



DECISION

Number 81/PUU-IX/2011

FOR THE SAKE OF JUSTICE UNDER THE ONE ALMIGHTY GOD

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF INDONESIA

[1.1] Hearing constitutional cases at the first and final level, has passed a decision in the case of petition for Judicial Review of Law Number 15 Year 2011 concerning General Election Organizer under the 1945 Constitution of the State of the Republic of Indonesia, filed by:

- [1.2]** 1. **Indonesian Parliamentary Center (IPC)**, having its address at Jalan Teuku Cik Ditiro 37A, Pav. Menteng, Menteng, Central Jakarta, in this case represented by Sulastio (Director);
2. ***Perkumpulan untuk Pemilu dan Demokrasi (Perludem)***, having its address at Gedung Dana Graha 1st Floor, Room 108, Jalan Gondangdia Kecil Number 12-14, Central Jakarta, in this case represented by Titi Anggraini (Executive Director)
3. ***Yayasan Soegeng Sarjadi***, having its address at Wisma Kodel 11th floor, Jalan HR Rasuna Said, Kavling B-4, Kuningan, South Jakarta, in this case represented by Toto

Sugiarto (Director);

4. **Center for Electoral Reform (CETRO)**, having its address at Jalan Rasamala Number 3, Menteng Dalam, Tebet, South Jakarta, in this case represented by Hadar Gumay (Executive Director);
5. **Jaringan Pendidikan Pemilih untuk Rakyat (JPPR)**, having its address at Jalan Manggarai Utara I, Neighborhood Ward (RT) 007, Neighborhood Block (RW) 01, Manggarai Sub-District, Tebet District, South Jakarta, in this case represented by Yusfitriadi (National Coordinator);
6. **Konsorsium Reformasi Hukum Nasional (KRHN)**, having its address at Jalan Tebet Utara II Number 13, Tebet, South Jakarta, in this case represented by Firmansyah Arifin (Chairperson of the Executive Board);
7. **Lembaga Pendidikan Gerakan Rakyat (ELPAGAR)**, having its address at Jalan Abdurrahman Saleh, GG. Abdurrahman Saleh 3 Number 7, South East Pontianak, West Kalimantan, in this case represented by Pubertus Ipur (Director);
8. **Legislative Watch Committee (Komite Pemantau Legislatif) of Sulawesi**, having its address at DG. Tata IV Komp Griya Tata Asri D.5, Neighborhood Ward (RT) 009, Neighborhood Block (RW) 002, Parang Tambung, Tamalate, Makassar City, South Sulawesi, in this case represented by Syamsuddin Alimsyah (General Chairman);

9. ***Kebijakan dan Reformasi Hukum (SKRUM) Makassar***, having its address at Jalan Sunu Komp Unhas Block P.15, Neighborhood Ward (RT) 003 Neighborhood Ward (RW) 003, Lembo, Tallo, Makassar City, South Sulawesi, in this case represented by Muhammad Ramli, S.H., M.Si. (Chairman);
10. ***Yayasan Manikaya Kauci***, having its address at Padang Sari Complex VII/11, Padang Sari, Padang Sambian, West Denpasar, Denpasar, Bali, in this case represented by Gunadjar, S.H. (Chairman);
11. ***Yayasan Lembaga Studi Kebijakan Publik***, having its address at Jalan AP. Pettarani, IIIC/99, Makassar, South Sulawesi, in this case represented by Salma Tadjang (Executive Secretary);
12. **Centre of Society Development for Democracy (COSDEC)**, having its address at Klipang RT/RW 002/001, Sendangmulyo, Tembalang, Semarang, Central Java, in this case represented by Abhan, S.H. (Executive Director);
13. ***Lembaga Partisipasi Perempuan (LP2)***, having its address at Jalan Abadi III Number 57 Neighborhood Ward (RT) 06, Neighborhood Block (RW) 10, Geger Kalong, Bandung City, Central Java, in this case represented by Adriana Venny Aryani (Board of Trustees);
14. **Aceh Judicial Monitoring Institute (AJMI)**, having its address at Jalan Banda Aceh - Medan Km. 4, Lor. Swalayan

Ardila, Menasah Mayang, Ingin Jaya, Aceh Besar, Aceh, in this case represented by Agusta Mukhtar (Executive Director);

15. ***Masyarakat Transparansi Aceh (MaTA)***, having its address at Jalan Pang Akop Number 5B, Gampoeng Simpang Empat, Lhokseumawe City, Aceh, in this case represented by Alfian Husein (Executive Director);
16. ***Trade Union Care Center (TUCC)***, having its address at Jalan T. Umar, Lor Bakti Number 1, Geuceu Kayee Jato Village, Banda Aceh, Aceh, in this case represented by Arnif Muhammad (Executive Director);
17. ***Gerakan Anti Korupsi (GERAK) of Aceh***, having its address at Jalan Prada Utam, Lor. Kelapa Number 2, Banda Aceh, Aceh, in this case represented by Askhalani (Executive Director);
18. ***The Aceh Institute***, having its address at Jalan Sawah Number 20, Lamteh, Ulee Kareng, Banda Aceh, Aceh, in this case represented by Chairul Fahmi (Executive Director);
19. ***Achehnese Civil Society Task Force (ACSTF)***, having its address at Jalan Merak Number 46 D, Neusu Aceh, Banda Aceh, Aceh, in this case represented by Juanda Jamal (Secretary General);
20. ***Forum Lembaga Swadaya Masyarakat (LSM) of Aceh***, having its address at Jalan T. Iskandar Number 56, Lambhuk,

Banda Aceh, Aceh, in this case represented by Sudarman (Secretary General);

21. ***Mitra Sejati Perempuan Indonesia (MISPI) of Aceh***, having its address at Jalan Sokarno Hatta Number 6, Aceh Besar, Aceh, in this case represented by Syarifah Rahmatillah (Executive Director);

22. ***Forum Komunikasi Laki-Laki dan Perempuan (FORKOLAPAN)***, having its address at Jalan Gabus Number 34B, Lamprit, Banda Aceh, Aceh, in this case represented by Tasmia Emsa (Executive Director);

23. ***Indonesian Forum for the Environment of Wahana Lingkungan Hidup Indonesia (WALHI) of Aceh***, having its address at Jalan Tgk. Ma'in Lor. Kr. Do. II, Lambhuk, Banda Aceh, Aceh, in this case represented by Teuku Muhammad Zulfikar (Executive Director);

24 Name : **Sukardi Rinakit**

Occupation : Lecturer

Address : Jalan H. Dahlan Rawa Domba, Neighborhood Ward (RT) 001, Neighborhood Block (RW) 007, Duren Sawit, East Jakarta;

25 Name : **Muhammad Dahlan**

Occupation : Assistant of People's Legislative Assembly of the Republic of Indonesia

- Address : Jalan Raya Tugu Number 31,
Neighborhood Ward (RT) 010,
Neighborhood Block (RW) 006, Cilincing,
North Jakarta;
- 26 Name : **Ridho Imawan Hanafi**
- Occupation : Employee
- Address : Jalan Perjuangan, Neighborhood Ward
(RT) 010, Neighborhood Block (RW) 007,
Kebon Jeruk, West Jakarta;
- 27 Name : **August Mellaz**
- Occupation : Private Sector Employee
- Address : Jalan Teratai Number 16, Neighborhood
Ward (RT) 001, Neighborhood Block (RW)
013, Duren Sawit, East Jakarta;
- 28 Name : **Wahyu Dinata**
- Occupation : College Student
- Address : Jalan Kramat Pulo Gundul, Neighborhood
Ward (RT) 011, Neighborhood Block (RW)
009, Johar Baru, Central Jakarta;
- 29 Name : **Erik Kurniawan**
- Occupation : Private Sector Employee
- Address : Jalan Kampung Baru Number 3,
Neighborhood Ward (RT) 007,
Neighborhood Block (RW) 007, Pulo

Gadung, East Jakarta;

- 30 Name : **Desiana Samosir**
Occupation : Private Person
Address : Desa Sukamenanti, Neighborhood Ward
(RT) 002, Neighborhood Block (RW) 003,
Bukit Kemuning, North Lampung;
- 31 Name : **Danardono Siradjudin**
Occupation : Private Sector Employee
Address : Jalan H. Iming Number 2, Beji, Depok
City, West Java;
- 32 Name : **Ratri Suspandriarsih**
Occupation : Private Sector Employee
Address : Jalan Cipinang Muara III Kav. PLN,
Neighborhood Ward (RT) 012,
Neighborhood Block (RW) 015,
Jatinegara, East Jakarta;
- 33 Name : **Desi Anggraeni**
Occupation : Employee of Indonesian Parliamentary
Center (IPC)
Address : Perum Puri Cendana Block B.5 Number 2,
Neighborhood Ward (RT) 007,
Neighborhood Block (RW) 018, South
Tambun, Bekasi;
- 34 Name : **Ahmad Hanafi**

- Occupation : Student
- Address : Lagoa Trs GG.V. C1, Neighborhood Ward
(RT) 012, Neighborhood Block (RW) 004,
Koja, North Jakarta;
- 35 Name : **Arbain**
- Occupation : Private Sector Employee
- Address : Komplek PAM Number 61 C,
Neighborhood Ward (RT) 009,
Neighborhood Block (RW) 006, Tanah
Abang, Central Jakarta;
- 36 Name : **Nur Asiah Jamil**
- Occupation : Private Sector Employee
- Address : Jalan Cilobak IV Number 43,
Neighborhood Ward (RT) 004,
Neighborhood Block (RW) 007, Cinere,
Depok City;
- 37 Name : **Josep Kristiadi**
- Occupation : Lecturer
- Address : Jalan Dahlia Number 11, Neighborhood
Ward (RT) 014, Neighborhood Block (RW)
001, Palmerah, West Jakarta;
- 38 Name : **Reza Syawawi**
- Occupation : Private Sector Employee
- Address : Jalan Teratai Neighborhood Ward (RT)

004, Neighborhood Block (RW) 006,
Lubuk Begalung, Padang, West
Sumatera;

- 39 Name : **Risfa Neltasia**
Occupation : College Student
Address : Jalan Veteran Number 194 A Jirek, Bukit
Tinggi, West Sumatera;
- 40 Name : **Teguh Setiono**
Occupation : Private Sector Employee
Address : Pura Bojong Gede, Block D-5/18,
Neighborhood Ward (RT) 03,
Neighborhood Block (RW) 02,
Tajurhalang, Bogor, West Java;
- 41 Name : **Vidya Dyasanti**
Occupation : TII Researcher
Address : Jalan KH. Mahmud Raya Number 19,
Neighborhood Ward (RT) 001,
Neighborhood Block (RW) 004, Pancoran,
South Jakarta;
- 42 Name : **Heni Yulianto**
Occupation : TII Researcher
Address : Jalan Dukuh V Dalam Number 2,
Neighborhood Ward (RT) 015,
Neighborhood Block (RW) 004, Kramat

Jati, East Jakarta;

- 43 Name : **Rivan Prahasya, S.Hut**
Occupation : Private Sector Employee
Address : Jalan Sawo Number 1, Neighborhood
Ward (RT) 002, Neighborhood Block (RW)
007, Beji, Depok City, West Java;
- 44 Name : **Iis Yuni Lestari**
Occupation : Private Sector Employee
Address : Jalan Cikoko Barat 1, Neighborhood Ward
(RT) 002, Neighborhood Block (RW) 004,
Pancoran, South Jakarta;
- 45 Name : **Soraya**
Occupation : Employee of TII
Address : Jalan Kebon Mangga IV, Neighborhood
Ward (RT) 008, Neighborhood Block (RW)
002, Kebayoran Lama, South Jakarta;
- 46 Name : **Suci Ayuningtyas**
Occupation : College Student
Address : Taman Narogong Indah Block D 149/1,
Rawa Lumbu, Bekasi City, West Java;
- 47 Name : **Wawan Heru Suyatmiko**
Occupation : College Student
Address : Bedowo, Neighborhood Ward (RT) 001,
Jetak Village, Sidoharjo District, Sragen,

Central Java;

- 48 Name : **Agus Sarwono**
Occupation : Lecturer
Address : Jalan H. Raya, GG. DD, Neighborhood
Ward (RT) 006, Neighborhood Block (RW)
010, Kebayoran Baru, South Jakarta;
- 49 Name : **Dwipoto Kusumo**
Occupation : TII Researcher
Address : Kp. Baru, Neighborhood Ward (RT) 011,
Neighborhood Block (RW) 005, Kebon
Jeruk, West Jakarta;
- 50 Name : **Frenky Simanjuntak**
Occupation : TII Researcher
Address : Komp Green Ville R/57, Neighborhood
Ward (RT) 011, Neighborhood Block (RW)
009, Duri Kepa, Kebon Jeruk, West
Jakarta;
- 51 Name : **Lia Toriana**
Occupation : TII Researcher
Address : Pondok Sukmajaya Permai Block E 3/5,
Neighborhood Ward (RT) 001,
Neighborhood Block (RW) 002,
Sukmajaya, Depok City, West Java;
- 52 Name : **Putut Aryo Saputro**

- Occupation : Private Sector Employee
- Address : Jalan Bangbayang Regol, Number 14/15,
Neighborhood Ward (RT) 005,
Neighborhood Block (RW) 008, Dago,
Coblong, Bandung, West Java;
- 53 Name : **Syefrianti Aulia E**
- Occupation : College Student
- Address : Graha Raya Bintaro Block N-1/14,
Neighborhood Ward (RT) 001,
Neighborhood Block (RW) 008, North
Serpong, South Tangerang, Banten;
- 54 Name : **Ir. Utami Nurul Hayati**
- Occupation : Private Sector Employee
- Address : Jalan Raharja Number 23, Neighborhood
Ward (RT) 002, Neighborhood Block (RW)
008, Kebayoran Lama, South Jakarta;
- 55 Name : **Abdullah STP**
- Occupation : Private Person
- Address : Kalibata Timur, Neighborhood Ward (RT)
005, Neighborhood Block (RW) 010,
Pancoran, South Jakarta;
- 56 Name : **Ade Irawan**
- Occupation : Private Sector Employee
- Address : Kampung Bojong, Neighborhood Ward

(RT) 005, Neighborhood Block (RW) 002,
Cikupa, Tangerang, Banten;

- 57 Name : **Adnan Topan Husodo**
Occupation : Lecturer
Address : Bukit Pamulang Indah B 12/5,
Neighborhood Ward (RT) 001,
Neighborhood Block (RW) 009, Pamulang,
South Tangerang, Banten;
- 58 Name : **Dra. Ani Soetjipto, MA**
Occupation : Lecturer of UI
Address : Cempaka Putih Barat IV/1, Neighborhood
Ward (RT) 007, Neighborhood Block (RW)
003, Cempaka Putih, Central Jakarta;
- 59 Name : **Lolly Suhenty**
Occupation : Self-Employed
Address : Komp. Griya Katulampa Block D
VII/Number 4, Neighborhood Ward (RT)
004, Neighborhood Block (RW) 010, East
Bogor City, Bogor, West Java;
- 60 Name : **Topo Santoso**
Occupation : Civil Servant
Address : Bukit Rivaria C1/32, Neighborhood Ward
(RT) 001, Neighborhood Block (RW) 012,
Sawangan, Depok City, West Java;

