CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION
FOR CASE NUMBER 104/PUU-XXIII/2025

Concerning

The term "Recommendation" of the Election Supervisory Agency in Handling Administrative Violations in Regional Head Elections is interpreted as "Decision"

Petitioners	:	**Yusron Ashalirrohman, et al.**
Type of Case	:	Judicial Review of Law Number 1 of 2015 concerning Enactment of Government Regulation in Lieu of Law Number 1 of 2014 concerning Election of Governors, Regents, and Mayors into Law (Law 1/2015) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
Subject Matter	:	Article 139 paragraph (1), Article 139 paragraph (2), Article 139 paragraph (3) and Article 140 paragraph (1) of Law 1/2015 are contrary to Article 28D paragraph (1), and Article 22E paragraph (1) of the 1945 Constitution of the Republic of Indonesia
Verdict	:	1. To grant the Petitioners' petition in part 2. To declare that the term "recommendation" in Article 139 of Law Number 1 of 2015 concerning Enactment of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law (State Gazette of the Republic of Indonesia of 2015 Number 245, Supplement to the State Gazette of the Republic of Indonesia Number 5588) is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force if it is not interpreted as "decision" 3. To declare that the phrase "examine and decide" and the term "recommendation" in Article 140 paragraph (1) of Law Number 1 of 2015 concerning Enactment of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law (State Gazette of the Republic of Indonesia of 2015 Number 245, Supplement to the State Gazette of the Republic of Indonesia Number 5588) are contrary to the 1945 Constitution of the Republic of Indonesia and have no binding legal force if the phrase "examine and decide" is not interpreted as "follow up" and the term "recommendation" is not interpreted as "decision" 4. To order this decision to be published in the State Gazette of the Republic of Indonesia as appropriate

5. To dismiss the remainder of the Petitioners' petition

Date of Decision : Wednesday, July 30, 2025

Overview of Decision :

Petitioner I, Petitioner II, Petitioner III, and Petitioner IV are individual Indonesian citizens, as evidenced by their Residence Identity Cards (*Kartu Tanda Penduduk* or KTP), and have exercised their voting rights in the general election and regional head elections. Whereas as voters, Petitioner I, Petitioner II, Petitioner III, and Petitioner IV may report election administrative violations as stated in Article 134 paragraph (2) letter a of Law 1/2015. However, this is not supported by clear legal protection for handling administrative violations in regional head elections. In this case, the norms of Article 139 paragraph (1), paragraph (2) and paragraph (3) of Law 1/2015 limit the authority of the Elections Supervisory Body to solely reviewing and issuing "recommendation" products. Based on the phrase "examine and decide" in the norm of Article 140 paragraph (1) of Law 1/2015, the General Elections Commission (*Komisi Pemilihan Umum* or KPU) is granted the authority to review recommendations of Elections Supervisory Body and decide on findings of administrative violations in regional head elections.

Whereas with respect to the Court's authority, because the Petitioners petition for a review of the constitutionality of norms of law, *in casu* material review of Article 139 paragraph (1), paragraph (2), and paragraph (3) and Article 140 paragraph (1) of Law 1/2015 against the 1945 Constitution of the Republic of Indonesia, the Court has the authority to hear the petition *a quo.*

With respect to the legal standing of the Petitioners, the Court is of the opinion that if the petition of Petitioner I, Petitioner II, Petitioner III, and Petitioner IV is granted, the assumed loss or at least the potential loss of their constitutional rights will no longer occur or will not occur. Therefore, regardless of whether or not the unconstitutionality of the norms being petitioned for review is proven, the Court is of the opinion that Petitioner I, Petitioner II, Petitioner III, and Petitioner IV (hereinafter referred to as the Petitioners) have the legal standing to act as petitioners in the petition *a quo*.

Whereas since the petition *a quo* is clear, the Court is of the opinion that there is no urgency and relevance in hearing the statements of the parties as intended in Article 54 of the Constitutional Court Law.

