



## DECISION

Number 30/PHPU.D-VI/2008

FOR THE SAKE OF JUSTICE UNDER THE ONE ALMIGHTY GOD

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF INDONESIA

[1.1] Examining, hearing, and deciding upon the constitutional case in the first and final level, passing a decision in the case of petition of the Dispute Over the Results of General Election of the Head and Deputy Head of Cirebon Regency filed by:

[1.2] 1. Name : **DR. H. Djakaria Machmud, S.E., S.H.,  
M.Si.**

Place /Date of birth : Cirebon, August 6, 1946;

Religion : Moslem;

Occupation : Private;

Address : Blok Kusuma Indah RT. 09, RW. 04  
Setu Kulon Village, Weru District,  
Cirebon Regency, West Java Province;

2. Name : **PRA. Arief Natadiningrat, S.E.;**

Place/Date of birth : Cirebon, September 5, 1965;

Religion : Moslem;

Occupation : Member of the Regional People's Representative Council of the Republic of Indonesia;

Address : Keraton Kesepuhan, Kesepuhan Village, Lemahwungkuk District, Cirebon Municipality, West Java Province;

In this case authorizing 1) R. Hikmat Pribadi, S.H.; 2) Nasrulloh Nasution, S.H.; 3) Watmawati, S.H.; all of whom are Advocates and Legal Consultants at ***TPS Law Firm*** having their address at Jalan Rereng Barong Number 53 Bandung Municipality, based on the special power of attorney dated November 4, either severally or jointly.

Hereinafter referred to as ..... the **PETITIONERS**;

**Against:**

[1.3] **General Election Commission of Cirebon Regency**, having its address at Jalan Dewi Sartika Number 100, Sumber, Cirebon Regency, West Java;

In this case authorizing 1). Sutikno, S.H., M.H.; 2). J. Samsudin Saputra, S.H., both of whom are Advocates having their office

address at Tangkuban Perahu III Street Number 203, Cirebon Municipality, West Java.

Hereinafter is referred to as ..... the **RESPONDENT**;

[1.4] Having read the Petitioners' petition;

Having heard the Petitioners' statements;

Having heard and read the written statement of the Respondent as the General Election Commission of Cirebon Regency;

Having examined the evidence and witnesses presented by the Petitioners and the Respondent;

### 3. LEGAL CONSIDERATIONS

[3.1] Considering whereas the main legal issue of the Petitioners' petition is the objection to the Respondent's Decision dated November 1, 2008 Number 29 Year 2008 concerning the Stipulation of the Elected Pair of Candidates in the Election of Head and Deputy Head of Cirebon Regency Year 2008;

[3.2] Considering whereas based on Article 24C paragraph (1) of the 1945 Constitution, Article 106 of Law Number 32 Year 2004 concerning Regional Government *juncto* Article 236C of Law Number 12 Year 2008 concerning the Second Amendment to Law Number 32 Year 2004 concerning Regional Government, prior to considering the Principal Issue of the Petition, the Constitutional Court (hereinafter referred to as the Court) shall first consider:

1. court's authority to examine, hear, and decide upon the *a quo* petition;
2. legal standing to act as the petitioners in the *a quo* petition.

With respect to the aforementioned two matters, the Court is of the following opinions:

#### **Court's Authority**

[3.3] Considering whereas based on the provision of Article 24C paragraph (1) of the Constitution of the State of the Republic of Indonesia Year 1945 (hereinafter referred to as the 1945 Constitution) and Article 10 paragraph

(1) sub-paragraph d of Law Number 24 Year 2003 concerning the Constitutional Court (State Gazette of the Republic of Indonesia Year 2003 Number 98, Supplement to the State Gazette of the Republic of Indonesia Number 4316, hereinafter referred to as Constitutional Court Law ) *jis* Article 12 paragraph (1) sub-paragraph d of Law Number 4 Year 2004 concerning Judicial Power, and Law Number 12 Year 2003 concerning the Second Amendment to Law Number 32 Year 2004 concerning Regional Government, one of the Court's constitutional authorities is deciding upon disputes over the results of general elections;