- 61 Name : **Yuda Kusumaningsih**
Occupation : Private Sector Employee
Address : Jalan KS. Tubun Number 10,
Neighborhood Ward (RT) 004,
Neighborhood Block (RW) 005, Slipi,
Palmerah, West Jakarta;
- 62 Name : **Refly Harun**
Occupation : Researcher/Legal Consultant
Address : Jalan Melati 164, Neighborhood Ward
(RT) 05, Neighborhood Block (RW) 06,
Kebon Jeruk, West Jakarta;
- 63 Name : **Thomas A. Legowo**
Occupation : Researcher
Address : Eramas 2000 Jalan Sawo Kecil II/5,
Neighborhood Ward (RT) 003,
Neighborhood Block (RW) 014, Cakung,
East Jakarta;
- 64 Name : **Drs. Syamsuddin Haris**
Occupation : Civil Servant
Address : Jalan Nakula 7 Blok 29/3, Neighborhood
Ward (RT) 006, Neighborhood Block (RW)
022, South Bekasi, Bekasi City, West
Java;
- 65 Name : **Moch. Fadjroel Rachman, S.E.**

- Occupation : Private Sector Employee
- Address : Kawalayaan Regency Number D-2,
Neighborhood Ward (RT) 006,
Neighborhood Block (RW) 006, Buah
Batu, Bandung City, West Java;
- 66 Name : **Didik Supriyanto**
- Occupation : Journalist
- Address : Jalan Cendani IV Number 76,
Neighborhood Ward (RT) 002,
Neighborhood Block (RW) 008, Duren
Sawit, East Jakarta;
- 67 Name : **Teten Masduki**
- Occupation : Secretary General of TII
- Address : Jalan Kalimantan II/8, Neighborhood Ward
(RT) 007, Neighborhood Block (RW) 006,
Pasar Rebo, East Jakarta;
- 68 Name : **Purnomo Satrio P**
- Occupation : Student/College Student
- Address : Tapak Siring 10-II, Neighborhood Ward
(RT) 006, Neighborhood Block (RW) 011,
Tambak Sari, Surabaya City, East Java;
- 69 Name : **Said Salahudin**
- Occupation : Private Sector Employee
- Address : Jalan Kirey Neighborhood Ward (RT)

008/010. Tengah Sub-District, Kramat Jati
District, East Jakarta;

- 70 Name : **Efriza, S.IP**
Occupation : Researcher and Writer in the Field of
Democracy and Politics (Private Person)
Address : Kp. Muk, Neighborhood Ward (RT) 002,
Neighborhood Block (RW) 004,
Cengkareng, West Jakarta;
- 71 Name : **Dra. Evie Ariadne Shinta Dewi**
Occupation : Civil Servant/Lecturer
Address : Komp. Cibiru Asri Kav.A.11,
Neighborhood Ward (RT) 007,
Neighborhood Block (RW) 011,
Cibiruwetan, Cileunyi, Bandung, West
Java;
- 72 Name : **Hendi Tri Wahyano**
Occupation : Self-Employed
Address : Krajan Neighborhood Ward (RT) 022,
Neighborhood Block (RW) 003,
Kedunggebang, Tegaldillimo,
Banyuwangi, East Java;
- 73 Name : **Nengah Sukardika**
Occupation : Private Sector Employee
Address : Bjr Dina Kelodan, Tejakula, Buleleng, Bali;

- 74 Name : **Heru Gutomo**
Occupation : Private Sector Employee
Address : Perum Taman Wira Umadui, Padang
Sumbu Tengah, West Denpasar, Bali;
- 75 Name : **Jatmiko Wiwoho**
Occupation : Private Sector Employee
Address : Jalan Taman Sekar III/7, Padang
Bambian, West Denpasar, Bali;
- 76 Name : **Sri Wahyu Ananingsih, S.H., M.Hum.**
Occupation : Lecturer
Address : Perum Griya Lestari, A2/2, Neighborhood
Ward (RT) 002, Neighborhood Block (RW)
008, Gondoriyo, Ngaliyan, Semarang,
Central Java;
- 77 Name : **Turunan Gulo, SP, MSP**
Occupation : Self-Employed
Address : Jalan Pasar II Komp Villa Setia Budi
Garden Block C Number 29, Medang
Selayang, Medan, North Sumatera;
- 78 Name : **Pipit Apriani**
Occupation : Teacher
Address : Jalan Pilar II Number 23A, Neighborhood
Ward (RT) 003, Neighborhood Block (RW)
003, Kebon Jeruk, West Jakarta;

- 79 Name : **Charles Simabura**
Occupation : Civil Servant
Address : Jalan Andalas 1 Number 70B,
Neighborhood Ward (RT) 002,
Neighborhood Block (RW) 007, East
Padang, Padang, West Sumatera;
- 80 Name : **Feri Amsari, S.H., M.H.**
Occupation : Lecturer
Address : Jalan Damar Lorong Kemang,
Neighborhood Ward 28, Neighborhood
Block 8, Rimbo Tengah, Bungo, Jambi;
- 81 Name : **Miko Kamal**
Occupation : Private Sector Employee
Address : Jalan Perak Number 15, Neighborhood
Ward (RT) 001, Neighborhood Block (RW)
008, West Padang, Padang, West
Sumatera;
- 82 Name : **Nurul Firmansyah**
Occupation : Private Sector Employee
Address : Jalan Jeruk Number 52A, Neighborhood
Ward (RT) 01, Neighborhood Block (RW)
01, Gubuk Gadang, Payakumbuh, West
Sumatera;
- 83 Name : **Muhammad Fauzan Azim**

- Occupation : College Student
Address : Pauah, Jorong Lasi Mudo, Nagari Iasi,
Canduang, Agam, West Sumatera;
- 84 Name : **Ardizal, S.H.**
Occupation : Private Sector Employee
Address : Simp. Kampung Tanjung, Neighborhood
Ward (RT) 001, Neighborhood Block (RW)
005, Kuranji, Padang, West Sumatera;
- 85 Name : **Rianda Seprasia, S.H.**
Occupation : Private Sector Employee
Address : Komp Griya Elok Block C.1 Number 10,
Neighborhood Ward (RT) 003,
Neighborhood Block (RW) 007, Batuang
Taba Nan XX, Lubuk Begalung, Padang,
West Sumatera;
- 86 Name : **Wahono, S.Sos.**
Occupation : Journalist
Address : Jalan Rajawali VI/5, Tempelan, Blora,
Central Java;
- 87 Name : **Jamin**
Occupation : Private Person
Address : Banjarrejo Village, Neighborhood Ward
(RT) 010, Neighborhood Block (RW) 003,
Banjarejo, Blora, Central Java;

- 88 Name : **Maskuri, S.H.**
Occupation : Civil Servant
Address : Jepon Sub-District, Neighborhood Ward
(RT) 001, Neighborhood Block (RW) 006,
Blora, Central Java;
- 89 Name : **Setyono**
Occupation : Private Person
Address : Todanan Village, Neighborhood Ward
(RT) 001, Neighborhood Block (RW) 002,
Blora, Central Java;
- 90 Name : **Endang Sri Rahayu**
Occupation : Private Person
Address : Pelem Village, Neighborhood Ward (RT)
001, Neighborhood Block (RW) 001,
Blora, Central Java;
- 91 Name : **Siti Saptarini Kusumaningsih**
Occupation : Private Person
Address : Temengen Village, Neighborhood Ward
(RT) 006, Neighborhood Block (RW) 012,
Jati, Blora, Central Java;
- 92 Name : **Mamik Indarwati**
Occupation : Private Person
Address : Plumbon Village, Neighborhood Ward
(RT) 001, Neighborhood Block (RW) 002,

Ngawen, Blora, Central Java;

- 93 Name : **Harun Prasetyo**
Occupation : Farmer
Address : Kalisari Village, Neighborhood Ward (RT)
003, Neighborhood Block (RW) 001,
Randublatung, Blora, Central Java;
- 94 Name : **Mustadjab**
Occupation : Teacher
Address : Pilang Village, Neighborhood Ward (RT)
003, Neighborhood Block (RW) 02,
Randublatung, Blora, Central Java;
- 95 Name : **Hadi Setyanto**
Occupation : Private Person
Address : Temenggeng Village, Neighborhood Ward
(RT) 001, Neighborhood Block (RW) 004,
Jati, Blora, Central Java;
- 96 Name : **Abdul Hari**
Occupation : Private Person
Address : Karanggeneng Village, Neighborhood
Ward (RT) 001, Neighborhood Block (RW)
002, Kunduran, Blora, Central Java;
- 97 Name : **Lasmo**
Occupation : Farmer
Address : Semampir Village, Neighborhood Ward

(RT) 002 Neighborhood Block (RW) 003,
Jepon, Blora, Central Java;

- 98 Name : **Mochtar MN, S.P.**
Occupation : Private Person
Address : Ledok Village, Neighborhood Ward (RT)
001 Neighborhood Block (RW) 003,
Sambong, Blora, Central Java;
- 99 Name : **Edy Susanto**
Occupation : Farmer
Address : Sono Kidul Village, Neighborhood Ward
(RT) 004, Neighborhood Block (RW) 008,
Kundurán, Blora, Central Java;
- 100 Name : **Eko Sulono, S.T.**
Occupation : Private Person
Address : Muraharjo Village, Neighborhood Ward
(RT) 003, Neighborhood Block (RW) 001,
Kundurán, Blora, Central Java;
- 101 Name : **Siti Apuah**
Occupation : Private Person
Address : Jeruk Village, Neighborhood Ward (RT)
003, Neighborhood Block (RW) 002,
Bogorejo, Blora, Central Java;
- 102 Name : **Sutar**
Occupation : Private Person

- Address : Todanan Village, Neighborhood Ward
(RT) 005, Neighborhood Block (RW) 002,
Todanan, Blora, Central Java;
- 103 Name : **Safi'an**
- Occupation : Farmer
- Address : Tampurejo Village, Neighborhood Ward
(RT) 001, Neighborhood Block (RW) 002,
Bogorejo, Blora, Central Java;
- 104 Name : **Ali Mustofa**
- Occupation : Private Person
- Address : Sumberejo, Neighborhood Ward (RT) 001,
Neighborhood Block (RW) 001, Todanan,
Blora, Central Java;
- 105 Name : **Suyatno, S.E.**
- Occupation : Teacher
- Address : Sambong Village, Neighborhood Ward
(RT) 002, Neighborhood Block (RW) 001,
Sambong, Blora, Central Java;
- 106 Name : **M. Nurrosyidin, S.Ag.**
- Occupation : Private Person
- Address : Karangbowo Sub-District, Neighborhood
Ward (RT) 005, Neighborhood Block (RW)
007, Cepu, Blora, Central Java;
- 107 Name : **Sugiyo**

- Occupation : Private Person
Address : Kunduran Village, Neighborhood Ward (RT) 003, Neighborhood Block (RW) 003, Kunduran, Blora, Central Java;
- 108 Name : **Dr. H. Mahfudz Ali, S.H., M.Si.**
Occupation : Lecturer
Address : Jalan Tusam Raya, Block L-6, Pedalangan, Semarang, Central Java;
- 109 Name : **Ferry Sataryanto, S.H.**
Occupation : Advocate
Address : Lempongsari, Neighborhood Ward (RT) 004, Neighborhood Block (RW) 006, Semarang, Central Java;
- 110 Name : **Eko Haryanto, S.H.**
Occupation : Advocate
Address : Perum Klipang Z-19/5, Sendangmulyo, Semarang, Central Java;
- 111 Name : **Windy Setyawan Putra, S.H.**
Occupation : Private Person
Address : Stonen Selatan III/24, Bendang Ngisor, Semarang, Central Java;
- 112 Name : **Khandori, S.H.**
Occupation : Advocate
Address : Wonoharjo, Neighborhood Ward (RT) 002,

Neighborhood Block (RW) 012,
Kembangarum, Semarang, Central Java;

- 113 Name : **Dwi Saputra, S.H.**
Occupation : Advocate
Address : Perum Klipang Z-19/5, Sendangmulyo,
Semarang, Central Java;
- 114 Name : **Wiwit Aprilia**
Occupation : Private Person
Address : Parangbaris VIII/46, Tlogosari, Semarang,
Central Java;
- 115 Name : **Ronny Maryanto**
Occupation : Private Person
Address : Jalan Sriwijaya Number 51, Semarang,
Central Java;
- 116 Name : **Qonik Hajah Masfuah**
Occupation : Private Person
Address : Kunir Village, Dempet, Demak, Central
Java;
- 117 Name : **Bayu Samodra**
Occupation : College Student
Address : Bukit Agung Selatan Block B-9,
Sumurboto, Semarang, Central Java;
- 118 Name : **Galih Hartanto Putro**
Occupation : College Student

- Address : Jalan Sekarjagad III/3, Tlogosari,
Semarang, Central Java;
- 119 Name : **Rahardan Fajar Nugroho**
Occupation : College Student
Address : Lembah Kemala Block C/6-7, Cimanggis,
Depok, West Java;
- 120 Name : **Olyviana Agustine**
Occupation : College Student
Address : Cantel Wetan, Sragen Tengah, Sragen,
Central Java;
- 121 Name : **Gita Santika Ramadhani**
Occupation : College Student
Address : Jalan Layang, Tegalsari, Tegal, Central
Java;
- 122 Name : **Edi Pranoto, S.H., M.Hum.**
Occupation : Lecturer
Address : Jalan Talangsari Raya 23, Semarang,
Central Java;
- 123 Name : **Agus Suprihanto, SH, MSI**
Occupation : Advocate
Address : Perum Panjangan Asri M-7, Manyaran,
Semarang, Central Java;
- 124 Name : **Arif Hidayat, S.H., M.H.**
Occupation : Lecturer

- Address : Ngawinan Hamlet, Jetis Village,
Semarang, Central Java;
- 125 Name : **Putrawan**
- Occupation : Private Person
- Address : Pondok Pinang, Neighborhood Ward (RT)
002, Neighborhood Block (RW) 009,
Pondok Pinang, Kebayoran Lama, South
Jakarta;
- 126 Name : **Yance Arizona**
- Occupation : Private Sector Employee
- Address : Jalan Mampang Prapatan XII,
Neighborhood Ward (RT) 006,
Neighborhood Block (RW) 004, Tegal
Parang, Mampang Prapatan, South
Jakarta;
- 127 Name : **Antonius Benny Susetyo**
- Occupation : Priest
- Address : Jalan Rawa Papan, Neighborhood Ward
(RT) 006, Neighborhood Block (RW) 006,
Bintaro, Pesanggrahan, South Jakarta;
- 128 Name : **Ngatoilah**
- Occupation : Private Sector Employee
- Address : Jalan Telaga Permata I/28, Neighborhood
Ward (RT) 007, Neighborhood Block (RW)

001, Sunter Jaya, Tanjung Priok, North
Jakarta;

- 129 Name : **Willi Sumarlin**
Occupation : Private Sector Employee
Address : Areman, Neighborhood Ward (RT) 004,
Neighborhood Block (RW) 005, Tugu,
Cimanggis, Depok, West Java;
- 130 Name : **Yulianto**
Occupation : Private Sector Employee
Address : Jalan Stasiun Depok Lama, Depok,
Pancoran Mas, Depok City, West Java;
- 131 Name : **Yuristinus Oloan**
Occupation : Employee
Address : Jalan Cengkeh Number 25, Neighborhood
Ward (RT) 006, Neighborhood Block (RW)
002, Lubang Buaya, Cipayung, East
Jakarta;
- 132 Name : **Yoes Irwan Batubara**
Occupation : State-Owned Enterprise Employee
Address : Jalan Emplasmen Turi, Perk Berangir, NA
IX-X, North Labuhan Batu, North
Sumatera;
- 133 Name : **Rahmi Sosiawaty**
Occupation : Employee

- Address : Jalan Singgalang A/149, Jaka Sampurna,
West Bekasi, West Java;
- 134 Name : **Lia Wulandari**
Occupation : Private Sector Employee
Address : Jalan Andara Ujung Number 35,
Neighborhood Ward (RT) 001,
Neighborhood Block (RW) 004, Pangkalan
Jati Baru, Cinere;
- 135 Name : **Y. Ari Nurcahyo**
Occupation : Researcher
Address : Depok Mulya 2 Blok AF - 20,
Neighborhood Ward (RT) 004,
Neighborhood Block (RW) 016, Beji,
Depok City, West Java;
- 136 Name : **Cecep Effendi, Ph.D.**
Occupation : Researcher
Address : Eramas 2000 Jalan Sawo Kecil II/5,
Neighborhood Ward (RT) 003,
Neighborhood Block (RW) 014, Cakung,
East Jakarta.