Furthermore, before the Court considers the Petitioners' argument, the Court needs to emphasize the norms of Article 139 paragraph (1), paragraph (2), and paragraph (3) of Law 1/2015 and Article 140 paragraph (1) of Law 1/2015, even though they were not petitioned in Case Number 48/PUU-XVII/2019, which was decided in the Constitutional Court Decision Number 48/PUU-XVII/2019 and pronounced in a plenary session open to the public on January 29, 2020, all occurrences of the term "district/city election supervisory committee" have been changed to "district/city election supervisory committee." In this case, in essence all occurrences of the term "district/city election supervisory committee" must be interpreted and read as "district/city election supervisory agency." Therefore, to answer the Petitioners' argument in the petition *a quo*, the Court will use the phrase "district/city election supervisory agency."

With respect to the Petitioners' argument as described above, the Court will re-cite the legal considerations contained in Sub-paragraph [3.15.1] of the Constitutional Court Decision Number 55/PUU-XVII/2019 which was pronounced in a plenary session open to the public on February 26, 2020 and the Constitutional Court Decision Number 85/PUUXX/2022 which was pronounced in a plenary session open to the public on September 29, 2022, in essence, they reaffirm that there is no longer a difference between the general election regime and the regional head election regime. Therefore, constitutionally, all the norms contained in Article 22E of the 1945 Constitution must be applied uniformly to legislative elections, presidential/vice-presidential elections, and regional head/deputy regional head elections

Furthermore, with respect to the subject matter of the petition, the key issue the Court must consider is whether the term “recommendation” in the phrase “make recommendations based on the results of the study” in Article 139 paragraph (1) of Law 1/2015, and the phrase “examine and decide” in Article 140 paragraph (1) of Law 1/2015 are contrary to the 1945 Constitution of the Republic of Indonesia and they have no binding legal force if the phrase “make recommendations based on the results of the study” in Article 139 paragraph (1) of Law 1/2015 is not interpreted as “receive, examine, review and decide;” the word “recommendation” in Article 139 paragraph (2) and paragraph (3) of Law 1/2015 is interpreted as “decision”, and the phrase “examine and decide” in Article 140 paragraph (1) of Law 1/2015 is interpreted as “follow up.”

Whereas one of the benchmarks of a democratic country is the realization of democratic elections. The realization is fulfilled by the provisions of Article 22E paragraph (1) of the 1945 Constitution of the Republic of Indonesia. If all these principles are applied properly and consistently, elections with integrity can be achieved. In this context, because there is no distinction between the general election regime and the regional head election regime, all provisions aimed at ensuring elections with integrity must be standardized so that issues of the same nature are resolved through the same procedures. In fact, a reading of the provisions on the handling of regional head election administrative violations under Law 1/2015 and general election administrative violations under Law 7/2017 shows a discrepancy or lack of synchronization between the roles assigned to the Elections Supervisory Body in each law. In this regard, in handling the general election administrative violations, the Elections Supervisory Body is granted the authority to decide on the said general election administrative violations [*vide* Article 460 to Article 465 of Law 7/2017]. Meanwhile, in handling the regional head election administration, the Elections Supervisory Body may only provide recommendations based on the results of the study, such recommendations will then be examined and decided by the General Elections Commission [*vide* Article 139 and Article 140 of Law 1/2015]. This difference means that, in handling the general election administrative violations, the authority of the Elections Supervisory Body is more clearly defined, as its decisions are binding and must be followed up by the General Elections Commission. Meanwhile, in handling the regional head election administrative violations, the Elections Supervisory Body may only provide recommendations, accordingly its authority is very dependent on the follow-up actions taken by the General Elections Commission. Instead, the General Elections Commission is authorized to review and decide on the recommendations made by the Elections Supervisory Body.

