, 101 cases declared inadmissible, 7 cases withdrawn, 3 cases declared outside the jurisdiction of the Constitutional Court, and 2 cases declared dismissed. Exceptions to the application of the vote margin threshold were made in eight cases, all of which were allowed to proceed to the evidentiary stage.

The fifth wave of simultaneous regional head elections was held on 27 November 2024 across 545 regions, comprising 37 provinces, 415 regencies, and 93 cities. The Constitutional Court received a total of 310 petitions concerning

disputes over regional head election results. The Court's decisions on these cases included 270 cases declared inadmissible, 29 cases withdrawn, 6 cases declared outside the Court's jurisdiction, 8 cases dismissed, 26 cases granted, and 9 cases rejected. Exceptions to the application of the vote margin threshold were made in ten cases, all of which were nevertheless examined and granted.

The Constitutional Court registered a total of 743 cases during the implementation of simultaneous regional head elections from 2015 to 2024. These cases included 181 that were declared admissible, while 24 cases were accepted notwithstanding their failure to satisfy the vote margin threshold requirement as stipulated in Article 158 of Law Number 10 of 2016. This development indicates a shift in the Constitutional Court's approach to applying the vote-margin threshold norm in an absolute manner, particularly during the simultaneous regional head elections held between 2017 and 2024.

The Constitutional Court initially applied the vote margin threshold strictly in the adjudication of disputes over regional head election results. This approach is reflected in the legal reasoning of Constitutional Court Decision Number 123/PHP.BUP-XIV/2016 concerning the dispute over the results of the 2015 election of the Regent and Deputy Regent of Raja Ampat Regency, West Papua Province. The Constitutional Court stated that the regional head election regime currently in force constitutes a distinct electoral regime, whereas under the previous statutory framework, namely Law Number 22 of 2007 as later amended by Law Number 15 of 2011, regional head elections were classified as part of the general election regime. This distinction between electoral regimes carries significant implications for the authority of the Constitutional Court in resolving disputes over regional head election results. The settlement of general election disputes grants the Constitutional Court broader discretion to exercise its constitutional authority as mandated by the 1945 Constitution of the Republic of Indonesia. The resolution of regional head election disputes places the Court within the confines and limitations expressly stipulated by statute. The Constitutional Court further held that the formal requirements for submitting disputes over regional head election

results apply equally to all candidate pairs without exception.

The conduct of subsequent simultaneous regional head elections reveals inconsistencies in the Constitutional Court's application of the vote-margin threshold under Article 158 of Law Number 10 of 2016. This practice became evident in the adjudication of regional head election disputes in 2017, as the Constitutional Court postponed and set aside the application of formal requirements in four petitions originating from Intan Jaya Regency, Tolikara Regency, Puncak Jaya Regency, and Yapen Islands Regency. The Constitutional Court ordered the respective Regency Election Commissions to conduct a revoting (Faiz, 2018). A similar pattern occurred in the adjudication of election disputes in Mimika Regency and Paniai Regency, with the Constitutional Court continuing to examine the cases despite the non-fulfillment of formal requirements.

The disregard of the vote-margin threshold provision resurfaced during the simultaneous regional head elections of 2020. Available data indicate that eight disputes failed to meet the formal vote margin threshold stipulated in Law Number 10 of 2016. These petitions were allowed to proceed to the evidentiary stage, namely in the elections for the Mayor and Deputy Mayor of Banjarmasin, and the Regent and Deputy Regent of Bandung, Yalimo, West Pesisir, Nabire, South Nias, Samosir, and Boven Digoel. The Constitutional Court again demonstrated a similar stance in handling disputes arising from the nationwide gubernatorial, regency, and mayoral elections in 2024. The Constitutional Court granted several petitions that did not meet the formal requirements for filing election disputes and ordered revoting in several regions, either partially or across the entire electoral area. These regions included Pasaman Regency, Tasikmalaya Regency, Boven Digoel Regency, Mahakam Ulu Regency, Kutai Kartanegara Regency, Pesawaran Regency, Serang Regency, Parigi Moutong Regency, Taliabu Island Regency, and Banjarbaru City.

The Constitutional Court's setting aside of the vote margin threshold may be regarded as a progressive step, as it does not merely focus on numerical vote differences but also opens space for substantive consideration of the evidence presented by the petitioner. This

approach is viewed as providing a broader scope for judicial review of candidate pairs, even in cases with a statutory vote margin threshold that has been exceeded (Faiz, 2018). This perspective is reinforced by the Constitutional Court's 2018 decisions in adjudicating regional head election disputes, which affirm that under certain circumstances, the Constitutional Court may disregard the formal requirements for examining such disputes.