By virtue of Special Powers of Attorney dated September 27, 2011, September 28, 2011, October 3, 2011, October 5, 2011, October 10, 2011, October 12, 2011, October 15, 2011, October 20, 2011, October 29, 2011, October 31, 2011, and November 7, 2011 granting power or attorney to i) Veri Junaidi, S.H;

ii) Wahyudi Djafar, S.H.; dan iii) Alvon Kurnia Palma, S.H., advocates and Dedicated Servants of Legal Aid associated in *Masyarakat Selamatkan Pemilu (Amankan Pemilu)*, having its address at Gedung Dana Graha 1st Floor, Room 108, Jalan Gondangdia Kecil Number 12-14, Central Jakarta 10330, either individually or jointly acting for and on behalf of the authorizers;

Hereinafter referred to as ----- **the Petitioners;**

[1.3] Having read the petition of the Petitioners;

Having heard the statements of the Petitioners;

Having examined the evidence of the Petitioners;

Having heard the statements of the experts of the Petitioners;

Having heard and read written statements of the Government;

Having heard written conclusion of the Petitioners;

2. FACTS OF THE CASE

[2.1] Whereas the Petitioners filled a petition dated November 10, 2011, which was received and registered at the Registrar's Office of the Constitutional Court (hereinafter referred to as the Registrar's Office of the Court) on Thursday, November 7, 2011 based on the Deed of Petition File Receipt Number 409/PAN.MK/2011 and registered on Wednesday, November 23, 2011 under Case registration Number 81/PUU-IX/2011, which was revised with petition dated December 8, 2011 and received at the Registrar's Office of the Court on December 8, 2011, which principally describes as follows:

A. Authority of the Constitutional Court

1. Whereas furthermore, Article 24C paragraph (1) of the Third Amendment to the 1945 Constitution states: “*The Constitutional Court shall have the authority to hear cases at the first and final level the decisions of which shall be final, in **conducting judicial review on laws against the Constitution**, to decide disputes concerning to the authorities of state institutions whose authorities are granted by the Constitution, to make decisions on the dissolution of political parties, and to decide disputes concerning the results of general elections*”;
2. Whereas *based on* the provision above, Constitutional Court has authority to conduct judicial review of laws under the 1945 Constitution which is also based on Article 10 paragraph (1) of Law Number 24 Year 2003 concerning the Constitutional Court which states: “*the Constitution Court has authority to hear at the first and final levels, the decision of which shall be final to: (a) conduct judicial review of Laws under the 1945 Constitution*”;
3. The Constitutional Court has been established as an institution serving as the Guardian of the Constitution. In the event that a Law is inconsistent with the constitution, the Court may declare that it does not have binding legal effect either partly or entirely;
4. Whereas as the Guardian of the Constitution, the Court also has authority to give an interpretation of the articles in a law so that they are

not inconsistent with the constitution. The Court's interpretation of the constitutionality of the articles of laws shall be the sole interpretation of the constitution which has legal power. Therefore, the Court's interpretation may also be requested in respect of articles which have ambiguous, unclear meaning, and/or multiple meanings;

5. Whereas through this petition, the Petitioners have petitioned for review Article 11 sub-article i; Article 85 sub-article i; Article 109 paragraph (4) sub-paragraph c, sub-paragraph d, sub-paragraph e, paragraph (5), and paragraph (11) of Law Number 15 Year 2011 concerning General Election Organizer under Article 22E paragraph (5) of the 1945 Constitution of the Republic of Indonesia;
6. Based on abovementioned matters, the Court has authority to examine and hear the petition *a quo*;

B. Legal Standing of the Petitioners

7. Whereas Article 51 paragraph (1) of Law Number 24 Year 2003 concerning the Constitutional Court states: "*The Petitioners shall be the parties who deem that their constitutional rights and/or authorities granted by the 1945 Constitution have been impaired by the coming into effect of a law, namely: (a) individual Indonesian citizens, (b) customary law community units insofar as they are still in existence and in line with the development of the communities and the principle of the Unitary State of the Republic of Indonesia as regulated in law, (c) public or*

private legal entities, or (d) state institutions”;

8. Whereas referring to the Decisions of the Constitutional Court Number 006/PUU-III/2005 and Case Number 11/PUU-V/2007, the Petitioners must meet the following requirements:
 - a. Existence of constitutional rights and/or authorities of the Petitioners granted by the 1945 Constitution;
 - b. The Petitioners consider that such constitutional rights and/or authorities have been impaired by the coming into effect of the law being petitioned for review;
 - c. The impairment of such constitutional rights and/or authorities must be specific and actual or at least potential in nature which, pursuant to logical reasoning, can be assured of occurring;
 - d. There is a causal relationship (*causal verband*) between the impairment of constitutional rights and/or authorities of the Petitioners and the law being petitioned for review;
 - e. It is likely that with the granting of the petition, the constitutional impairment argued will not or will no longer occur.

9. Whereas the aforementioned five requirements are explained again by the Court through Decision Number 27/PUU-VII/2009 in formal review of the Second Amendment to the Supreme Court Law (page 59), which reads as follows:

“Based on the practice of the Court (2003-2009), the Court considers that individual Indonesian citizens, especially tax payers (vide Decision

Number 003/PUU-I/2003), various associations and NGOs concerned about the interests of the public, legal entities, regional governments, state institutions, and others have legal standing to file a petition for review, both formal and substantive review, of laws under the 1945 Constitution (see also Lee Bridges, et al. In “Judicial Review in Perspective, 1995)”;

Private Legal Entity Petitioners

10. Whereas Petitioners Number 1 through Number 23 are legal subjects that have had legal entity status in Indonesia being concerned about issues of General Elections and democracy in realizing democratic General Elections in Indonesia. Such concern is realized by various studies and advocacy activities related to issues of General Elections and democracy in Indonesia. The filing of a petition for review of the articles *a quo* in Law Number 15 Year 2011 concerning General Election Organizer (Law 15/2011) is an organizational mandate of the Petitioners in making efforts for realizing democracy through the enforcement of the constitution (*vide* Exhibit P-3);

11. Whereas the doctrine of organization standing or legal standing is a legal proceeding procedure known not only as a doctrine, but also it has been adopted in various laws and regulations in Indonesia, such as Law Number 23 Year 1997 concerning Environmental Management, Law Number 8 Year 1999 concerning Consumer Protection, and Law Number 41 Year 1999 concerning Forestry;

12. Whereas in judicial practices in Indonesia, legal standing has been accepted and acknowledged to become a mechanism in the efforts for seeking justice, which can be proved, among others:
 - a. In the Constitutional Court's Decision Number 060/PUU-II/2004 concerning Judicial Review of Law Number 7 Year 2004 concerning Water Resources under the 1945 Constitution;
 - b. In the Constitutional Court's Decision Number 003/PUU-III/2005 concerning Judicial Review of Law Number 19 Year 2004 concerning Stipulation of Government Regulation in Lieu of Law Number 1 Year 2004 concerning Amendment to Law Number 41 Year 1999 concerning Forestry to become a Law under the 1945 Constitution;
 - c. In the Constitutional Court's Decision No. 001-021-022/PUU-I/2003 concerning Judicial Review of Law Number 20 Year 2002 concerning Electricity;
 - d. In Constitutional Court's Decision Number 140/PUU-VII/2009 concerning Judicial Review of Law Number 1/PNPS/Year 1965 concerning Prevention of Abuse and/or Desecration of Religion.

13. Whereas the organizations which may act on behalf of the public/common interest are organizations that meet the requirements specified in various legislations or jurisprudence, namely:
 - a. having the form of legal entity or foundation;
 - b. the articles of association of the relevant organizations clearly

state the objectives of their establishment;

- c. having conducted activities in accordance with the articles of association.
14. Whereas Petitioners Number 1 through Number 23 have the duty and role in carrying out activities that encourage the implementation of democratic General Elections and democratization in Indonesia, in this case to effectively utilize the institution as a means to involve as many members of the community as possible in realizing democratic General Elections and democratization in Indonesia. This is reflected in the Articles of Association and/or deed of establishment of the petitioners (*vide* Exhibit P-3);
 15. Whereas the application of Article 11 sub-article i, Article 85 sub-article i, Article 109 paragraph (4) sub-paragraph c, sub-paragraph d, sub-paragraph e, paragraph (5) and paragraph (11) of Law Number 15 Year 2011 concerning General Election Organizer which are inconsistent with Article 22E paragraph (5) of the 1945 Constitution, has resulted in the impairment both directly and indirectly, or at least potential impairment of the constitutional rights of the Petitioners;
 16. Whereas the forms the constitutional impairment suffered by the Petitioners are as follows:
For Petitioner 24 – Petitioner 136:
 - a. Decreased quality of the results of the General Election process which is honest and fair as a result of the General Election

- organizer's not being independent and impartial;
- b. the fulfillment of suffrage of voters to get honest and fair General Elections not being facilitated by independent and impartial institutions;
- c. the need of voters to get a free and fair General Election process not being fulfilled by independent and impartial institutions;

For Petitioners 1-23, the struggle to promote democratic general elections through an independent organizer has been undermined.

17. Whereas the birth of a number of Articles, paragraphs and phrases in the Law *a quo*, has extremely disturbed and hindered the activities of the Petitioners as legal subjects who are concerned about issues of General Elections and democracy in Indonesia while they have the right to act institutionally in order to ensure the implementation of free and fair general elections by an independent and autonomous institution;

Individual Indonesian Citizen Petitioners

18. Whereas the Petitioners Number 24 up to Number 136 are individual Indonesian citizens who have the suffrage in the General Elections because they have reached the age and/or that they have been married, as regulated in Law Number 10 Year 2008 concerning General Election of Members of the People's Legislative Assembly, the Regional Representative Council and the Regional People's Legislative Assembly;
19. Whereas as Indonesian citizens who have met the requirements, the

- Petitioners have the suffrage as guaranteed by the 1945 Constitution of the Republic of Indonesia, the petitioners are constitutionally entitled to get a free and fair general election process (*vide* Exhibit P-4);
20. Whereas the presence of a number of articles, paragraphs and phrases in Law 15/2011 has caused or at least will potentially impair the constitutional rights of the Petitioners;
 21. Whereas the forms of constitutional impairment experienced or potentially experienced by the Petitioners are, among others: (a) the fulfillment of suffrage of voters to get honest and fair General Election by independent and autonomous institutions not being facilitated, (b) the need of voters to get an honest and fair General Election process by independent and autonomous institutions;
 22. Whereas based on the description above, the petitioners as organizations concerned about issues of General Election and democracy in Indonesia, as well as individuals who have the suffrage in the general election as guaranteed by the constitution, have had or at least will potentially have their constitutional rights impaired by the presence of a number of articles, paragraphs and phrases in Law 15/2011;
 23. Whereas therefore the petitioners meet the requirements as stipulated in Article 51 paragraph (1) of the Constitutional Court Law and Constitutional Court's Decision Number 27/PUU-VIII/2009, namely: as

legal entities concerned with issues of general election and democracy, especially general election advocacy and individuals who have constitutional interest in respect of the existence of Article 11 sub-article i, Article 85 sub-article i, Article 109 paragraph (4) sub-paragraph c, sub-paragraph d, sub-paragraph e, paragraph (5) and paragraph (11) of Law 15/2011 under Article 22E paragraph (1) and paragraph (5) of the 1945 Constitution of the Republic of Indonesia. Therefore, the requirements of legal standing as defined in Article 51 paragraph (1) of the Constitutional Court Law and the Constitutional Court's Decision Number 27/PUU-VIII/2009 have been met by the Petitioners;

24. Whereas based on the description above, it is clear that the **Petitioners** have **legal standing** as the Petitioners in judicial review of Law Number 15 Year 2011 concerning General Election Organizer and have a causal relationship (causal verband) to Article 11 sub-article i, Article 85 sub-article i, Article 109 paragraph (4) sub-paragraph c, sub-paragraph d, sub-paragraph e, paragraph (5) and paragraph (11) of Law 15/2011 under Article 22E Paragraph (5) of the 1945 Constitution of the Republic of Indonesia;
25. Whereas based on the descriptions above, it is clear that all the petitioners have the quality and capacity as the Petitioners in the judicial review of Law under the 1945 Constitution as provided for in Article 51 sub-article c of Law Number 24 Year 2003 concerning the Constitutional Court, as well as a number of Constitutional Court's decisions providing

an explanation of the requirements to become Petitioners of judicial review of Law under the 1945. Therefore, it is also clear that all the Petitioners have the legal rights and interests to represent public interest to file a petition for review of Law 15/2011 under Article 22E Paragraph (5) of the 1945 Constitution of the Republic of Indonesia Year 1945;

C. Reasons of the Petition

C.1. The provision on resignation from political parties without time interval before registration as general election organizer as provided for in Article 11 sub-article i and Article 85 sub-article i, to the extent of the phrase "resigning from the membership of a political party ... at the time of registration as a candidate" of Law 15/2011 is inconsistent with Article 22E Paragraph (5) of the 1945 Constitution.