Initially, based on the provision of Article 106 paragraph (1) and paragraph (2) of Law Number 32 Year 2004 concerning Regional Government (State Gazette of the Republic of Indonesia Year 2004 Number 125, Supplement to the State Gazette of the Republic of Indonesia Number 4437) the objection concerning the vote count results affecting the election of the pair of candidates used to be filed to the Supreme Court. Such Supreme Court's authority is re-included in Article 94 of Government Regulation Number 6 Year 2005 concerning the Election, Appointment Legalization, and Dismissal of Regional Heads and Deputy Regional Heads;

Article 1 sub-article 4 of the Law Number 22 Year 2007 concerning General Election Organizer (State Gazette of the Republic of Indonesia Year 2007 Number 59, Supplement to the State Gazette of the Republic of Indonesia Number 4721) provides that, "*General Elections of Regional Heads and Deputy Regional Heads shall be general elections to directly elect the regional heads*

*and deputy regional heads within the Unitary State of the Republic of Indonesia under Pancasila and the 1945 Constitution of the Republic of Indonesia”;*

Article 236C of Law Number 12 Year 2008 concerning the Second Amendment to Law Number 32 Year 2004 concerning Regional Government, stipulates that , *”The handling of disputes over the vote count results of the election of regional heads by the Supreme Court shall be delegated to the Constitutional Court no later than 18 (eighteen) months following the promulgation of this Law”;*

On October 29, 2008, the Head of the Supreme Court and the Head of the Constitutional Court jointly signed the Minutes of Delegation of Authority to Adjudicate, as the implementation of Article 236C of Law Number 12 Year 2008 above.

[3.4] Considering whereas the *a quo* delegation of authority has been conducted by the Supreme Court in accordance with the Minutes of Delegation of Authority to Adjudicate dated October 29, 2008, signed by the Head of Supreme Court and the Head of Constitutional Court;

[3.5] Considering whereas based on the considerations set out in paragraph [3.3] and paragraph [3.4], the Court has authority to examine, hear, and decide upon the *a quo* petition.

[3.6] Considering whereas the Respondent has stipulated the results of General Election of Regional Head and Deputy Regional Head (*Pemilukada*) of Cirebon Regency under the Decision of Cirebon Regency KPU (General Election Commission) Number 29 Year 2008 dated November 2, 2008, while the petition of objection to the stipulation of the vote count results by the Respondent was already filed to the Court on November 5, 2008 at 16,00 West Indonesia Time. Accordingly, the *a quo* petition has been filed within the time frame and according to the procedures stipulated by law, and therefore the *a quo* petition has legal ground to be accepted;

#### **Petitioners' Legal Standing**

[3.7] Considering whereas Article 106 paragraph (1) of Law Number 32 Year 2004 concerning Regional Government stating that the objection to the results of the election of regional head and deputy regional head may only be filed by the pair of candidates to the Supreme Court within no later than 3 (three) days following the stipulation of the result of general election of regional head and deputy regional head.

[3.8] Considering whereas, the authority of the Supreme Court as specified in Article 106 paragraph (1) of Law Number 32 Year 2004 has been amended with Law Number 12 Year 2008 concerning the Second Amendment to Law Number 32 Year 2004 particularly Article 236C as described in paragraph

[3.3].

[3.9] Considering whereas the Petitioners are the Pair of Candidates of Head and Deputy Head of Cirebon Regency for the Period of 2008-2013 with the Candidacy Number 3 in accordance with the Respondent's Decision Number 24 Year 2008 dated September 24, 2008.

[3.10] Considering whereas based on the consideration of paragraph [3.5] up to paragraph [3.7], the Petitioners have legal standing to file the *a quo* petition of objection. Furthermore, the Court shall give legal evaluation on the principal issue of the petition.

