

## **Legal Politics Of Regional Head Elections With One Candidate Pair Based On The Constitutional Court Ruling No. 60/PUU-XXII/2024**

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### **Abstract**

*Regional head elections with a single candidate pair are a consequence of the dynamic legal framework for regional elections in Indonesia, particularly after the Constitutional Court, through Decision Number 100/PUU-XIII/2015, permitted the implementation of regional elections with a single candidate as an effort to ensure the continuity of democracy. However, the high nomination threshold has led to an increase in the number of single candidate pairs, thus creating a gap in the number of democratic control by the public. This research seeks to identify and examine the regulatory framework governing regional head elections involving a single candidate pair both prior to and following the issuance of The Constitutional Court ruling No. 60/PUU-II/2024, as well as to analyze the legal politics underlying such elections based on the prevailing regulations. The study employs a normative juridical method, utilizing statutory and conceptual approaches. The analysis is conducted through the examination of legal materials by interpreting, evaluating, and critically reviewing relevant laws and regulations, alongside other pertinent legal sources. The findings reveal significant regulatory developments in regional head elections subsequent to the Constitutional Court's decision. The previously stringent nomination threshold set at 20% of DPRD seats or 25% of valid votes was reduced to a tiered threshold of 10%, 8.5%, 7.5%, and 6.5%, adjusted according to the size of the Final Voters List (DPT). Furthermore, the study highlights that the existence of blank columns signifies regulatory deficiencies, as they do not constitute legal subjects possessing rights and obligations, thereby potentially giving rise to uncertainty in governance. The Constitutional Court's decision is regarded as a legal product that demonstrates a responsive orientation toward democratization needs; however, it has not yet achieved full responsiveness, as ambiguities remain concerning its authority and implications. In general, this decision reflects a trajectory of legal development that increasingly aligns with the ideals of *ius constituendum*.*

**Keywords:** *Legal Politics, Regional Head Elections, Single Candidate Pair, The Constitutional Court ruling*

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## **INTRODUCTION**

Democracy is a system of government in which power comes from the people, is exercised by the people, and is aimed at the interests of the people, so that every citizen has the same rights, obligations, status, and opportunities in national life and in participating in power. As a democratic country, the principle of people's sovereignty in Indonesia is affirmed in the 1945 Constitution of the Republic of Indonesia, Article 1 paragraph (2) which states that sovereignty rests with the people and is implemented according to the Constitution. This concept is realized through a direct election mechanism as a means for the people to determine their leaders, which shows that democracy and law are two main pillars in national and state life, based on the principle of people's sovereignty and the fulfillment of people's political rights as inseparable elements in a democratic country.

Regional head elections in Indonesia are a crucial part of democracy, allowing the public to directly elect their leaders. However, legal issues arise when elections with a single pair of candidates occur, particularly when only one candidate meets the requirements, resulting in the public voting being faced with an empty ballot. This issue has become increasingly relevant following the amendment of PKPU No. 8 of 2024 to PKPU No. 10 of 2024, a follow-up to the Constitutional Court's ruling regarding the nomination threshold and age limit for candidates. These changes are expected to open up space for more candidates to participate and reduce the likelihood of elections with a single pair of candidates.

A single-candidate regional head election is an election in which only one candidate competes against an empty field. This model emerged following The Constitutional Court ruling No. 100/PUU-XIII/2015, which allowed elections to proceed even if there was only one candidate. Previously, elections had to be postponed if the minimum requirement of two candidate pairs was not met, thus harming the public. This The Constitutional Court ruling was then regulated more clearly in Law No. 10 of 2016, as an amendment to the 2015 Regional Election Law, which previously required a minimum of two candidate pairs but did not provide a solution if this requirement was not met. With this decision, elections can proceed even if there is only one candidate pair.