26. Whereas **Article 11 sub-article i** of Law Number 15 Year 2011 concerning General Election Organizer fully reads "*The requirements to become a candidate member of the General Election Commission, Provincial General Election Commission, and regency/municipal General Election Commission are: **sub-article i: resigning from membership in political parties, political positions, positions in government, and State-Owned Enterprises/ Regional Government-Owned Enterprises at the time of registration as candidate***"

Whereas the scope of Article 85 sub-article i of the Law *a quo* fully reads as follows, "*The requirements to become candidate member of the*

*General Election Supervisory Board, Provincial General Election Supervisory Board, and regency/municipal General Election Supervisory Committee and District General Election Supervisory Committee, as well as Field General Election Supervisor are: **sub-article i:** resigning from membership in political parties, political positions, positions in government, and State-Owned Enterprises/ Regional Government-Owned Enterprises **at the time of registration as candidate”***

The provision is inconsistent with Article 22E Paragraph (5) of the 1945 Constitution which fully reads "Article 22E Paragraph (5) of the 1945 Constitution: *“General elections shall be organized by a national, permanent and independent general election commission;”*

27. Whereas the scope of Article 85 sub-article i of Law *a quo* fully reads as follows:

The requirements to become a candidate member of the General Election Supervisory Board, Provincial General Election Supervisory Board, and regency/municipal General Election Supervisory Committee and District General Election Supervisory Committee, as well as Field General Election Supervisory are:

sub-article i: *resigning from membership in political parties, political positions, positions in government, and State-Owned Enterprises/ Regional Government-Owned Enterprises at the time of registration as candidate;*

The provision is inconsistent with Article 22E Paragraph (5) of the 1945 Constitution which fully reads

“General elections shall be organized by a national, permanent and independent general election commission;”

28. Whereas the scope of definition of *general election commission* is not only limited to the General Election Commission (KPU). General Election Supervisory Board in this context is part of the definition of general election organizer as referred to in Article 22E Paragraph (5) of the 1945 Constitution, namely that *general elections shall be organized by a national, permanent and independent **general election commission***. This is based on the interpretation of the definition of the commission for general elections (lowercase) clause referred to in provision of Article 22E Paragraph (5) of the 1945 Constitution;

29. Whereas the Legal Consideration of the Constitutional Court’s Decision Number 11/PUU-VIII/2010 concerning judicial review of Law Number 22 Year 2007 confirms as follows:

The phrase "*a general election commission* " in the 1945 Constitution does not refer to the name of an institution, but rather it refers to the function of general election implementation which is national, permanent and independent. Therefore, according to the Court, the function of general election implementation is served not only by the General Election Commission (KPU), but also including a general election

supervisory institution in this case the General Election Supervisory Board (Bawaslu) as an integral function of the general election implementation which is national, permanent, and independent;

INTERPRETING THE MEANING OF THE WORD “INDEPENDENT” IN ARTICLE 22E PARAGRAPH (5) OF THE 1945 CONSTITUTION

30. Whereas the phrase "independent" in Article 22E Paragraph (5) of the 1945 Constitution can be interpreted not from political party. Such interpretation is seen during the debate for constitution drafting (original intent), teleological interpretation, historical/legal-historical interpretation, international principles of General Election implementation and International trends concerning General Election organizer;
31. Whereas since the beginning, the debates over the constitution have been directed towards a general election organizer which is independent, non-partisan and which does not come from political parties. The debate can be seen from the view of PDIP faction, which states: "*general elections shall be organized by an independent general election commission and its members shall not be active members of political parties participating in the General Election*" (*vide* Comprehensive Text of the Amendment to the 1945 Constitution: Background, Process, and Results of Discussion 1999 - 2002, Book V General Election. Secretary-General and Registrar's Office of the Constitutional Court, 2010, p. 517). The full text suggested by PDIP Faction is as follows:

Paragraph (2): "General Elections shall be organized by an general election commission which is national, permanent, independent and its members shall have good capability and are not active members of the political parties participating in the general election"

The opinion was further strengthened by the views of the *National Awakening (Kebangkitan Bangsa)* Faction (*vide* Comprehensive Text of the Amendment to the 1945 Constitution of the State of the Republic of Indonesia, p. 521-522), as follows:

"The next one, which is related to the implementing institution or body, I think we made a decision yesterday in the law, where in the revision we agreed that all the factions determined the existence of an independent and professional General Election Commission, which is non-partisan, with the elucidation of the meaning of non-partisan having been agreed upon as well. In this connection, it means that the General Election is organized nationally by such institution....";

Even Ali Masykur Musa from National Awakening (*Kebangkitan Bangsa*) Faction said, "*..... The Implementation of such General Election can only be achieved if its organizer is an independent entity which is not tied to certain political forces*" (*vide* Comprehensive Text of the Amendment to the 1945 Constitution of the State of the Republic of

- Indonesia, p. 552-553);
32. Whereas in addition to considering the original intent of the drafters of the Constitution in respect of Article 22E of the 1945 Constitution, the purpose of such article can also be studied using a number of interpretation approaches, one of which being the teleological interpretation. This interpretation method is focused on the analysis or formulation of legal principles according to the goal and scope. J.A. Pontier mentioned that the use of teleological interpretation is emphasized on the fact that legal rules have an underlying goal or principle and that such purpose or principle is decisive in the interpretation. In other words, the legal principle has a particular function of or is intended for protecting certain interests. Interpretation of the Law using teleological interpretation is carried out within the framework of objectives and functions of the principle formulated in it (J.A. Pontier, *Discovery of Law*, translated by Prof. Dr. B. Arief Sidhartha, SH. 2008, p. 45);
33. Whereas based on the definition of teleological interpretation, the function and purpose or intent of the word "independent" is to protect the independence/impartiality of the general election organizer from the conflict of interest which may arise in the future among political parties (election participants) and it has been created to prevent the conflicts of interest from arising in the future within the general election organizer, namely the positioning between the participants and organizers of the

General Election as experienced during the 1999 General Election. It is worried that each political party as general election organizer will secure its own interests. A member from a particular party will tend to issue policies that benefit his/her party. On the contrary, members of the General Election Commission/ General Election Supervisory Board from from the would in fact agree and cooperate whether to implement or not to implement a policy which benefits them;

34. Whereas to increasingly strengthen the development of the application of Article 22E of the 1945 Constitution, the historical/legal-historical interpretation approach can also can be used to examine it. Whereas based on historical interpretation, the clause of requirement of being *not a party member* came to the fore in the discussion of the third amendment to the 1945 Constitution, particularly in relation to the institutional aspect of the election organizer. The provision on the requirement of *not being a party member* came to the fore with the historical background of the implementation of the 1999 general election which nearly failed because of a partial attitude of the general election organizer comprising representatives of political parties. The membership composition of the General Election Commission which consisted of the people from political parties as defined in Article 8 paragraph (2) of Law Number 3 Year 1999 concerning General Election became a boomerang for the implementation of peaceful election. At that time, members of the General Election Commission from political parties failed to establish the voting results on time, being trapped in

- their own interests. They could not get rid of the interests or position themselves as party members (participants in the general election) and the organizer of an independent general election;
35. Whereas such problem then affected the attitude in viewing the independent general election organizer. The change in that view came to the fore in the General Session of the People's Consultative Assembly (SU-MPR) in October 1999. The view of People's Consultative Assembly set forth in Decree of the People's Consultative Assembly Number IV/MPR/1999 concerning Broad Outlines of State Policies (GBHN) in Chapter IV concerning Policy Direction letter C numbers 1.h which states as follows: "*General elections with higher quality with the widest possible participation of the people on the basis democratic, direct, general, free, confidential, honest, just, fair and civilized principles shall be carried out by an independent and non-partisan organizer by no later than 2004*";
36. Whereas such Decree was then followed up by making amendments to Law No. 3 Year 1999 concerning General Election (Law 3/1999) with Law Number 4 Year 2000 concerning Amendment to Law Number 3 Year 1999 concerning General Election (Law 4 / 2000). Article 8 paragraph (2) of Law 4/2000 which stated that the general election shall be organized by an independent and non partisan General Election Commission;
37. Whereas on November 9, 2001, the People's Consultative Assembly

- ratified the Third Amendment to the 1945 Constitution. Article 22E Paragraph (5) stated that *general elections shall be organized by a national, permanent and independent general election commission*. The clause concerning an “independent” General Election organizer is the answer to the trauma of the 1999 general election;
38. Whereas the following regulation in the 2004 General Election, Law Number 12 Year 2003 concerning General Election (Law 12/2003) confirms that the members of the General Election Commission shall not come from political parties. Article 18 sub-article i of Law 12/2003 states that the requirement to become members of the General Election Commission, Provincial General Election Commission and Regency/Municipal General Election Commission shall be *not being members or officials of political parties*;
39. Whereas the regulation in the next general election, the nonpartisanship provisions of the General Election Commission requirements had developed. Article 11 sub-article i of Law Number 22 Year 2007 concerning the General Election (Law 22/2007) in more detail regulated the period of 5 years of no longer being a member of a political party. The provision is an affirmation and a more detailed regulation of the provisions on the nonpartisanship requirement as in Article 18 sub-article i of Law 12/2003. Improvement of Article 18 sub-article i of Law 12/2003 to become Article 11 sub-article i of Law 22/2007 was required to maintain impartiality of the members of the General Election

Commission. The provision is trying to separate between the membership of General Election Commission and General Election Supervisory Board from the membership element of political party. Distinct separation among the contestants, organizers, and supervisors is aimed at avoiding conflict of interest;

Hidden agenda of the Legislators in interpreting the meaning of the word "Independent" in Article 11 sub –article i and Article 85 sub-article i of Law Number 15 Year 2011 concerning General Election

Organizer

40. Whereas the debate over the interpretation of the meaning of "independent" occurred in the formulation of Law 15/2011 in lieu of Law 22/2007. Such debate came to the fore in the formulation of the requirement to become member of the General Election Commission and General Election Supervisory Board in Article 11 sub-article i and Article 85 sub-article i. The debate came to the fore over whether the requirement provision of "not being a member of political parties be no longer being a member of a political party for a period of 5 (five) years at the minimum" will be abolished and replaced with the phrase "resigning from membership in a political party ";
41. Whereas the attempt to delete the phrase "no longer being a member of a political party for a period of 5 (five) years" became a long debate in the People's Legislative Assembly, namely between two faction groups in the People's Legislative Assembly. The first group consisted of 7

fractions namely PDIP, Golkar, PKS, PPP, PKB, Gerindra and Hanura which wanted to abolish the 5-year time limit no longer being a member of a political party in the provision of Article 11 sub-article i of Law 22/2007. The first group wanted that to become a member of the General Election Commission, Provincial General Election Commission and Regency/Municipal General Election Commission and General Election Supervisory Board, Provincial General Election Supervisory Board as well as General Election Supervisory Committee of Regency/Municipal it is enough to resign. The second group which consisted of *Demokrat and PAN* factions wanted the provision requirement of no longer being a member of a political party for 5 (five) years remain in force for maintaining the independence and autonomy of the general election organizer. Therefore, membership of the General Election Commission, Provincial General Election Commission and Regency/Municipal General Election Commission would not be filled by people coming from political parties;

42. Whereas if seen from the approach of sociological interpretation, the clause "resigning from the membership in a political party ... at the time of registration as a candidate" was born as an accumulation of the political parties' anger for the unprofessionalism of the General Election Commission in organizing the 2009 election. It was much assumed that the unprofessionalism of the General Election Commission was part of the design of the ruler's political party to weaken the other general election participants. Disappointment of political parties accumulated

when Andi Nurpati as a member of the General Election Commission joined the *Demokrat* Party. These issues then encouraged political parties to put their people into the General Election Commission, Provincial General Election Commission and Regency/Municipal General Election Commission to secure votes in the election;

43. Whereas based on the Socio-historical interpretation, phrase "resigning from the membership in a political party ... at the time of registration as a candidate" appears as the disappointment of the majority of the parties in the People's Legislative Assembly outside *Demokrat* Party with the phenomenon of migration of members of the General Election Commission to the ruling political party organization. Both Anas Urbaningrum (Member of the 2004 General Election Commission) and Andi Nurpati (Member of the 2009 General Election Commission) resigned and joined the *Demokrat* Party as the ruling party. Allegations arose from the losing political parties that the victory of the *Demokrat* Party could not be separated from the contribution of the members of the General Election Commission who side with or who had been deliberately placed discreetly in the General Election Commission. Because of that disappointment, then in Law 15/2011, political parties losing the general election tried to put their people in the membership of the General Election Commission, by eliminating the provision of Article 11 sub-article i of Law 22/2007 particularly related to requirement of not being a member of a political party for at least 5 years before registration;

44. Whereas the phrase "resigning from the membership in a political party ... at the time of registration as a candidate" appeared as a form of disappointment of the political parties as seen from some of the comments of the working committee members in the draft law on General Election Organizer, as summarized below:

Ganjar Pranowo (Chairman of the Working Committee for the Formulation of Law 15/2011) in an interview with *Republika* newspaper (Wednesday, September 21, 2011 p. 10) (**vide Exhibit P-5**), stated.

"The problem is that when things happened with the permanent voters' list (DPT), it was later revealed that Andi Nurpati joined Demokrat after the 2009 general election, it became an empirical and sociological condition".

The same statement was conveyed by Arif Wibowo (Member of Commission II of the People's Legislative Assembly of the Republic of Indonesia-PDIP faction) in a talk show on RRI Radio (Friday, January 28, 2011, at 5:00 p.m. to 6:00 p.m.) (**vide Exhibit P-6**):

"Let us not claim that a nonpartisan person is the best, most understanding about the election, who best understand how to create justice, as the fact is there in the 2004 general election, there are those who resigned from the Commission, which was never explained to the public, and which was just described because they wanted to return to campus, and the other because

the law did not prohibit one from becoming a member of a political party, even a government official, the same thing happened in the 2009 general election, with many things left unexplained, which in fact caused a prolonged suspicion. The answer would be simple if the government was willing to provide an explanation of the matter and then the questions from friends could be answered, but with the questions being never answered, suspicions arouse lest it would happen again. So it is okay for nonpartisan friends and those from political parties to apply, while the government is still the selection team, and all of us will also watch it".

Confirming the intention of the legislators of Law 15/2011, Agun Gunandjar in a talk show on KBR 68H Radio (Monday, January 31, 2011, at 20:00 to 21:00).

"So all citizens have equal status in the eyes of the law, regardless of one's religion, whether or not he/she is from any political party, even the army. So we are not separating people into partisan or non partisan segments. All citizens are allowed, and we set the requirements".

45. Whereas based on the teleological interpretation, the formulation of the phrase "resigning from the membership in a political party ... at the time of registration as a candidate" is clearly aimed putting the people from political parties in the General Election Commission, provincial/regency/municipal General Election Commission, and General

Election Supervisory Board, provincial General Election Supervisory Board and regency/municipal General Election Supervisory Committee. The phrase functions and has the intention to protect the interests of political parties in general election through membership in the General Election Commission, Provincial General Election Commission and Regency/Municipal General Election Commission;

46. Whereas the inclusion of the phrase "resigning from membership in a political party ... at the time of registration" was the strategy of the legislator to evade the provision of Article 22E Paragraph (5) of the third Amendment to the 1945 Constitution which asserts the independent nature of the General Election Commission. The Legislators dominated by the political parties represented in the People's Legislative Assembly were well aware that Article 22E Paragraph (5) of the Third Amendment to the 1945 Constitution prohibits members of political parties from becoming general election organizers. That was why the legislators then made the clause "resigning from membership in political parties", without any time interval between resignation from political parties and registration as a member of the General Election Commission/Regional General Election Commission or General Election Supervisory Board/General Election Supervisory Committee. The legislators wanted to give the impression that the formal requirement of not being members of political parties has been fulfilled with such clause.
47. The strategy is clearly inconsistent with the principle of the formulation of

laws and regulations as regulated in Law Number 12 Year 2011 concerning the Formulation of Laws and Regulations which is nothing but a manifestation of Article 22A of the Second Amendment to the 1945 Constitution, that "Further provisions regarding the procedures for the formulation of laws shall be regulated by law".

48. Article 5 of Law 12/2011 states, "Laws and regulations shall be formulated based on the principle of good practices in the formulation of laws and regulations, which include: a. clarity of purpose; b. appropriate formulating institution or officials; c. conformity between the types, hierarchy, and substantive content; d. can be implemented; e. efficiency and effectiveness; f. clarity of formulation; and g. transparency."
49. The Petitioners argue that the phrase "resigning from membership in political parties... at the time of registration" violates the principle of transparency in the formulation of Laws. In this case, the legislators dominated by the political parties keep a hidden agenda to include members of political parties in general election organizer institutions with a clause on resignation without any time interval.