#### **Principal Issue of the Petition**

[3.11] Considering whereas the purpose and objective of the petition filed by the Petitioners are as described above;

[3.12] Considering whereas, the following legal facts in the arguments of the Petitioners' petition are not denied by the Respondent and accordingly such facts no longer need to be proved:

1. Whereas the Election of Regent and Deputy Regent of Cirebon Regency was already organized by the Respondent on October 26, 2008;
2. Whereas the Petitioners are the Pair of Candidates of Regional Head and Deputy Regional Head of Cirebon Regency for the Period of 2008-2013 based on the Minutes of the Respondent's Stipulation Number 24 Year

2008 dated September 24, 2008 to the effect, among other things, that the Petitioners are one of the Pairs of Candidates of Regent and Deputy Regent of Cirebon Regency for the Period of 2008-2013;

3. Whereas the Respondent has issued the Decision of Cirebon Regency KPU Number 29 Year 2008 dated November 2, 2008 concerning the Stipulation of the Elected Candidates of Regent and Deputy Regent in the Election of Regent and Deputy Regent of Cirebon Regency Year 2008;

[3.13] Considering whereas in addition to the plea the Respondent also includes Exception, which basically as follows:

**A. In the Exception**

**1. Exception Concerning the Late Submission of Petition of Objection**

According to the Respondent, the Petitioners already submitted the petition of objection to the Court on Thursday, November 6, 2008 at 12.00 West Indonesia Time, while according to the Constitutional Court Regulation Number 15 Year 2008 concerning the Guidelines on the Proceedings In The Disputes Over *Pemilukada* Results the submission shall be 3 (three) days since the stipulation of vote count results. Accordingly, the petition is evidently contradictory to the Constitutional Court Regulation Number 15 Year 2008, and the Constitutional Court Registrar should not have registered the Petitioners' petition. Furthermore, the Panel of Constitutional Court Justices should have rejected the Petitioners' petition in its entirety.

## 2. Exception Concerning Absolute Competence

According to the Respondent, the Petitioners' petition is based on arguments stating that the Respondent's vote count was not correct because there were errors and mistakes of the Respondent whereby many of the Petitioners' supporters could not use their voting rights because they did not obtain the voting cards and/or were not included in Permanent Voters' List (DPT), and there was intimidation so that the total of the Petitioners' supporters could not use their voting rights in the 2008 Election of Regent and Deputy Regent of Cirebon Regency 2008 because of vote deflation of as many as 114,230 persons and there were acts of violence against the Petitioners' supporters, such as stabbing of the Witness Coordinator of the Pair of Candidates with Candidacy Number 3 in Suranenggala District, beating towards the Team Coordinator of the Pair of Candidates with Candidacy Number 3 in Ciwaringin District, as well as other acts of intimidation in all districts of Cirebon Regency;

Whereas based on the provision of Article 4 of Constitutional Court Regulation Number 15 Year 2008, the substance of the present case shall be concerned with objection to the vote count result affecting the elected pair of candidates in 2008 Cirebon Regency *Pemilukdada*, not with the problems of DPT, intimidation, criminal acts of stabbing, deflation, or inflation.

The Constitutional Court's authority is to hear the dispute over the KPU's decision concerning the stipulation of vote count result petitioned tally

requested by the pair of candidates. Therefore, the Constitutional Court does not have authority to hear the violations in the implementation of *Pemilukada* stages, except for those related to the stipulation of the vote count result;

The votes counted shall be valid votes cast by the voters in a valid manner, namely the voters having rights (Article 68-69 of Law Number 32 Year 2004), listed in the voters' list (Articles 70-74 of Law Number 32 Year 2004), valid ballots (Article 95 of Law Number 32 Year 2004), in the determined places and according to the procedures (Articles 86-94 of Law Number 32 Year 2004). Therefore, the examination of dispute over vote count results may only be conducted towards valid votes. The Court does not have authority to make any statements its decision concerning the existence of matters regarding the actions of any party in *Pemilukada* stages, for instance voters' list, intimidation, stabbing, vote deflation and inflation;

### **3. Exception Concerning *Obscuur Libel***

- a. Whereas the Petitioners' petition has unclear meaning; the content's substance is unclearly arranged; there is no agreement between the *posita* and *petitum*;
- b. the Petitioners mix up between the problem of violations in *Pemilukada* stages and the reasons for the decrease of the Petitioners' vote acquisition;