Indonesia's existence as a state governed by law is explicitly stipulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The fundamental objectives of establishing a state include creating legal certainty, equal treatment before the law, democratic legitimacy, and fulfilling moral needs (Suseno, 1994). Scheltema asserts that the elements and principles of a state governed by law encompass five core aspects include the protection of human rights, legal certainty, equality before the law, democracy, and the achievement of public welfare (Sidharta, 2004). The recognition and protection of human rights are rooted in respect for human dignity. The principle of legal certainty holds that the state aims to guarantee its realization in social life. Law functions to ensure a high degree of certainty and predictability. The principle of equality before the law holds that no privileges are granted by the government to particular individuals or groups, thereby preventing discrimination against any person or group. The democratic principle affirms that every citizen possesses equal rights and opportunities to participate in governance or to influence the exercise of governmental power. The government and public officials are responsible for promoting public welfare in line with national objectives.

The enforcement of Article 158 of Law Number 10 of 2016 is considered inconsistent with the doctrine of the rule of law, particularly with respect to the principle of legal certainty. Gustaf Radbruch, through the doctrine of fixed priority, defines legal certainty as a condition characterized by compliance with enacted law (Simorangkir, 1983). Legal certainty may also be understood as a set of legal rules within a state that clearly and unequivocally guarantees the rights and obligations of every citizen (Remaja, 2014). The principle of legal certainty provides citizens with knowledge of actions permitted and

conduct prohibited by the state. Legal certainty constitutes a guarantee of the enforcement of law and judicial decisions that confer rights upon individuals in accordance with applicable legal provisions (Mertokusumo, 2007). Law must embody the value of legal certainty, as it is intended to create an orderly society and prevent social unrest. Law is not merely manifested in written norms contained in legislation; it must also ensure that its application does not give rise to divergent interpretations. Fenc M. Wantu emphasizes the importance of legal certainty, stating that law devoid of certainty cannot function as a guiding norm (Prayogo, 2016). Legal certainty serves as a means of legal protection for citizens against potential violations by the state (Manulang, 2007). Legal certainty thus serves as a benchmark for assessing state actions, both permissible and prohibited.

The application of Article 158 of Law Number 10 of 2016 in resolving disputes over regional head election results from 2017 to 2024 has not fully aligned with the principle of legal certainty, a defining characteristic of a state governed by law. The regulation of the vote margin threshold is a legislative policy choice that limits the Constitutional Court's authority to prevent post-election conflict escalation and maintain national stability. Such limitations raise constitutional concerns about the guarantee of the right to justice and equal legal protection (Anggono, 2018). The Constitutional Court frequently sets aside or postpones the enforcement of administrative requirements in the form of vote margin percentages in examining disputes over regional head election results, even though such measures are intended to achieve substantive justice.

Legal norms formulated by lawmakers must possess clear standards of certainty. Legal certainty provides guarantees of clarity and predictability for all citizens in social life (Mahfud, 2006). The principle of legal certainty is particularly relevant in the regulation of regional head elections, as the governing rules must ensure procedural clarity and avoid norms that could lead to multiple interpretations (Siahaan, 2012). Elections cannot be considered democratic if legal uncertainty arises (Rikardo, 2023). Article 158 of Law Number 10 of 2016 was primarily intended to clarify which candidate pairs have legal standing to challenge regional head

election results before the Constitutional Court. Empirical realities demonstrate deviations from this design, resulting in the marginalization of the principle of legal certainty embodied within the provision.

CONCLUSION

The application for the annulment of regional head election results must satisfy two requirements, including the existence of a discrepancy in vote counts between the results determined by the election management body and the calculation presented by the applicant, and compliance with the vote margin threshold ranging from 0.5 percent to 2 percent as stipulated in Article 158 of Law Number 10 of 2016. The implementation of simultaneous regional head elections from 2015 to 2024 has generated a significant number of disputes, totaling 743 cases officially registered. The Constitutional Court has demonstrated inconsistency in applying the vote margin threshold, as 24 of 181 cases accepted for examination did not meet the prescribed percentage threshold. The Constitutional Court's decision to accept cases that fail to meet the vote-margin threshold is considered to deviate from the principle of legal certainty. The regulation of the vote margin threshold is intended to limit the Constitutional Court's authority so that it may adjudicate disputes over regional head election results in an objective and non-discriminatory manner.