**International Principles concerning the Independence of the
General Election Organizer**

50. Whereas the principles of independence and autonomy of the Commission is a constitutional demand that must be met. Article 22E Paragraph (5) of the 1945 calls the independence of the general election

commission. The independence nature in the international principles is referred to as the independence which demands the General Election Commission to be free from the power intervention by the government, political parties and election participants. Similarly, in making decisions on a policy, equal treatment shall be given, rather than partiality to a particular group. It is important to avoid conflicts of interest within the election organizer namely KPU. This is an attempt to avoid deviations due to partial behavior of General Election Commission (KPU) members for the benefit of certain participants, namely political parties;

51. Whereas the phrase "resigning from the membership in a political party ... at the time of registration as a candidate" is not in accordance with Article 22E Paragraph (5) of the 1945 Constitution, and also not in accordance with international principles to ensure the legitimacy and credibility of the general election organizers. The International IDEA has determined 7 generally-accepted principles to ensure the legitimacy and credibility of the general election organizers namely independence, impartiality, integrity, transparency, efficiency, professionalism and service-mindedness (Alan Wall, Electoral Management design: The International IDEA Hand Book, pp. 22-25);

a. ***Independence***, namely the independence of the general election organizer, means the existence of freedom for the organizers from the intervention and influence of a person, governmental power, political parties, and other parties in the decision-making

and actions in organizing general elections. The organizer must be able to work free from any intervention whatsoever. Independence can be seen from the attitude, and the measures taken by the organizer, such as in the matter of determining general election participants, organizing campaign schedule, and others. Thus, the birth of the phrase "resigning from the membership in a political party ... at the time of registration as a candidate" is contradictory to and inconsistent with the principle of Independence;

- b. **Impartiality.** Providing equal treatment, impartiality, and fairness so that no benefit is given to other parties is the meaning of impartiality. Impartiality can be created through the arrangement of the rule of law and institutional structure of the General Election Commission (KPU), but more importantly neutrality must be reflected in the attitude/policies of the General Election Commission (KPU) towards the relevant stakeholders. Impartiality is important because partisanship will only harm the credibility of general election and the process of organizing general election. The intended form of impartiality is an act aimed to benefit certain participants in the general election;
- c. **Integrity** (credibility). Integrity is taken from English, which actually originates from Latin, *integritat*. According to Poerwadarminta, integrity means wholeness, undividedness, or honesty (Poerwadarminta, WJS. *Kamus Umum Bahasa*

Indonesia, third edition. 2005). There are at least three meanings associated with integrity. [1] integrity as "unity", used to describe the condition of unity, wholeness, integration. This meaning is usually associated with the perspective of nationalism. Of course, it means not only physical unity but also the unity of ideas. [2] integrity means "incorruptibility", wholeness, roundness, the unwavering, without flaw. In the language of mathematics the terms *integer* is known, meaning whole numbers without fractions. In this case integrity is consistency, coherence between the idea of the real embodiment. [3] integrity is a moral quality. The general public understand integrity as honesty, sincerity, purity, and straightness. Honest quality is the main pillar of one's moral qualities. Integrity is being honest not only to others, but also to oneself. Simply put, integrity means correspondence between words and actions. In the context of election organizers, integrity can be defined as correspondence between the actions and behavior of an organizer with his/her responsibilities. Thereby, the organizers will gain public trust, voters, or candidates or political parties with direct interests in the election. Integrity is an important principle for an institution to obtain recognition of other parties;

- d. **Transparency.** Transparency is interpreted as the availability of sufficient, accurate and timely information in relation to a public policy and its formulation process. In laws and regulations,

transparency is interpreted as information that is relevant and available for the benefit of the general public, in this case, government regulations and decisions are clearly available and disseminated. Transparency is a prerequisite for achieving accountability and the guarantee for certainty. Transparency is also interpreted as the availability of adequate, accurate and timely information about public policies and their formulation process. Sufficient information will facilitate the public to participate in the control so that the policies issued can provide optimal results for society and to prevent fraud and manipulation that would benefit certain groups disproportionately. Based on such understanding, in the context of transparency, the election organizers is required to be transparent in performing their duties and obligations in organizing elections. This transparency is important to ensure the credibility of the election process, so that it can be accepted by all groups namely political parties, the government, civil society and media. Transparency of organizers will allow for participation and public involvement in exchanging thoughts and concepts concerning the general election process.

- e. **Efficiency.** Efficiency and effectiveness are essential components of the whole credibility of the election. Efficiency is very important for the election process because technical damage and problems can lead to chaos and corruption of law and order. Efficiency and effectiveness depend on several factors,

including professionalism of staff, resources and most importantly adequate time to prepare for the election and for training those responsible for organizing general elections.

- f. **Professionalism.** Election must be managed by specific groups/people who have the expertise, who are trained and dedicated. The group that has the expertise consists of experts and is capable of managing and implementing general elections.
 - g. **Service-mindedness.** According to the International IDEA, the main reason for the formation of election implementing body is to provide services to stakeholders, both the public and participants in the election. Election organizers must develop and publish service standards for each stage of election implementation. Good service is the parameter for the stakeholders to assess the performance of election organizers. Examples of basic service standards often included within the legal framework for elections such as in Canada are, among others: time-based standards such as deadlines for announcing the election results, distribution of voter cards or dissemination of information about the polling locations, public complaints regarding violations which are responded to and others;
52. Whereas the development of general election organizers in the world is that they are filled by experts and have left membership of partisan groups. Out of the members of the organizers consisting of experts located in 90 countries with a percentage of 44.5%, partisan

membership is found only in 18 countries (8.9%), a combination of experts and partisan members is found in 37 countries (18.3%) (<http://aceproject.org/epic-en/CDTable?question=EM014>). Based on such data, it seems that the election organizers Election consisting of expert groups are more widely accepted than partisan groups. This tendency has arisen due some causes of failure and weakness in the implementation involving partisan groups. Some of the causes are, among others: lack of stakeholders' confidence in the organizers, and government's influence on the decisions of the organizers or politicians, partisan approach by the organizer or its members, lack of professionalism of the organizers, and organizers' incompetence or financial irregularities. If the organizer is filled by multiple parties, there are some failures, namely among others: the actions of members may be motivated by political interests, they may have no professional experience or inappropriate qualifications, it becomes difficult to use if all parties are represented, lack of credibility if some parties are not included or if the political parties are not respected, it is difficult to achieve consensus in decision making and also that the unity of the organizers will split due to a public debate between the parties (Electoral Management design: The International IDEA Handbook, 2006. Accessed the website of The ACE Electoral Knowledge Network <http://aceproject.org/ace-en/topics/em>);

Conflict of Interest and Constitutional Impairment of the Petitioners

53. Whereas based on the interpretation of Article 22E Paragraph (5) of the 1945 Constitution, the phrase "Independent" is not interpreted to be independent from any person/cadres/officials of political parties. Such interpretation is aimed to ensure that the general election is independent and impartial so as to carry out direct, general, free, confidential, honest, and fair general elections every five years as stipulated in Article 22E Paragraph (1) of the 1945 Constitution.
54. Whereas the aforementioned has deliberately separated the general election organizer from political parties (participants in the general election). This separation confirms that general election participants cannot perform the function as organizer as well, as intended in Article 11 sub-article i and Article 85 sub-article i of Law 15/2011. It is worried that participants who also serve as general election organizers would create a conflict of interest of both. The function and role of implementing each phase of general elections will be closely related to the interests of the general election participants (political parties). In other words, the interests of general election participants will always be there and can not be avoided in the implementation stages of the general election. Therefore, it is impossible to make general election participants (political parties) also serve the role as organizer of the general election.
55. Whereas the organizers of general election which are not autonomous and independent from the conflict of interest as described above, would

harm the implementation of a democratic general election. Conflicts of interest will also cause the integrity of the process and the general election results to be doubtful. If this condition occurs then the interests of the Petitioners to organize a democratic, honest, and fair election will not be met.

56. Whereas the organizer of general election who is not independent and partial will weaken the struggle of the Petitioners to encourage a democratic general election.
57. Whereas the birth of a number of chapters, paragraphs, and phrases in the Law *a quo* has greatly disturbed and impeded the activities of the Petitioners as legal subjects concerned about the issue of general elections and democracy in Indonesia, which have the right to act institutionally and individually in order to ensure implementation of honest and fair general elections by an independent and impartial institution.
58. Whereas the organizer of general election which is not independent and partial will cause/will potentially cause the emergence of constitutional impairment of the Petitioners, namely:
 - a. the fulfillment of suffrage of voters to get honest and fair General Elections not being facilitated by independent and impartial institutions;
 - b. the need of voters to get the free and fair General Election process not being fulfilled by independent and impartial

institutions;

59. Whereas based on the foregoing explanation, the provision of Article 11 sub-article i and Article 85 sub-article i, to the extent of the phrase “*resigning from the membership in a political party ...*” is inconsistent with Article 22 E paragraph (5) of the 1945 Constitution;

C.2. Article 109 paragraph (4) sub-paragraph c, sub-paragraph d, sub-paragraph e, paragraph (5), and paragraph (11) are inconsistent with Article 22E paragraph (5) of the 1945 Constitution

60. Whereas Article 109 fully read as follows:

Paragraph (4) The Honorary Council of the General Election Organizer (DKPP) as referred to in paragraph (1) consists of:

- a. *1 (one) person from the General Election Commission element;*
- b. *1 (one) person from the General Election Supervisory Board element;*
- c. *1 (one) representative of each political party in the People’s Legislative Assembly;*
- d. *1 (one) representative of the Government;*
- e. *4 (four) community leaders in the event of an odd number of representatives of political parties in the People’s Legislative Assembly or 5 (five) community leaders in the event of an even number of representatives of political parties in the People’s Legislative Assembly.*

Paragraph (5) In the event that there are 4 (four) members of the Honorary Council of the General Election Organizer from among community leaders as intended in paragraph (3) sub-paragraph d, the President and the People's Legislative Assembly respectively shall nominate 2 (two) persons.

Paragraph (11) Each member of the Honorary Council of the General Election Organizer from each element can be subject to interim replacement in accordance with applicable provisions.

The provisions are inconsistent with Article 22E Paragraph (1) and paragraph (5) of the 1945 Constitution which fully reads:

Article 22E paragraph (5) of the 1945 Constitution: "*General elections shall be organized by a national, permanent and independent general election commission;*"

61. Whereas the Honorary Council of the General Election Organizer is an institution that serves to maintain the ethics of general election organizers. The Honorary Council of the General Election Organizer is authorized to investigate and prosecute any alleged violations of ethics by the General Election Commission and/or General Election Supervisory Board. Therefore, the authority of the Honorary Council of the General Election Organizer is very strategic and important for maintaining the independence of the General Election Commission and the General Election Supervisory Board as the organizers of general

elections. The strategic value of the Honorary Council of the General Election Organizer will become dangerous if its membership is filled by representatives of the government and political parties having seats in the People's Legislative Assembly. The Honorary Council of the General Election Organizer has authority to inspect, impose sanctions and even recommend the dismissal of members of the General Election Commission and the General Election Supervisory Board to the President. Thus, the tension of interests will occur within the Honorary Council of the General Election Organizer;

62. Whereas the provisions concerning membership of the Honorary Council of the General Election Organizer is a real form of political parties' wish for the safeguarding of interests in general elections. The General election Attempts are being made to include people from political parties in the Commission as the organizer implementing the general election as well as in the General Election Supervisory Board having the duty to conduct supervision. Therefore, to guard the people who sit in the General Election Commission and General Election Supervisory Board from the threat of violation the organizers' ethics, the Honorary Council of the General Election Organizer is filled by representatives of political parties and the government. The concern is that each of the participants will mutually seize the independence of the general election organizer and there will be a never-ending tension of interests. In other words, the existence of elements of political parties and the government in the Honorary Council of the General Election Organizer is contrary to the

nature of independence in the implementation of general elections.

63. Whereas the amendment to the General Election Law has been motivated by complicated and insufficiently effective mechanism for correcting the performance and alleged violations by the General Election Commission. The Honorary Council has, in fact, become a shield for the Commission to be free from the dismissal trap. That's because the composition of the Honorary Council as well as the formation mechanism are actually dominated by members of the Commission. Political parties participating in general elections do not have a direct access to making corrections of the alleged violations of code of conduct. Based on this background, the Honorary Council of the General Election Organizer has been filled in by the government and political parties participating in the general election. Even members of the Honorary Council of the General Election Organizer from the elements of society should be recommended and selected by the government and the People's Legislative Assembly;
64. Whereas the provisions of Article 109 paragraph (4) sub-paragraph c, sub-paragraph d, sub-paragraph e, paragraph (5), and paragraph (11) would in fact allow for such enormous intervention by incorporating the elements of the government and political parties having seats in the People's Legislative Assembly. Almost all members of the Honorary Council of the General Election Organizer are precisely filled by general election participants and government representatives. This is expressly

inconsistent with the Constitutional Court's Decision No. 11 / PUU-VIII/2010 concerning judicial review of Law 22/2007 under Article 22E Paragraph (5) of the 1945 Constitution which requires the availability of an independent organizer which is free from intervention of interests;

65. Whereas the "in view of" consideration section provision point [3.23] Constitutional Court's Decision No. 11 / PUU-VIII/2010 concerning judicial review of Law 22/2007 confirms as follows:

"...however, to ensure independence in the implementation of general elections which are direct, public, free, confidential, honest and just by the General Election Commission and the General Election Supervisory Board in the future, the members of the Honorary Council shall be filled by members of the General Election Commission and the General Election Supervisory Board in a balanced way. Within this framework, it takes only one good Honorary Council of the General Election Organizer to supervise the behavior of members of the General Election Commission and the General Election Supervisory Board. Therefore, the membership composition of the Honorary Council for both national and local levels should consist of representatives of members of the Commission (General Election Commission, Provincial General Election Commission and Regency/Municipal General Election Commission) and the General Election Supervisory Board (General Election Supervisory Board, Provincial General Election Supervisory Committee, or regency/municipal General Election Supervisory Committee) in a

balanced manner/with equal number plus one person from an external independent party”;

66. Whereas the presence of representatives of political parties in the People’s Legislative Assembly it could in fact potentially cause the general election to be held not in a free and fair manner, which is obviously inconsistent with the 1945 Constitution, because participants in the General election do not have to be political parties currently represented in the People’s Representative Assembly (DPR). There are political parties participating in general election that will not be represented in the Honorary Council of the General Election Organizer. Under such conditions inequality exists among the political parties participating in the general election.

Whereas based on the foregoing description, the provisions of Article 109 paragraph (4) sub-paragraph c, sub-paragraph d, sub-paragraph e, paragraph (5), and paragraph (11) are inconsistent with Article 22E Paragraph (5) of the 1945 Constitution.

D. Reasons for Provisional Petition

67. Whereas under Article 129 paragraph (4) Transitional Provisions of Law 15/2011, the selection team of the General Election Commission and the General Election Supervisory Board must have formed by no later than 2 months following the enactment of this Law.
68. Whereas the mandate of the Law 15/2011 enacted on October 16, 2011

states that by no later than December 16, 2011 the selection committee must have formed and performed the selection process.

69. Whereas in order to avoid application of the law based on unconstitutional interpretation of the requirements for membership in the General Election Commission and General Election Supervisory Board in the selection process, the Petitioners have requested the Court to pass an interlocutory injunction declaring in advance that the members of the Selection Team of the General Election Commission and the General Election Supervisory Board shall suspend the use of Article 11 sub-article i and Article 85 sub-article i, specifically about the requirement of resigning from a political party, as a reference in the implementation stage of the selection until the Court has issued a final decision on the case *a quo*.

E. Petitum

Based on the reasons described above and the evidence attached, then the Petitioners request the Honorable Panel of Constitutional Court Justices of the Republic of Indonesia to examine and pass a decision upon judicial review as follows:

In the Provision:

- a. Accepting the provision petition of the Petitioners;
- b. Ordering the selection team of the members of the General Election Commission and the General Election Supervisory Board established by

the President based on Law 15/2011 to suspend the application of Article 11 sub-article i and Article 85 sub-article i concerning requirements to become members of the General Election Commission and the General Election Supervisory Board as reference in the implementation of selection phases until the Constitutional Court has issued the decision on the case *a quo*.