- c. the Petitioners only intend to participate and to contribute to the soundness of political ethics, law and enforcement of democratic principles as described in point 3 through the Constitutional Court, while the Constitutional Court is not the forum for public political dissemination or empowerment;
- d. the Petitioners intend to attempt comprehensive settlement of the violations in the stages of Cirebon Regency *Pemilukda* by using the Constitutional Court as the ordinary judiciary.
- e. the Petitioners also submit evaluation which has unclear meaning stating that Cirebon Regency KPU, along with all its instruments, has not played their role optimally, so that it has not been able to reduce violations as well as other technical-procedural and administrative frauds which have been reported to Cirebon Regency KPU and *Panwaslu* as described by the Petitioners in point 4;

Whereas such unclear and poorly arranged petition of the Petitioners should be proper for the Constitutional Court to reject the Petitioners' petition;

#### **4. Exception concerning lack of parties**

The Petitioners only involve Cirebon Regency KPU as the Respondent, while the Supervisory Committee (*Panwas*) of Cirebon Regency

*Pemilukada* is not involved as a party in this case. As regulated in Article 108 of Government Regulation No. 6 Year 2005, the Election Supervisory Committee has the following duties and authorities:

- a. to supervise all stages of the election;
- b. to receive reports of violations against the laws and regulations;
- c. to settle disputes occurring in the implementation of the election;
- d. to follow up the findings and reports which cannot be settled with competent agencies; and
- e. to arrange the coordination relationship among the supervisory committees of all levels.

Whereas the Supervisory Committee of Cirebon Regency *Pemilukada* is mentioned in the Petitioners' petition to be part of the objection to the violations of the stages of Cirebon Regency *Pemilukada*. Accordingly, due to the lack of party in filing a case to the court, the petition is not complete, so that the Constitutional Court must reject the Petitioners' Petition of Objection.

### **Court's Opinion**

#### **In the Exception:**

[3.14] Considering whereas insofar as it is concerned with the exception in point 1 above, the deed of evidence submitted by the Petitioners, either in Exhibit P-2 or Exhibit T-3 submitted by the Respondent, there is a difference in the date of Stipulation, where Exhibit P-2 of the Respondent's Decision the date

is November 2, 2008, while in Exhibit T-3 submitted by the Respondent the date is November 1, 2008. The difference of date in the *quo* Decision was confirmed by the Respondent that the true date is November 2, 2008. Accordingly, the Court is of the opinion that the time frame for petition submission has been correct and has met the legal requirement as stipulated in Constitutional Court Regulation Number 15 Year 2008 concerning the Guidelines on the Proceedings in the Dispute Over the Result of Pemilukada, namely 3 (three) working days following the stipulation by the Respondent on November 2, 2008, while the petition was submitted on November 5, 2008 and was registered in the Registration Book of Constitutional Cases on November 6, 2008;

Whereas in so far as it is concerned with the exception in points 2, 3, and 4 above, the Court is of the opinion that the substance of the *a quo* petition is contradictory to the principal issue of the petition and therefore the *a quo* exception is not correct according to the law and the Court shall conduct legal evaluation of the principal issue of the petition.

[3.15] Considering whereas based on the aforementioned legal consideration, the Court evaluates that the entire Respondent' exception must be set aside in accordance with the law and declared not unacceptable.

### **In the Principal Issue of the Case**

[3.16] Considering whereas the primary essence of the Petitioners' petition is concerned with the Respondent's Decision concerning the Stipulation

of the Elected Pair of Candidates of Regent and Deputy Regent in the Election of Regional Head and Deputy Regional Head of Cirebon Regency Year 2008.

**[3.17]** Considering whereas the Respondent in its response on November 14, 2008 basically declared to reject the arguments of the petition in it's entirely with the following legal grounds:

1. There is no vote count to be disputed in the Election of Regent and Deputy Regent Head Cirebon Regency Year 2008 at the levels of TPS, PPK, and Cirebon Regency KPU, because in the whole Minutes of Vote Count Recapitulation of Vote Acquisition of the Election of Regent and Deputy Regent of Cirebon Regency Year 2008 there is no record of objection concerning the vote count result.
2. Whereas the Petitioners' arguments in point 8 obviously present the voters' data based on assumptions the truth of which cannot be accounted for; Based on Law Number 32 Year 2004 and Government Regulation Number 6 Year 2005, vote count shall be conducted for the voters who have been registered in DPT, and shall not at once claim that the votes of the Petitioners' Supporters of 144,230 persons who feel to have not been registered in DPT legally belong to the Petitioners' pair. The number of 365,544 votes also cannot be added to 144,230 votes of the people who did not vote in TPS.