With respect to the handling of regional head election administrative violations through recommendations rather than decisions, the Court considers that this process amounts to a mere procedural formality, since the legal findings of the Elections Supervisory Body do not have binding legal force. With respect to the legal force of the rulings on administrative violations, and given that the general elections and regional head elections fall under the same electoral regime, the Court must regard the Elections Supervisory Body’s enforcement of rulings on both general election and regional head election administrative violations as having binding legal force on all election organizers and participants. In this context, because the handling of legislative and presidential/vice-presidential election administrative violations by the Elections Supervisory Body carries binding legal force, and the General Elections Commission is required to follow up on those decisions, the same treatment must apply to all election regime. Accordingly, the handling of regional head election administrative violations by the Elections Supervisory Body must also have binding legal force, and the General Elections Commission must follow up on the legal findings of the Elections Supervisory Body without the need for re-examination by the General Elections Commission/the provincial General Elections Commission/ district/city General Elections Commission, or any equivalent bodies.

Whereas the norms in Article 139 paragraph (1), paragraph (2), and paragraph (3) of Law 1/2015, the law provides that the Elections Supervisory Body’s authority is limited to issuing “recommendations”, however, in order to maintain harmony of authority and uphold the electoral principles intended in Article 22E paragraph (1) and the guarantees of

protection and legal certainty intended in Article 28D paragraph (1) of the 1945 Constitution, the term “recommendation” in Article 139 paragraphs (1), (2), and (3) of Law 1/2015 must be interpreted as “decision.” The interpretation of the norms of Article 139 paragraph (1), paragraph (2), and paragraph (3) of Law 1/2015, the phrase “examine and decide” in Article 140 paragraph (1) of Law 1/2015 must also be interpreted as “follow up on the decision.” In addition, because this issue is linked to the interpretation of the term “recommendation” as “decision” and the phrase “examine and decide” as “follow up on the decision,” the term “recommendation” in Article 140 paragraph (1) of Law 1/2015 must also be interpreted as “decision.” Likewise, any articles not petitioned but impacted by the decision *a quo* must be adjusted to ensure consistency with the verdict *a quo*.

Furthermore, in the context of election law, the Court deems it necessary to remind the lawmakers to harmonize all regulations aimed at ensuring good and integrity-based elections. The lawmakers must promptly revise or amend election-related laws, particularly by aligning the legal framework for legislative and presidential/vice-presidential elections with that of regional head/deputy regional head elections, including provisions that strengthen election-management institutions. Such harmonization efforts not only prevent overlapping or conflicting regulations, but also ensure fair and equal legal protection and certainty for all citizens in exercising their political rights, particularly in upholding the principles of elections contained in Article 22E paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

Pursuant to the entire description of the legal considerations above, the norms of Article 139 paragraph (1), paragraph (2), paragraph (3) and Article 140 paragraph (1) of Law 1/2015 have failed to realize the election principles contained in Article 22E paragraph (1) of the 1945 Constitution of the Republic of Indonesia and do not ensure fair and equal legal protection and certainty, inconsistent with the provisions of Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, as argued by the Petitioners. However, since the Court’s interpretation is different from the one stated in the petition of the Petitioners, the Petitioners’ petition must be declared as legally justifiable in part.

Accordingly, the Court subsequently passes down a decision which verdict states, as follows:

1. To grant the Petitioners’ petition in part;
2. To declare that the term “recommendation” in Article 139 of Law Number 1 of 2015 concerning Enactment of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law (State Gazette of the Republic of Indonesia of 2015 Number 245, Supplement to the State Gazette of the Republic of Indonesia Number 5588) is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force if it is not interpreted as “decision;”
3. To declare that the phrase “examine and decide” and the term “recommendation” in Article 140 paragraph (1) of Law Number 1 of 2015 concerning Enactment of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law (State Gazette of the Republic of Indonesia of 2015 Number 245, Supplement to the State Gazette of the Republic of Indonesia Number 5588) are contrary to the 1945 Constitution of the Republic of Indonesia and have no binding legal force if the phrase “examine and decide” is not interpreted as “follow up” and the term “recommendation” is not interpreted as “decision;”
4. To order this decision to be published in the State Gazette of the Republic of Indonesia as appropriate;
5. To dismiss the remainder of the Petitioners’ petition.