In the Substance of the Case:

- a. Accepting and granting all petitions for judicial review of Law under the 1945 Constitution which were filed by the Petitioners;
- b. Declaring Article 11 sub-article i and Article 85 sub-article i to the extent of the phrase “resigning from the membership in a political party ... at the time of registration as a candidate” of Law Number 15 Year 2011 concerning General Election Organizer, inconsistent with Article 22E paragraph (5) of the 1945 Constitution of the State of the Republic of Indonesia, so that they do not have any binding legal effect insofar as they are not interpreted as follows (conditional unconstitutionality):

“not having become a member of a political party as stated in a valid letter of statement or at least within a period of 5 (five) years being no longer a member of a political party as evidenced by a certificate from the relevant political party official.”
- c. Declaring Article 109 paragraph (4) sub-paragraph c, sub-paragraph d, sub-paragraph e, to the extent of the phrase “4 (four) community leaders in the event of an odd number of representatives of political parties in the People’s Legislative Assembly ... in the event of an even number of

representatives of political parties in the People's Legislative Assembly", paragraph (5), and paragraph (11) of Law Number 15 Year 2011 concerning General Election Organizer inconsistent with the Article 22E paragraph (5) of the 1945 Constitution, so that they do not have any binding legal effect;

Therefore, the provision of Article 109 paragraph (4) sub-paragraph shall read as follows:

The Honorary Council of the General Election Organizer as referred to in paragraph (1) shall consist of:

- a. 1 (one) person from the General Election Commission element;
- b. 1 (one) person from the General Election Supervisory Board element;
- ~~c. 1 (one) representative of each political party in the People's Legislative Assembly;~~
- ~~d. 1 (one) representative of the Government~~
- ~~e. 4 (four) community leaders in the event of an odd number of representatives of political parties in the People's Legislative Assembly or 5 (five) community leaders in the event of an even number of representatives of political parties in the People's Legislative Assembly even number.~~
- d. Ordering the inclusion of this Decision in the Official Gazette of the Republic of Indonesia properly.
- e. In the event that the Panel of Constitutional Court Justices of the Republic of Indonesia have another opinion, requesting the decision

according to what is equitable and good - *ex aequo et bono*.

[2.2] Whereas in order to prove their arguments, the Petitioners have presented documents/written evidence marked as Exhibit P-1 up to Exhibit P-7, as follows:

1. Exhibit P-1 Copy of Law Number 15 Year 2011 concerning General Election Organizer;
2. Exhibit P-2 Copy of the 1945 Constitution of the Republic of Indonesia;
3. Exhibit P-3 Copy of the Petitioners' institution establishment;
4. Exhibit P-4 Copy of Identity Cards/Tax Payer Registration Number of the individual Petitioners;
5. Exhibit P-5 Copy of Republika newspaper clippings which quoted the statement of Ganjar Pranowo (Commission II of DPR-FPDIP);
6. Exhibit P-6 Copy of Transcript of Pro-3 RRI Radio Talk Show titled "Maintaining the Independence of the General Election Organizer (*Menjaga Kemandirian Penyelenggara Pemilu*)";
7. Exhibit P-7 Copy of Transcript of KBR 68H Radio Talk Show titled "How to Maintain the Independence of the General Election Organizer (*Bagaimana Menjaga Kemandirian Penyelenggara Pemilu*)";

In addition, the Petitioners also presented an expert, **Prof. Dr. Asep Warlan Yusuf, S.H., M.H.** whose statement has been heard under oath in a hearing on December 28, 2011, which is principally as follows:

- Expert is a Lecturer of the Faculty of Law of the University of Parahyangan, Bandung.
- The term independence of the General Election Commission suggests three essential things, namely that i) the General Election Commission is not under the influence/command of any parties which intervene or influence the members of the Commission to do or not do something; ii) there should be no abuse of office and authority for the benefit of the parties that intervene or that affect the General Election Commission; iii) it must be running and uphold the law, justice, truth, ethics, and morals.
- "All people are equal before the law and government" means that any person is given the opportunity by law to occupy public office, including the General Election Commission, General Election Supervisory Board, General Election Supervisory Committee, and Honorary Council of the General Election Organizer. Nevertheless, the state has authority to regulate the requirements.
- To prevent abuse of authority and partiality for the parties competing in the general election, the system or rules have been created.
- The Law must ensure that the persons sitting in the body organizing general elections really have the commitment, awareness, and ability to avoid the intervention of any other parties.
- The General Election Commission must have independent, neutral, and impartial characteristics, and therefore, the law shall prevent it from being filled by political parties participating in the General election in

order to avoid the possibility of partiality for the parties following the competition.

- One authority of the General Election Commission is to enforce sanctions if the participants in the general election commit violations. If "the judge" is directly related to the participants who is *notabene* from one party, partiality can be strongly suspected.
- Article 53 of Law 15/2011 states that PPK, PPS, KPPS, PPLN, KPPSLN shall have quit for five years before becoming a member of KPPS. Yet in terms of duty, the General Election Commission and the General Election Supervisory Board are far more important and strategic.
- The legislators does not understand that the risk of failure is the failure of the general election is the failure of the state. State administration agendas will be discontinued if the General Election Commission fails. One of the causes of failure of general election is the existence of partiality of the members of the General Election Commission for one participant of the general election.
- Equality of every citizen before the law and government does not mean that everyone is given the same rights because basically the office has the requirements, namely, among other things, qualifications, competence, experience, age, education, and so on.
- Independence must be really maintained by the Law, for the General Election Commission, the General Election Supervisory Board, the General Election Supervisory Committee, and the Honorary Council of the General Election Organizer.

- Indeed, there is no guarantee that non-partisan members will be impartial and independent. However, the system must establish legal guidelines.
- If there is a boycott of resignation or not working at all by any member of General Election Commission, Law 15/2011 has provided for the solution namely replacement by another General Election Commission member candidate of the next rank. If no one is willing to replace him/her, then a Government Regulation in Lieu of Law shall be made for establishing an *ad hoc* General Election Commission.
- Determination of selection by the President who is in fact from a party, and the people's legislative assembly which also consist of people from parties provides no assurance of the actual practice of choosing the best, independent, qualified, competent persons who have an independent commitment. If it can not be guaranteed, then the Law directly gives the guarantee.

[2.3] Whereas with respect to the petition of the Petitioners, the Government delivered its opening statement orally and in writing in the hearing on December 28, 2011, and submitted a written statement dated December 30, 2011 received by the Registrar's Office of the Constitutional Court on January 3, 2012, which in essence state the followings:

In connection with the petition for judicial review (constitutional review) filed by Sulastio et al, in Case Number 81/PUU-IX/2011 Article 11 sub-article i and Article 85 sub-article i to the extent of the phrase "resigning from membership

in a political party at the time of registration as a candidate; Article 109 paragraph (4) sub-paragraph c, sub-paragraph d, sub-paragraph e along the phrase "4 (four) community leaders in the event of odd number of representatives of political parties in the People's Legislative Assembly or 5 (five) community leaders in the event of even number of representatives of political parties in the People's Legislative Assembly", paragraph (5) and paragraph (11) of Law Number 15 Year 2011 concerning General Election Organizer (Law 15/2011) under the 1945 Constitution which gives power of attorney to the Veri Junaidi, SH, et al, the Government has given the following statements:

I. Substance of the Petition

Whereas the Petitioners assume the coming into effect of the articles *a quo* would impair the constitutional rights, namely among others:

1. Decreased quality of the results of the General Election process which is honest and fair as a result of the General Election organizer's not being independent and autonomous;;
2. The fulfillment of suffrage of voters to get honest and fair General Elections not being facilitated by independent and impartial institutions;
3. The need of voters to get a free and fair General Election process not being fulfilled by independent and impartial institutions;
4. Undermining the struggle to promote democratic general elections through an independent implementation.

II. Concerning the Legal Standing of the Petitioners

The government wants to convey that based on the petition of the Petitioners concerning judicial review of Law 15/2011, the Petitioners cannot describe the constitutional impairment suffered, either actual or potential due to the coming into effect of the norms petitioned for review.

Law Number 24 Year 2003 concerning the Constitutional Court under Article 51 paragraph (1) states that the Petitioners shall be those who consider that their constitutional rights and/or authorities granted by the 1945 Constitution have been impaired by the coming into effect of a law, namely:

- a. individual Indonesian citizens;
- b. customary law community units insofar as they are still in existence and in line with the development of the communities and the principle of the Unitary State of the Republic of Indonesia as regulated in law;
- c. public or private legal entities; or
- d. state institutions.

Whereas the definition and cumulative limits of the impairment of constitutional rights and/or constitutional authority of the Petitioners due to the coming into effect of a law have some limitations, namely:

- a. Existence of constitutional rights and/or authorities of the Petitioners granted by the 1945 Constitution;
- b. The Petitioners consider that such constitutional rights and/or

authorities have been impaired by the coming into effect of the law being petitioned for review;

- c. The impairment of such constitutional rights and/or authorities must be specific and actual or at least potential in nature which, pursuant to logical reasoning, can be assured of occurring;
- d. There is a causal relationship (*causal verband*) between the impairment of constitutional rights and/or authorities of the Petitioners and the law being petitioned for review;
- e. It is likely that with the granting of the petition, the constitutional impairment argued will not or will no longer occur.

The Petitioners are individual Indonesian citizens and private legal entities claiming to be harmed by the existence of the articles *a quo*.

Concerning the legal standing of the Petitioners, the government argues that the Petitioners do not meet the requirements for the standing as Petitioners required under Article 51 paragraph (1) of Law Number 24 Year 2003 concerning the Constitutional Court. The Petitioners cannot qualify as the impaired parties due to the coming into effect of the Law *a quo*. The Petitioners only convey the assumptions or presumptions of material losses resulting from the coming into effect of the object of the petition, namely the articles *a quo*.

By understanding the position of the Petitioners, the Government has left it to His Excellency the Chairman/Panel of Constitutional Court Justices to consider and assess whether or not it is true that the

Petitioners qualify as parties who have legal standing, as provided for in Article 51 paragraph (1) of Law Number 24 Year 2003 concerning the Constitutional Court.

III. Concerning the material of judicial review of Law Number 15 Year 2011 concerning General Election Organizer

1. Whereas the Government can understand the confusion of the Petitioners by the presence of the norms *a quo* which according to the Petitioners, impair their constitutional rights.
2. With respect to the substance of the provisions of the provisions *a quo* petitioned by the Petitioners, the Government can understand the logic and arguments of law built by the Petitioners through the study of philosophical as well as general legal principles. The government has the same concern with the Petitioners namely to be able to realize the implementation of free and fair general elections and a national, permanent, and independent general election organizer. Therefore, on this good occasion, when the norms *a quo* are considered unable to realize the expected legal politics, let us look for the most appropriate and harmonious norms to achieve the ideal position of the general election organizers. The government is always seeking efforts to realize the direct general election, public, free, confidential, honest, and fair general elections through a national, permanent and independent general election organizer. We need

to continuously arrange the normative framework for realizing the governance of the election together. Indeed we should be able to ascertain whether or at least to build predictability through various normative frameworks to ensure that the candidates elected as members of the General Election Commission and the General Election Supervisory Board can realize the national, permanent and independent general election organizer. The question is whether the candidates from political parties cannot be independent or candidates not from a political parties must be able to be independent and free from intervention from any party. Therefore, the Government considers it necessary for the General Election Commission and the General Election Supervisory Board to have a governance system that can guarantee the independence of the institution. So anyone entering the General Election Commission and the General Election Supervisory Board will be bound by the governance system with independence of political attitudes and behavior as the essence of the general election organizers only for being able to organize direct, public, free, confidential, honest and fair general elections.

IV. Conclusion

Based on the foregoing explanation, the Government requests to the Constitutional Court of the Republic of Indonesia examining, hearing,

and deciding upon the petition for judicial review of Law Number 15 Year 2011 under the 1945 Constitution of the Republic of Indonesia to pass the following decisions:

1. Rejecting the petition of the Petitioners in its entirety;
2. Declaring whereas that the provisions of Article 27 paragraph (1) and paragraph (3), Article 11 sub-article i and Article 85 sub-article i, Article 109 paragraph (4) sub-paragraph c, sub-paragraph d, sub-paragraph e, paragraph (5), and paragraph (11) of Law Number 15 Year 2011 concerning General Election Organizer are not inconsistent with the 1945 Constitution;
3. Therefore, In the event that the Constitutional Court of the Republic of Indonesia has another opinion, requesting for the decision to be passed according to what is equitable and good (*ex aequo et bono*).

[2.4] Whereas the Petitioners have submitted a written conclusion dated January 2, 2012 which was received at the Registrar's Office of the Court on January 2, 2012, that principally the Petitioners are consistent with their stand;

[2.5] Whereas to shorten the description in this decision, all which occurred during the hearing shall be sufficiently referred to in the minutes of the hearing, and shall be an integral and inseparable part of this Decision;

3. LEGAL CONSIDERATIONS

[3.1] Whereas the purpose and objective of the petition *a quo* are to review the constitutionality of Law Number 15 Year 2011 concerning General Election Organizer (State Gazette of the Republic of Indonesia Year 2011 Number 101, Supplement to the State Gazette of the Republic of Indonesia Number 5246, hereinafter referred to as Law 15/2011), namely:

Article 11 sub-article i to the extent of the phrase, “resigning from the membership in a political party ... at the time of registration as a candidate”;

Article 85 sub-article i to the extent of the phrase, “resigning from the membership in a political party ... at the time of registration as a candidate”;

Article 109 paragraph (4) sub-paragraph c which reads, “1 (one) representative of each political party in the People’s Legislative Assembly”;

Article 109 paragraph (4) sub-paragraph d which read, “1 (one) representative of the Government”;

Article 109 paragraph (4) sub-paragraph e to the extent of the phrase “4 (four) community leaders in the event of odd number of representatives of the political parties in the People's Legislative Assembly... in the event of even number of representatives of the political parties in the People's Legislative Assembly”;

Article 109 paragraph (5) which reads, “*In the event that there are 4 (four) members of the Honorary Council of the General Election Organizer from among community leaders as intended in paragraph (3) sub-paragraph d, the President and the People’s Legislative Assembly respectively shall nominate 2 (two) persons*”;

Article 109 paragraph (11) which reads, “*Each member of the Honorary Council of the General Election Organizer from each element can be subject to interim replacement in accordance with applicable provisions*”;

Under the 1945 Constitution of the State of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution);

[3.2] Whereas before considering the substance of the petition, the Constitutional Court (hereinafter referred to as the Court) shall first consider:

- a. Authority of the Court to examine, hear and decide upon the petition *a quo*;
- b. Legal standing of the Petitioners to file the petition *a quo*;

Authority of the Court

[3.3] Whereas one of the constitutional authorities of the Court pursuant to Article 24C paragraph (1) of the 1945 Constitution and Article 10 paragraph (1) sub-paragraph a of Law Number 24 Year 2003 concerning Constitutional Court as amended by Law Number 8 Year 2011 concerning Amendment to Law Number 24 Year 2003 concerning Constitutional Court (State Gazette Year

2003 Number 70, Supplement to the State Gazette Number 5226, hereinafter referred to as the Constitutional Court Law) as well as Article 29 paragraph (1) sub-paragraph a of Law Number 48 Year 2009 concerning Judicial Authority (State Gazette of the Republic of Indonesia Year 2009 Number 157, Supplement to State Gazette of the Republic of Indonesia Number 5076, hereinafter referred to as Law Number 48/2009), is to hear at the first and final levels, whose decision shall be final to conduct judicial review of Laws under the 1945 Constitution;

[3.4] Whereas the Petitioners' petition is intended to conduct judicial review of the constitutionality of the norm of the phrase in Article 11 sub-article i, the phrase in Article 85 sub-article i; Article 109 paragraph (4) sub-paragraph c; Article 109 paragraph (4) sub-paragraph d; the phrase in Article 109 paragraph (4) sub-paragraph e; Article 109 paragraph (5); and Article 109 paragraph (11) of Law 15/2011 under the 1945 Constitution, which becomes one of the authorities of the Court, and therefore, the Court has authority to hear the petition *a quo*;

Legal Standing of the Petitioner

[3.5] Whereas based on Article 51 paragraph (1) of the Constitutional Court Law along with its Elucidation, the parties who can file a petition for judicial review of a law under the 1945 Constitution shall be those who consider that their constitutional rights and/or authorities granted by the 1945 Constitution have been impaired by the coming into effect of a law, namely:

- a. individual Indonesian citizens (including groups of people having a common interest);
- b. customary law community units insofar as they are still in existence and in line with the development of the communities and the principle of the Unitary State of the Republic of Indonesia as regulated in law;
- c. public or private legal entities; or
- d. state institutions;

Therefore, the Petitioners in the judicial review of a Law under the 1945 Constitution must first explain and prove:

- a. their legal standing as petitioners as intended in Article 51 paragraph (1) of the Constitutional Court Law;
- b. whether or not there is any impairment of the constitutional rights and/or authorities granted by the 1945 Constitution due to the coming into effect of the law petitioned for review;

[3.6] Considering also that following Decision of the Constitutional Court Number 006/PUU-III/ 2005 dated may 31, 2005 and Decision of the Constitutional Court Number 11/PUU-V/2007 dated September 20, 2007 and subsequent decisions, the Court is of the opinion that the impairment of the constitutional rights and/or authorities as intended in Article 51 paragraph (1) of the Constitutional Court Law must meet 5 (five) requirements, namely:

- a. Existence of constitutional rights and/or authorities of the Petitioners granted by the 1945 Constitution;
- b. The Petitioners consider that such constitutional rights and/or authorities

- have been impaired by the coming into effect of the law being petitioned for review;
- c. The impairment of such constitutional rights and/or authorities must be specific and actual or at least potential in nature which, pursuant to logical reasoning, can be assured of occurring;
 - d. There is a causal relationship (*causal verband*) between the impairment of constitutional rights and/or authorities of the Petitioners and the law being petitioned for review;
 - e. It is likely that with the granting of the petition, the constitutional impairment argued will not or will no longer occur.