3. Whereas the Respondent has conducted voters' registration process in accordance with Decision of Cirebon Regency KPU Number 09 Year 2008 concerning Technical Guidelines on the Implementation Voters' Registration in the Election of Regent and Deputy Regent Year 2008.
4. Whereas insofar as it concerned with the Petitioners' arguments in point 9 concerning the occurrence of stabbing and riot, *money politics*, and voting by persons not registered, such arguments are not correct because such matters do not constitute the object of dispute over the vote count results (*vide* Article 4 of Constitutional Court Regulation Number 15 Year 2008), but such matters shall become the domain of *Panwas*' authority which are in the process of examination on which a Court decision has not been passed yet.

[3.18] Considering whereas after conducting examination in the hearing towards the evidence submitted by the Petitioners or the Respondent as mentioned above, the Court has identified the following facts:

1. Whereas all the Exhibits P-4, P-5, Exhibits P-8 up to P-15 are concerned with the Petitioners' complaints to *Panwas* and the Police concerning violations in the stages of *Pemilukada* implementation and General Election criminal acts to the Ministry of Administrative Reforms concerning the complaints of partiality of Civil Servants (PNS). Likewise, Exhibit P-28 is concerned with the records of agencies in Cirebon Regency being directed to vote the pair of candidates with certain Candidacy Number,

- while on the contrary the Respondent states in Exhibit T-5 concerning Statement of No Complaint of Objection from Sumber District Court Number W11.U.19.1181.HL.01.10/XI/2008/PN.Sbr dated November 5, 2008, explaining that from the result of observation of the administration in the Registrar Office and the Administration of Sumber District Court (*vide* Letter of the Head of Sumber District Court Number W11.U.19.1181.HL.01.10/XI/2008/PN.Sbr dated November 5, 2008, Exhibit T-5) there is no letter of complaint/objection from the respective campaign teams after the stipulation of Drs. H. Dedi Supardi, M.M., and H. Ason Sukasa, Sm.Hk as the Elected Regent and Deputy Regent;
2. Whereas Exhibits P-18 through P-22 concerning the change of DPT determined on August 3, 2008, are not in accordance with the final time limit of DPT determination as stipulated. On the contrary, Exhibit T-7 submitted by the Respondent concerning Stages, Program, and Time Schedule for *Pemilukada* Implementation in the voters' data updating process is determined to be on June 5, 2008;
  3. Whereas Exhibit P-29 namely Copy of DPT of Karangwareng Village, Karangwareng District and Exhibit P-30 namely Copy of DPT of Blender Village, Karangwareng District submitted by the Petitioners, mention two names voting in 2 (two) TPS namely Dedi Wispahyudi and Sutiah. Likewise, Exhibits P-30 through P-33 are concerned with double voting by Dedi Wispahyudi and Sutiah. On the contrary, the Respondent does not

- deny the evidence submitted by the Petitioners as there is no protest, argument, and evidence submitted by the Respondent and the Respondent only states that the an active system shall apply to the process of voters' documentation and DPS (Temporary Voters' List) dissemination shall conducted transparently and the people are given the opportunity to be pro-active. This is contrary to the testimony of witness Aidin stating that DPT in Weru District, which has been determined by the Respondent and in the presence of the witnesses of the parties having members in the Regional People's Legislative Assembly, namely the Functional Group (Golkar) Party, the Indonesian Democratic Party-Struggle (PDIP), the National Awakening Party (PKB), and the Democratic Party. After the signing having there were significant additions several weeks later which were not known by the witnesses;
4. Whereas the Respondent has stipulated the results of vote count recapitulation of the respective pairs, namely the pair with Candidacy Number 1 (one): Drs. Sunjaya Poerwadi S. M.M., M.Si and K. Abdul Hayyi, S.Pd., M.Ag for a number of 102,669 votes, the pair with Candidacy Number 2 (two): Drs. H. Dedi Supardi, M.M. and H. Ason Sukasa, Sm. Hk for a number of 477,143 votes and the pair with Candidacy Number 3 (three): Dr. Djakaria Machmud, S.E., S.H., M.Si and PRA. Arief Natadiningrat, S.E. for a number of 365,554 votes, which were not denied by the Petitioners, but the Petitioners state that such count was not correct because many of Petitioners' supporters could not use their voting rights