REFERENCES

- Anggono, B. D. (2018). Pembatasan Pengajuan Perkara Sengketa Hasil Pemilihan Kepala Daerah di Mahkamah Konstitusi dan Implikasinya terhadap Jaminan Keamanan Nasional. *Media Pembinaan Hukum Nasional*, 7(3), 393–410.
- Azhary. (1995). *Negara Hukum Indonesia: Analisis Yuridis Normatif tentang Unsur-Unsurnya*. Yogyakarta: UII Press.
- Efendi, J., & Ibrahim, J. (2018). *Metode Penelitian Hukum Normatif dan Empiris*. Depok: Prenada Media Group.
- Faiz, P. M. (2018). Efektivitas Ambang Batas Sengketa Hasil Pilkada. *Majalah Konstitusi*, 2018(138), 79-80.
- Fazhara, C., Santoso, H. B., & Pandiangan, W. R. (2025). Ambang Batas Sengketa Hasil Pilkada di Mahkamah Konstitusi: Analisis Putusan 115/PHP.KOT-XIX/2021 dan Implikasi Penerapan Persentase Suara. *Jurnal Ilmu Hukum*, 10(1), 45–57.
- Handayani, F., & Anggraini, L. (2019). Implementasi Hak Konstitusional Warga Negara oleh Mahkamah Konstitusi menurut Sistem Ketatanegaraan di Indonesia. *Riau Law Journal*, 3(1), 44–69.
- Khastama, I., & Wardana, D. J. (2023). Analisis Yuridis terhadap Tingkat Efisiensi Penyelesaian Perselisihan Hasil Pemilukada oleh MK. *UNES Law Review*, 6(2), 6093–6104.
- Mahfud MD. (2006). *Membangun Politik Hukum Menegakkan Konstitusi*. Jakarta: Pustaka LP3ES.
- Manulang, F. (2007). *Hukum dalam Kepastian*. Bandung: Prakarsa.
- Mertokusumo, S. (2007). *Mengenal Hukum: Suatu Pengantar*. Yogyakarta: Liberty.
- Nasution, B. J. (2008). *Metode Penelitian Ilmu Hukum*. Bandung: Mandar Maju.
- Prayogo, R. T. (2016). Penerapan Asas Kepastian Hukum dalam Peraturan Mahkamah Agung Nomor 1 Tahun 2011 tentang Hak Uji Materiil dan dalam Peraturan Mahkamah Konstitusi Nomor 06/PMK/2005 tentang Pedoman Beracara dalam Pengujian Undang-Undang. *Jurnal Legislasi Indonesia*, 13(2), 191–201.
- Remaja, N. G. (2014). Makna Hukum dan Kepastian Hukum. *Kertha Widya: Jurnal Hukum*, 2(1), 1–26.
- Republik Indonesia. (2004). Undang-Undang Nomor 32 Tahun 2004 tentang Pemerintahan Daerah. Lembaran Negara Republik Indonesia Tahun 2004 Nomor 125. Tambahan Lembaran Negara Republik Indonesia Nomor 4437.
- Republik Indonesia. (2011). Undang-Undang Nomor 15 Tahun 2011 tentang Penyelenggara Pemilihan Umum. Lembaran Negara Republik Indonesia Tahun 2011 Nomor 101. Tambahan Lembaran Negara Republik Indonesia Nomor 5246.
- Republik Indonesia. (2016). Undang-Undang Nomor 10 Tahun 2016 tentang Perubahan Kedua Atas Undang-Undang Nomor 1 Tahun 2015 tentang Penetapan Peraturan Pemerintah Nomor 1 Tahun 2014 tentang Pemilihan Gubernur, Bupati, dan Walikota Menjadi Undang-Undang. Lembaran

- Negara Republik Indonesia Tahun 2016 Nomor 130. Tambahan Lembaran Negara Republik Indonesia Nomor 5898.
- Rikardo, O. (2023). Kewenangan Konstitusional Mahkamah Konstitusi dalam Memutus Sengketa Hasil Pemilu dan Pilkada. *Jurnal Hukum Sasana*, 9(1), 9–30.
- Siahaan, P. (2012). *Politik Hukum Pembentukan Undang-Undang Pasca Amandemen UUD 1945*. Jakarta: Konpress.
- Sidharta, B. A. (2004). Kajian Kefilsafatan tentang Negara Hukum. *Jurnal Hukum*, 1(3), 124–125.
- Simorangkir. (1993). *Hukum dan Konstitusi Indonesia*. Jakarta: Gunung Agung.
- Sofian, M. (2020). Penerapan Ambang Batas Sengketa Hasil Pilkada pada Putusan Mahkamah Konstitusi No. 14/PHP. BUP-XV/2017 tentang Perselisihan Hasil Pemilihan Bupati dan Wakil Bupati Tolikara. *Media of Law and Sharia Journal*, 1(3), 133–150.
- Suseno, F. M. (1994). *Etika Politik Prinsip-Prinsip Moral Dasar Kenegaraan Modern*. Jakarta: Gramedia.