[3.7] Whereas based on the description in paragraphs **[3.5]** and **[3.6]** above, the Court will subsequently consider the legal standing of the Petitioners in the petition *a quo*, as follows:

[3.8] Whereas the principal Petitioners Petitioner Number 1 up to Petitioner Number 23 argue that as legal subjects who have had the legal entity status concerned with issues related to general elections and democracy, while Petitioner Number 24 up to Petitioner Number No. 136 are individual citizens of Indonesia, which have constitutional rights provided for in the 1945 Constitution. Their Constitutional rights have been impaired due to the coming into effect of the the provisions of articles, paragraphs, chapters and sections or subsections of the Law *a quo*, filed by the Petitioners for review. After carefully examining the evidence submitted by the Petitioners concerning the legal status of each Petitioner, the Court has found the following facts:

Petitioner Number 1 up to Petitioner Number No. 9, and Petitioner Number 11 up to Petitioner Number 13 argue that as a foundation and/or non-governmental organizations engaged in community development, primarily related to politics and democracy, as evidenced by notarial deeds and/or certificates from the Directorate General of National Unity and Politics of the Ministry of Home Affairs, the Directorate General of General Law Administration of the Ministry of Law and Human Rights, or the National Unity, Politics and Community Protection of Provincial Government;

Petitioner Number 14 and Petitioner Number 16 up to Petitioner Number 23 Petitioner argue to be non-governmental organizations but they did not submit any evidence of their existence as non-governmental organizations. Nevertheless, the aforementioned Petitioners, which represent their agencies, qualify as an individual Indonesian citizens including groups of people who having common interests;

Petitioners Number 25, Petitioner Number 26, Petitioner Number 28 up to Petitioner Number 36, Petitioner Number 38 up to Petitioner Number 59, Petitioner Number 61, Petitioner Number 63, Petitioner Number 64, Petitioner Number 66, and Petitioner Number 68 up to Petitioner Number 136 are individual citizens of Indonesia;

Petitioners Number 10, Petitioner Number 15, Petitioner Number 24, Petitioner Number 27, Petitioner Number 37, Petitioner Number 60, Petitioner Number 62, Petitioner Number 65, and Petitioner Number 67 argue that as non-

governmental organizations and/or individual Indonesian citizens, but they do not meet formal requirements for filing the petition, because the Petitioners have not signed any power of attorney;

[3.9] Whereas with due observance of the potential consequences faced by the Petitioners in relation to the implementation and results of general election, or at least in relation to the formation of general election commission, associated with the constitutional rights of the Petitioners, according to the Court, there is a causal relationship (*causal verband*) between the intended potential loss and the coming into effect of the Law petitioned for review, so that the Petitioners meet the legal standing requirements to the a petition for revies of the Law *a quo*;

[3.10] Whereas since the Court has authority to hear the petition *a quo*, and the Petitioners, namely Petitioner No. 1 through No. 9 Petitioner, Petitioner No. 11 to No. 14, Petitioners No. 16 through No. 23, Petitioner No. 25, Petitioner No. 26, Petitioner No. 28 to Petitioner No. 36, Petitioner No. 38 to Petitioner No. 59, Petitioner Number 61, Petitioner Number 63, Petitioner No. 64, Petitioner No. 66, and Petitioner No. 68 to Petitioner No. 136 have legal standin), then the Court will consider the substance of the petition;

Opinion of the Court

Provision

[3.11] Whereas prior to considering the substance of the petition, the Petitioners in their petition submit a provisional provision, requesting the Court "to order the team for the selection of members of the General Election Commission and the General Election Supervisory Board formed by the President under Law 15/2011 to suspend the application of Article 11 sub-article i and Article 85 sub-article i concerning the requirement to become a member of the General Election Commission and the General Election Supervisory Board as a reference in the implementation stages of selection until the Court has issued a decision in the case *a quo*";

With respect to the Petitioners' petition for a provisional injunction, the Court is of the opinion that it does not have authority to order the team for the selection of members of the General Election Commission and the General Election Supervisory Board to suspend the application of a particular article. Suspension of the coming into effect of a particular article by the Court can only be made for certain matters where the Court's not granting it may cause constitutional impairment at the very moment on the part of the Petitioner. In addition, since the substance of the Petitioners' petition is decided in the decision *a quo*, then the provisional injunction requested for by the Petitioners is no longer relevant to be considered;

Substance of the Petition

[3.12] Whereas the substance of the Petitioners' petition is the review of constitutionality of Law No. 15 Year 2011 concerning General Election

Organizer (State Gazette of the Republic of Indonesia Year 2011 Number 101, Supplement to State Gazette of Republic of Indonesia Number 5246, hereinafter referred to as Law 15/2011), namely:

Article 11 sub-article i to the extent of the phrase, “*resigning from the membership in a political party ... at the time of registration as a candidate*”;

Article 85 sub-article i to the extent of the phrase, “*resigning from the membership in a political party ... at the time of registration as a candidate*”;

Article 109 paragraph (4) sub-paragraph c which read, “*1 (one) representative of each political party in the People’s Legislative Assembly*”;

Article 109 paragraph (4) sub-paragraph d which read, “*1 (one) representative of the Government*”;

Article 109 paragraph (4) sub-paragraph e to the extent of the phrase, “*4 (four) community leaders in the event of odd number of representatives of the political parties in the People’s Legislative Assembly ... in the event of even number of representatives of the political parties in the People’s Legislative Assembly*”;

Article 109 paragraph (5) which read, “*In the event that there are 4 (four) members of the Honorary Council of the General Election Organizer from among community leaders as intended in paragraph (3) sub-*

paragraph d, the President and the People's Legislative Assembly respectively shall nominate 2 (two) persons”;

Pasal 109 paragraph (11) which read, *“Each member of the Honorary Council of the General Election Organizer from each element can be subject to interim replacement in accordance with applicable provisions”;*

under the Constitution of the Republic of Indonesia Year 1945 (hereinafter referred to as the 1945 Constitution), namely:

Article 22E paragraph (1) which reads:

“General elections shall be conducted in a direct, general, free, confidential, honest, and fair manner once every five years”;

Article 22E paragraph (5) which reads:

“General elections shall be organized by a national, permanent and independent general election commission”.

[3.13] Whereas the general election as one of the basic mechanisms of democratic procedures is constitutionally guaranteed in the 1945 Constitution. Sustainability of democracy through general elections conducted periodically once in every five years and must meet the principles of direct, general, free, confidential, honest, and fair election [vide Article 22E paragraph (1) of the 1945 Constitution]. In terms of the procedures, general elections must be conducted once in every five years in a direct, universal, free and confidential manner, while from the substantial aspect, general elections must be conducted freely, honestly and fairly. The principle of honesty and fairness

can only be realized if, among other things, general election organizers cannot be intervened or influenced by any other party. Therefore, the organizers of general elections cannot be left to the government or political parties, since it will potentially be and will be vulnerable to being influenced or exploited by various interests, so that general elections must be organized by a national, permanent, and independent general election commission [*vide* Article 22E Paragraph (5) of the 1945 Constitution] with a single General Election organizer hereinafter referred to as General Election Commission as a unitary organization at the central and regional levels;

[3.14] Whereas the Petitioners argue that the provision on the resignation from political parties with no time interval for registration as an organizer of the general election as provided for in Article 11 sub-article i and Article 85 sub-article i of Law 15/2011, to the extent of the phrase "resigning from the membership in a political party ... at the time of registration as a candidate" is inconsistent with Article 22E Paragraph (5) of the 1945 Constitution;

The Court is of the opinion that the requirements intended in Article 11 sub-article i and Article 85 sub-article i of Law 15/2011 are closely related to the meaning of Article 22E Paragraph (5) of the 1945 Constitution which states, "*General elections shall be organized by a national, permanent and independent general election commission*", especially the word "independent";.

The term "independent" if it refers to the historical background of the process of amendment to the 1945 Constitution, is closely related to the concept of non-partisanship. This means that the independence of the general election

commission, as intended in Article 22E paragraph (5) of the 1945 Constitution is one which does not side with any political party or contestant because the general election commission is the general election organizer and political parties are participants in the general elections. The concept of independence or non-partisanship asserts that the general election organizer (general election commission) shall not side with any general election participant;

The General Election Commission (capitalized), the General Election Supervisory Board, and the Honorary Council of General Election Organizer, according to the Court, are part of the general election commission (in lowercase) intended by Article 22E Paragraph (5) of the 1945 Constitution which has an independent characteristic, as already described in Decision No. 11/PUU-VIII/2010 dated March 18, 2010, in paragraph [3.18] point 5, which states,

“Whereas to ensure the implementation of general elections which are direct, general, free, confidential, honest and just, Article 22E Paragraph (5) of the 1945 Constitution provides that, *General elections shall be organized by a national, permanent and independent general election commission*”. The phrase “general election commission” in the 1945 Constitution does not refer to an institution's name, but rather to the function of the general election implementation which is national, permanent and independent. Thus, according to the Court, the function of general election implementation is performed not only by the General Election Commission (KPU), but including also by the the general election supervisory institution, in this case the General Election Supervisory Board (Bawaslu) as an integral function of the general election implementation which is national, permanent, and

independent. This definition can better meet the provisions of the 1945 Constitution which mandate the existence of an independent general election organizer for the implementation of general election that meets the principles of direct, general, free, confidential, honest, just general elections.

The implementation of general elections without supervision by an independent institution will threaten the principles of direct, general, free, confidential, honest, just general elections in the implementation of general election. Therefore, according to the Court, the General Election Supervisory Board (Bawaslu) as provided for in Chapter IV Article 70 through Article 109 of Law 22/2007, should be interpreted as an institution having the duty of performing supervision of the implementation of the general elections, so that the general election implementation function is performed by the element of organizer, in this case the General Election Commission (KPU), and the element of general election supervisor, in this case the General Election Supervisory Board (Bawaslu). In fact, the Honorary Council, which supervises the behavior of the general election organizer, must also be interpreted as an institution which is an integral functional part of the general election. Thus, the guarantee of independence of the general election organizer becomes real and clear;”

Partiality of the general election organizer to any participant in the general election will result in distrust and will produce results which are certainly unfair, thus eliminating the meaning of democracy sought to be realized through "direct, general, free, confidential, honest, and just" general elections. General elections being organized by an institution comprising or consisting of the general election participants themselves would not be in line with logic and justice,. Although it is not a necessity, the involvement of political

parties as general election organizers will open up the opportunity for partiality (conflict of interest) of the general election organizers to any one of the contestants ;

According to the Court, direct involvement of political parties as general election organizers can at least be done in two ways, namely i) accomodation of members of political parties to become members of the general election commission; or ii) accomodation of people who are not members of political parties but who have the same political interests with a particular political party;

From a teleological perspective in relation to the independence to be achieved, members of political parties to become members of the general election commission can be accommodated with the assumption that the members of political parties holding the public office will not always favor the political parties they are from. However, it is still required that the members of political parties and political communities must have the political maturity and statesmanship characteristic, and shall remain above the interests of all classes and all groups. In fact, such independence or neutrality does happen automatically. From the deontological perspective, a proper process is still required to achieve the desired goal;

To guarantee the independence of general election commission, especially in terms of recruitment, at least there are two things that must be considered, namely strengthening the selection process and strengthening the systems that support the selection. Starting from these considerations, according to the Court, the Act should build on efforts towards recruitment to make independent

general election commission. This recruitment system should minimize the membership composition of the general election commission that has the potential alignments;

Since general election participants are political parties, then the Law must limit or abolish the right of the political parties to participate in general elections to simultaneously act as the organizer of the general elections. The intended political parties include members of political parties that are still active or former members of the political parties who are still partial to the political party they come from, or who still have an influence in determining the policies of the intended political parties;

Waiver of the right of political party members to become members of the general election commission is not contrary to the constitution and human rights because in fact, it is necessary to ensure fairness in general elections, which means fulfillment/protection of the rights of other participants in general elections;

From both perspectives above, being oriented towards either the goal (teleological) or the process/means (deontological), the word "independent" contained in Article 22E paragraph (5) of the 1945 Constitution in relation to the recruitment or registration of candidate members of the General Election Commission (KPU) and the General Election Supervisory Board (Bawaslu), means that recruitment of candidate members of the general election commission from political party elements must be avoided;

According to the Court, the view regarding the separation between independence of the institution and independence the members less accurate, since the two will affect each other. This means that the independence of the members would affect the independence of the institution, and conversely, the independence of the institution will affect the independence of the members;

Law 15/2011 has developed a recruitment system intended to keep the general election commission independent and free of the interests of political parties participating in the general election. This can be seen in Article 11 sub-article i and Article 85 sub-article i of Law 15/2011, to the extent of the phrase "resigning from the membership in a political party ... at the time of registration as a candidate". However, the provision on resignation from membership in a political party without specified time period, according to the Court, can be used as a loophole by political parties for political party cadres to join the general election commission. This is in fact contrary to the nature of being "independent" of the general election commission stated in Article 22E Paragraph (5) of the 1945 Constitution;

According to the Court, if some of the members of the General Election Commission (KPU) come from political parties, it will further threaten the independence if the representatives of political parties in the General Election Commission consist of several political parties only, while general election participants consist of many political parties, thus causing the general election process to be dishonest and unfair to some political parties participating in the general election. In addition, when the General Election Commission members

are determined, there will be a competition among political parties having political interests in the general election;

In an effort to maintain the independence of the general election commission from pragmatic efforts of political parties participating in the general election, the Court is of the opinion that the requirement for resignation from membership in a political party as stipulated in the Law *a quo* must be provided with a time limit. Sociologically, to break the relationship between self-nominating political party members and the political parties they join, it is necessary to establish a proper and appropriate time limit in accordance with the principles of independence of the general election organizer;