because they did not obtain voting cards and/or were not included in DPT so that all the Petitioners' supporters who did not use their voting rights have brought about vote deflation for a number of 114.230 votes. Such argument is not supported by evidence and facts that can convince the Court;

**[3.19]** Considering whereas the whole statement of the witness in general explains the implementation process of *Pemilukada*, namely from voter registration, data updating, campaign, voting. In such *Pemilukada* stages they encountered intimidations and saw violations during the implementation of *Pemilukada*;

Whereas based on the legal facts in the hearing there is no witness giving testimony concerning the existence of incorrect numbers in the vote count from every TPS up to the result of recapitulation conducted by the Respondent;

**[3.20]** Considering whereas the evidence submitted by the Petitioners as described above, basically explain the violations committed in the process of *Pemilukada* implementation and based on such legal facts errors in the final vote count or the correct number according to the Petitioners have not been identified;

**[3.21]** Considering furthermore, the written evidence submitted by the Petitioners the substance of which is concerned with clarification of the assumptions of administrative violations and pure criminal violations, such as torturing and duress during *Pemilukada* process which *nota bene* are not written

evidence identifying inaccurate count or errors in a factual manner in the number of vote acquisition of the respective candidate pairs;

[3.22] Considering whereas insofar it is concerned with the Petitioners' written evidence and witnesses' statements, there is no evidence of vote acquisition confirming the arguments with the legal grounds to paralyze the Respondent's denial and arguments.

[3.23] Considering whereas the Court is of the opinion the source of disputes over the vote count results is due to objections and complaints filed by the Petitioners' supporters which were not properly responded to in the stages of Cirebon Regency *Pemilukada* as presented in the testimony of the Petitioners' witnesses before the court;

Whereas in relation to violence, such as stabbing towards the Petitioners' Witnesses Coordinator in Suranenggala District, beating towards the Coordinating Team of the Petitioners' pair in Ciwaringin District, and intimidation so that many of supporters and voters for the pair with Candidacy Number 3 (three), *in casu*, who finally did not come to the voting places, the Court's does not have authority to evaluate the matter, because if there was violence or intimidation, the Petitioners should have reported it to *Panwas* or the police and in this case the Petitioners cannot prove the violence and intimidation with sufficient evidence;

Whereas with respect to the Petitioners' arguments stating that there have been practices of giving away money and/or goods which can be valued in money (*money politics*) to the prospective voters for the purpose of influencing their choice in the broadest scale as also conveyed by the witnesses in the hearing, the Court did not find sufficient evidence, and moreover such matter constitutes the authority of *Panwaslu*, so that the Petitioners' arguments and statements must be set aside;

Whereas with respect to the Petitioners' arguments stating that there has been voting conducted by people not registered in DPT in several TPS cannot be accepted, because in fact based on the statement of Khusen, the witness, stating that in Pasinandgan Village, Gunungjati District, Cirebon Regency, ballots were given to a person who is not a local resident, but the person did not want use his voting right, so that the Petitioners' arguments must be set aside;

**[3.24]** Considering whereas insofar as they are concerned with the errors of vote count tally, deflation, intimidation, violence, money politics, the voters who did not use their voting rights, and there were people who were not entitled to vote in the voting on October 26, 2008, the *a quo* Petitioners' arguments have not been supported by sufficiently convincing arguments as specified by law, especially because of the absence of the Petitioners' witnesses as Pemilukada participants witnessing the implementation of the vote count in every TPS;

Whereas the absence of witnesses and records, either in KPPS, PPK, or in Cirebon Regency KPU for the immediate submission of the objections to the errors of vote count or frauds as intended in Article 103, Article 104, and Article 105 of Law Number 32 Year 2004 concerning Regional Government, as well as Article 90, Article 91, and Article 92 of Government Regulation Number 6 Year 2005 concerning Election, Legalization, Appointment and Dismissal of Regional Head and Deputy Regional Head of Regional Governments means that the Petitioners have failed to prove their arguments of objection;

[3.25] Considering whereas, if only there had been frauds, deflation, violence, administrative errors, intimidation, and money politics committed by certain parties including the fellow pairs of other candidates of Regent and Deputy Regent, or by *Pemilukada* organizers in Cirebon Regency, the Petitioners might have reported the matter to Cirebon Regency *Panwaslu* in accordance with regency/municipality *Panwaslu's* authorities as specified in Article 78 of Law Number 22 Year 2007 concerning General Election Organizer, while the criminal violations should have been followed up to the Police and the administrative violations should have been followed up to the Respondent, *in casu*, KPU.

[3.26] Considering whereas based on the foregoing considerations and Article 13 paragraph (3) sub-paragraph c of the Constitutional Court Regulation Number 15 Year 2008, the Court shall accordingly consider that the Petitioners have failed to prove their legal arguments and grounds, so that the Petitioners' petition must be rejected;

#### 4. CONCLUSION

Based on the foregoing evaluation of the facts and laws, the Court concludes:

- [4.1] whereas even though there were voters who did not obtain voting invitations or voting cards in Cirebon Regency in Cirebon Regency *Pemilukada* on October 27, 2008, it cannot be immediately considered that the votes should go to the Petitioners;
- [4.2] whereas the arguments concerning the deflation of votes for a number of 114,230 votes belonging to the Petitioners cannot be proved;
- [4.3] whereas because the Petitioners' arguments cannot be proved in a valid and convincing manner, the Petitioners' petition must therefore be rejected in its entirety.

#### 5. DECISION

In view of the Articles of the Constitution of the State of the Republic of Indonesia Year 1945, Law Number 24 Year 2003 concerning the Constitutional Court, Law Number 4 Year 2004 concerning Judicial Power, Law Number 32 Year 2004 concerning Regional Government as most recently amended with Law Number 12 Year 2008 concerning the Second Amendment to Law Number 32 Year 2004 concerning Regional Government, and the Minutes of

Delegation of Authority to Adjudicate dated October 29, 2008 from the Supreme Court to the Constitutional Court.

**Passing the Decision,**

**In the Exception:**

To declare that the Respondent's Exception cannot be accepted.

**In the Principal Issue of the Case:**

To reject the Petitioners' petition in its entirety.

Hence this decision was made in the Consultative Meeting of Justices attended by nine Constitutional Court Justices on Monday, dated November the twenty fourth year two thousand and eight, and was pronounced in the Plenary Hearing of the Constitutional Court open for public on this day, Monday, dated November the twenty fourth year two thousand and eight, by us, eight Constitutional Court Justices, namely: Moh. Mahfud MD, as the Chairperson and concurrent Member, H. M Arsyad Sanusi, Maria Farida Indrati, Maruarar Siahaan, H. Abdul Mukthie Fadjar, H.M. Akil Mochtar, Muhammad Alim, and H. Achmad Sodiki respectively as Members, assisted by Alfius Ngatrin as Substitute Registrar, and in the presence of the Petitioners and/or their Attorneys and the Respondent and/or its Attorneys.

**CHIEF JUSTICE,**

**Sgd.**

**Moh. Mahfud MD**

**JUSTICES,**

**Sgd.**

**H.M. Arsyad Sanusi**

**Sgd.**

**Maria Farida Indrati**

**Sgd.**

**Maruarar Siahaan**

**Sgd.**

**H. Abdul Mukthie Fadjar**

**Sgd.**

**H.M. Akil Mochtar**

**Sgd.**

**Muhammad Alim**

**Sgd.**

**H. Achmad Sodiki**

**SUBSTITUTE REGISTRAR,**

**Sgd.**

**Alfius Ngatrin**