According to the Court, the time limit for resignation from political parties is proper and appropriate if determined to be at least 5 (five) years prior to the self-nomination of candidates for the general election commission membership. The five-year period is considered proper and appropriate by the Court because it coincides with the periodization phase of general elections. The provision of 5 (five) years is also accommodated by the General Election Organizer Law, namely Law Number 22 Year 2007 concerning General Election Organizer. Thus, the Court is of the opinion that Article 11 sub-article i and Article 85 sub-article i of Law 15/2011, to the extent of the phrase "resining from membership in a political party ... when registering as a candidate " are inconsistent with Article 22E Paragraph (5) of the 1945 Constitution to the extent it is not understood as "having resigned from

membersihp in a political party for at least 5 (five) years at the time of registration as a candidate”;

[3.15] Whereas the Petitioners argue that the provisions regarding the Honorary Council of General Election Organizer, namely Article 109 paragraph (4) sub-paragraph c, sub-paragraph d, and sub-paragraph e to the extent of the phrase "4 (four) community leaders in the event of odd number of representatives of the political parties in the People's Legislative Assembly ... in the event of even number of representatives of the political parties in the People's Legislative Assembly" Law 15/2011 is inconsistent with Article 22E Paragraph (1) and paragraph (5) of the 1945 Constitution;

In relation to the presence of the honorary council, Honorary Council of the General Election Organizer (DKPP) in Law 15/2011, the Court is of the opinion that the honorary council dealing with the behavior of the general election organizer constitutes an integral function of the general election implementation. This is in harmony with the concept of honorary council as defined in Article 1 number 22 of Law 15/2011 which states, "The Honorary Council of the General Election Organizer, hereinafter abbreviated to DKPP, is the institution responsible for handling violations of the code of conduct of the General Election Organizer and shall constitute an integral function of general election implementation." As an integral function of general election implementation, According to the Court, the independent nature stated in Article 22E Paragraph (5) of the 1945 Constitution should also underlie the formation of the honorary council;

Independence of the honorary institution or council dealing with violations of the code of conduct of general election organizer is determined, among other things, by the membership composition of the relevant honorary council. The honorary council has the duty to assess whether or not there is any violation of the code of conduct of the general election organizer in connection with its duties of general election implementation, namely the task of organizing and supervising general election participants;

The membership of the honorary council being filled by general election participants will potentially limit or threaten the independence the general election organizer, because those who should be supervised (namely political parties participating in the general election) can switch roles as the party supervising the general election organizer (namely the General Election Commission and the General Election Supervisory Board), which would pose constraints for the organizers of general election in performing their duties. In addition, representatives of the government in the honorary council membership should be abolished considering that the existence of the government (executive) in Indonesia's political system cannot be separated from the existence of political parties winning the general election. The Court considers that annulment of the government elements from membership in the Honorary Council of the General Election Organizer will further ensure the independence of the Honorary Council of the General Election Organizer as an institution that supervises the behavior of the general election organizers, and will increase public trust which is an important factor in the implementation of

democratic and quality general elections, which in turn will give strong accountability for the winner of the general election.

Based on such considerations, as well as the considerations of the Court in Decision Number 11/PUU-VIII/2010 dated March 18, 2010, especially paragraph **[3.23]**, the Court declares Article 109 paragraph (4) sub-paragraph c, sub-paragraph d, and sub-paragraph e of Law 15/2011 to the extent of the phrase "4 (four) community leaders in the event of odd number of representatives of the political parties in the People's Legislative Assembly ... in the event of even number of representatives of the political parties in the People's Legislative Assembly" inconsistent with Article 22E Paragraph (5) of the 1945 Constitution. Therefore Article 109 paragraph (4) shall read,

"The Honorary Council of the General Election Organizer (DKPP) as referred to in paragraph (1) consists of:

- a. 1 (one) person from the General Election Commission element;
- b. 1 (one) person from the General Election Supervisory Board element;
- e. 5 (five) community leaders."

[3.16] Whereas the Petitioners argue that Article 109 paragraph (5) Law 15/2011 which states, "*In the event that there are 4 (four) members of the Honorary Council of the General Election Organizer from among community leaders as intended in paragraph (3) sub-paragraph d [sic], the President and the People's Legislative Assembly respectively shall nominate 2 (two) persons*", is inconsistent with Article 22E Paragraph (1) and paragraph (5) of the 1945 Constitution;

With respect to this argument, the Court considers that Article 109 paragraph (4) sub-paragraph e of Law 15/2011 to the extent of the phrase "4 (four) community leaders in the event of odd number of representatives of the political parties in the People's Legislative Assembly ... in the event of even number of representatives of the political parties in the People's Legislative Assembly" has been declared inconsistent with the 1945 Constitution, so Article 109 paragraph (4) sub-paragraph e of Law 15/2011 shall read,

"The Honorary Council of the General Election Organizer (DKPP) as referred to in paragraph (1) consists of:

e. 5 (five) community leaders."

Based on such considerations, then the provision as stipulated in Article 109 paragraph (5) of Law 15/2011 shall no longer have any binding legal effect.

In addition to that in the text of Law 15/2011 downloaded from the page www.setneg.go.id, Article 109 paragraph (5) of Law 15/2011 reads, "*In the event that there are 4 (four) members of the Honorary Council of the General Election Organizer from among community leaders as intended in **paragraph (4) sub-paragraph d**, the President and the People's Legislative Assembly respectively shall nominate 2 (two) persons*", and the text of Article 109 paragraph (6) of Law 15/2011 which reads, "*In the event that there are 5 (five) members of the Honorary Council of the General Election Organizer from among community leaders as intended in **paragraph (4) sub-paragraph d**, the President shall nominate 2 (two) persons and the People's Legislative*

Assembly shall nominate 3 (three) persons " . After looking at the contents of the intended provisions, the Court does not see them as constitutional flaws, but merely editorial errors. Nevertheless, the Court corrects "**paragraph (4) sub-paragraph d**" referred to by Article 109 paragraph (5) and paragraph (6) *a quo*, which should read or refer to "**paragraph (4) sub-paragraph e**";

[3.17] Whereas the Petitioners argue that Article 109 paragraph (11) of Law 15/2011 which reads, "*Each member of the Honorary Council of the General Election Organizer from each element can be subject to interim replacement in accordance with applicable provisions*" is inconsistent with Article 22E Paragraph (1) and paragraph (5) of the 1945 Constitution;

The Honorary Council of the General Election Organizer consists of 3 (three) elements, namely the element of the General Election Commission, the General Election Supervisory Board, and community leaders, with the intention that the Honorary Council of the General Election Organizer is able to act and behave independently. Taking account of the elements of political parties and the government no longer existing in the membership or composition of the Honorary Council of the General Election Organizer, according to the Court, the Petitioners' petition in order that Article 109 paragraph (11) of Law 15/2011 is declared inconsistent with Article 22E Paragraph (1) and paragraph (5) of the 1945 Constitution is unreasonable. Interim replacement mechanism is still necessary to anticipate the possibility of vacancies of the membership of the Honorary Council of the General Election Organizer, without which the implementation of duty of the Honorary Council of the General Election

Organizer will be impeded. However, the interim replacement which is "based on the needs and considerations of each element", open the possibility for the existing elements to withdraw and replace of their representatives in the Honorary Council of the General Election Organizer in such a way without any clear reason. Such case, although with a small chance, can still hamper the implementation of the duties of the Honorary Council of the General Election Organizer;

Whereas based on such considerations, the Court is of the opinion that Article 109 paragraph (11) of Law 15/2011 in relation to the independent characteristic as set forth in Article 22E Paragraph (5) of the 1945 Constitution, must provide assurance that the interim replacement is conducted upon the considerations and the demands of the Honorary Council of the General Election Organizer, and not solely upon the "needs and considerations of each element";

Based on such considerations, according to the Court, Article 109 paragraph (11) Law 15/2011 to the extent of the phrase, "based on the needs and considerations of each element" is declared inconsistent with Article 22E Paragraph (5) of the 1945 Constitution and shall not have any binding legal force. Therefore, Article 109 paragraph (11) of Law 15/2011 shall fully read, "*Each member of the Honorary Council of the General Election Organizer from each element can be subject to interim replacement in accordance with applicable provisions*";

[3.18] Whereas based on considerations above, the Court is of the opinion that the petition of the Petitioners concerning judicial review of the

constitutionality of Article 11 sub-article i; Article 85 sub-article i; Article 109 paragraph (4) sub paragraph c; Article 109 paragraph (4) sub-paragraph d; Article 109 paragraph (4) sub-paragraph e to the extent of the phrase, "4 (four) community leaders in the event of odd number of representatives of the political parties in the People's Legislative Assembly ... in the event of even number of representatives of the political parties in the People's Legislative Assembly"; Article 109 paragraph (5), and Article 109 paragraph (11) of Law Number 15 Year 2011 concerning General Election Organizer, have legal grounds in part;

4. CONCLUSION

Based on the foregoing considerations of facts and laws, the Court has come to the following conclusions:

- [4.1]** The Court has authority to hear the petition *a quo*;
- [4.2]** The Petitioners, namely Petitioner Number 1 up to Petitioner Number 9, Petitioner Number 11 up to Petitioner Number 14, Petitioner Number 16 up to Petitioner Number 23, Petitioner Number 25, Petitioner Number 26, Petitioner Number 28 up to Petitioner Number 36, Petitioner Number 38 up to Petitioner Number 59, Petitioner Number 61, Petitioner Number 63, Petitioner Number 64, Petitioner Number 66, and Petitioner Number 68 up to Petitioner Number 136, have legal standing to file the petition *a quo*;
- [4.3]** The Petitioners, namely Petitioner Number 10, Petitioner Number 15, Petitioner Number 24, Petitioner Number 27, Petitioner Number 37,

Petitioner Number 60, Petitioner Number 62, Petitioner Number 65, and Petitioner Number 67 do not have legal standing to file the petition *a quo*;

[4.4] The provisional petition of the petition does not have legal ground;

[4.5] The Substance of the petition has legal ground in part.

Based on the 1945 Constitution of the State of the Republic of Indonesia and Law Number 24 Year 2003 concerning the Constitutional Court as amended by Law Number 8 Year 2011 concerning the Amendment to Law Number 24 Year 2003 concerning the Constitutional Court (State Gazette of the Republic of Indonesia Year 2011 Number 70, Supplement to State Gazette of the Republic of Indonesia Number 5226) as well as Law Number 48 Year 2009 concerning Judicial Authority (State Gazette of the Republic of Indonesia Year 2009 Number 157, Supplement to State Gazette Number 5076);

5. DECISIONS

Passing the decision,

In the Provision:

- Rejecting the provisional petition of the petitioners;

In the Substance of the Petition:

- Granting the petition of the petitioners in part;
- Declaring Article 11 sub-article i and Article 85 sub-article i of Law Number 15 Year 2011 concerning General Election Organizer

(State Gazette of the Republic of Indonesia Year 2011 Number 101, Supplement to State Gazette Number 5246), to the extent of the phrase, “resigning from the membership in a political party ... at the time of registration as a candidate” inconsistent with the 1945 Constitution of the State of the Republic of Indonesia insofar it is not interpreted as “ at least within no longer being a member of a political party for a period of 5 (five) years at the time of registration as candidate”;

- Declaring Article 11 sub-article i and Article 85 sub-article i of Law Number 15 Year 2011 concerning General Election Organizer (State Gazette of the Republic of Indonesia Year 2011 Number 101, Supplement to State Gazette Number 5246), to the extent of the phrase, “resigning from the membership in a political party ... at the time of registration as a candidate” do not have binding legal effect insofar it is not interpreted as “having resigned from membership in a political party for at least 5 (five) years at the time of registration as a candidate”;
- Declaring Article 109 paragraph (4) sub-paragraph c, sub-paragraph d, and paragraph (5) of Law Number 15 Year 2011 concerning General Election Organizer (State Gazette of the Republic of Indonesia Year 2011 Number 101, Supplement to State Gazette Number 5246) inconsistent with the 1945 Constitution of the State of the Republic of Indonesia;

- Declaring that Article 109 paragraph (4) sub-paragraph c, sub-paragraph d, and paragraph (5) of Law Number 15 Year 2011 concerning General Election Organizer (State Gazette of the Republic of Indonesia Year 2011 Number 101, Supplement to State Gazette Number 5246) do not have any binding legal effect;
- Declaring Article 109 paragraph (4) sub-paragraph e of Law Number 15 Year 2011 concerning General Election Organizer (State Gazette of the Republic of Indonesia Year 2011 Number 101, Supplement to State Gazette Number 5246) to the extent of the sentence “4 (four) community leaders in the event of odd number of representatives of the political parties in the People's Legislative Assembly ... in the event of even number of representatives of the political parties in the People's Legislative Assembly” inconsistent with the 1945 Constitution of the State of the Republic of Indonesia;
- Declaring that Article 109 paragraph (4) sub-paragraph e of Law Number 15 Year 2011 concerning General Election Organizer (State Gazette of the Republic of Indonesia Year 2011 Number 101, Supplement to State Gazette Number 5246) throughout the sentence “4 (four) community leaders in the event of odd number of representatives of the political parties in the People's Legislative Assembly ... in the event of even number of representatives of the political parties in the People's Legislative Assembly” shall not

have any binding legal effect, so that Article 109 paragraph (11) shall fully read:

“The Honorary Council of the General Election Organizer (DKPP) as referred to in paragraph (1) consists of:

- a. 1 (one) person from the General Election Commission element;
- b. 1 (one) person from the General Election Supervisory Board element;
- e. 5 (five) community leaders.”

- Declaring Article 109 paragraph (11) of Law Number 15 Year 2011 concerning General Election Organizer (State Gazette of the Republic of Indonesia Year 2011 Number 101, Supplement to State Gazette Number 5246) to the extent of the phrase “based on the needs and considerations of each element” inconsistent with the 1945 Constitution of the State of the Republic of Indonesia;
- Declaring that Article 109 paragraph (11) of Law Number 15 Year 2011 concerning General Election Organizer (State Gazette of the Republic of Indonesia Year 2011 Number 101, Supplement to State Gazette Number 5246) to the extent of the phrase “based on the needs and considerations of each element” shall not have any binding legal effect, so that Article 109 paragraph (11) shall fully read, *“Each member of the Honorary Council of the General Election Organizer from each element can be subject to interim replacement in accordance with applicable provisions”*;

- Ordering the inclusion of this Decision in the Official Gazette of the Republic of Indonesia properly;
- Rejecting the other and the remaining parts of the petition of the petitioners;

In witness whereof, this decision was made in the Consultative Meeting of Justices by nine Constitutional Court Justices on **Wednesday dated the fourth of January year two thousand and twelve**, by nine Constitutional Court Justices namely, Moh. Mahfud MD., as Chairperson and concurrent Member, Achmad Sodiki, M. Akil Mochtar, Hamdan Zoelva, Maria Farida Indrati, Ahmad Fadlil Sumadi, Anwar Usman, Harjono, and Muhammad Alim, as Members, and was pronounced in the Plenary Session of the Constitutional Court open for the public on this day, **Wednesday dated the fourth of January year two thousand and twelve**, by nine Constitutional Court Justices, namely Moh. Mahfud MD., as Chairperson and concurrent Member, Achmad Sodiki, M. Akil Mochtar, Hamdan Zoelva, Maria Farida Indrati, Ahmad Fadlil Sumadi, Anwar Usman, Harjono, and Muhammad Alim, as Members, assisted by Mardian Wibowo as Substitute Registrar, in the presence of the Petitioners/their Attorneys, the Government or its representative, and the People's Legislative Assembly or its representative.

CHIEF JUSTICE,

Signed.

Moh. Mahfud MD.

JUSTICES,

Signed.

Achmad Sodiki

Signed.

Hamdan Zoelva

Signed.

Ahmad Fadlil Sumadi

Signed.

Harjono

Signed.

M. Akil Mochtar

Signed.

Maria Farida Indrati

Signed.

Anwar Usman

Signed.

Muhammad Alim

SUBSTITUTE REGISTRAR,

Signed.

Mardian Wibowo