A single-candidate regional head election is an election in which only one candidate pair competes against an empty field as an alternative choice for voters. This provision emerged as a consequence of Decision Number 100/PUU-XIII/2015 issued by the Constitutional Court, which permits the implementation of regional elections with a single candidate pair to avoid protracted election delays that could potentially harm the public. Prior to this decision, regional elections had to be postponed if there were not at least two candidate pairs. Subsequently, provisions regarding single candidate pairs were further regulated in Law Number 10 of 2016 as an amendment to Law Number 1 of 2015. Previously, the legal policy for nominating regional heads in Law Number 8 of 2015 required a minimum of two candidate pairs, but did not provide a solution if these requirements were not met, thus creating a legal vacuum and hampering the implementation of regional elections. This situation prompted a judicial review of several provisions in the law, which was subsequently granted by the Constitutional Court in Decision Number 100/PUU-XIII/2015, permitting regional elections with a single candidate pair. This decision provides a crucial legal basis for ensuring the continuity of the democratic process at the regional level and providing legal certainty in the implementation of regional head elections.

The emergence of an empty column as a “rival” for a candidate pair is a legal breakthrough through The Constitutional Court ruling No. 100/PUU-XIII/2015, which allows elections to proceed even if there is only one candidate, and was later strengthened in Law No. 10 of 2016. The condition of a single candidate pair generally occurs due to the strict nomination requirements, both for individual candidates and political parties. Article 41 of Law No. 10 of 2016 requires the support of individual candidates between 6.5%–10% of the number of voters in the DPT, which must be proven with an ID card. Meanwhile, political parties or coalitions of parties can only nominate candidates if they have at least 20% of the seats in the Regional People's Representative Council (DPRD) or 25% of valid votes, so that the high nomination threshold often results in a minimum number of candidates and gives rise to elections with a single candidate pair.

After the permission to have one candidate pair based on The Constitutional Court ruling Number 100/PUU-XIII/2015, the number of single candidate pairs tends to increase, namely:

1. In the 2015 simultaneous regional elections, 3 single candidate pairs (1.12%) emerged, which were held in 269 regions;
2. In the 2017 simultaneous regional elections, 9 regions (8.91%) were contested by single candidates, out of a total of 101 regions. Of the nine single candidates in the 2017 elections, all won the competition with a majority of over 70% of the vote, except in Buton Regency, which only won 55.08% of the vote.
3. In the 2018 simultaneous regional elections, there were 12 regions with one candidate pair out of a total of 171 regions holding regional elections.

One of the main factors in the increasing number of single candidate pairs in the Regional Head Elections is the high threshold for nomination requirements by political parties or coalitions of political parties. Therefore, through Decision Number 60/PUU-XXII/2024, the Constitutional Court lowered the threshold requirements previously regulated in Law Number 10 of 2016. Based on this decision, the requirements for nomination of governor and deputy governor are

determined proportionally based on the population in the final voter list, namely 10% for provinces with a population of up to 2,000,000 people, 8.5% for a population of more than 2,000,000 to 6,000,000 people, 7.5% for a population of more than 6,000,000 to 12,000,000 people, and 6.5% for a population of more than 12,000,000 people. This lowering of the threshold aims to expand political parties' opportunities to nominate candidate pairs, increase political competition, and reduce the potential for single candidate pairs in regional elections.

Based on Decision Number 60/PUU-XXII/2024 issued by the Constitutional Court, the requirements for nominating candidates for regent and deputy regent, as well as mayor and deputy mayor by political parties or coalitions of political parties are determined proportionally based on the population listed in the final voter list in the district/city. The threshold is 10% for regions with a population of up to 250,000, 8.5% for populations of more than 250,000 to 500,000, 7.5% for populations of more than 500,000 to 1,000,000, and 6.5% for populations of more than 1,000,000. These adjustments aim to provide political parties with broader opportunities to nominate candidate pairs, increase competition in regional head elections, and minimize the occurrence of single candidate pairs, thus strengthening the quality of democracy at the regional level.

The enactment of Decision Number 60/PUU-XXII/2024 by the Constitutional Court has generally received a positive response from experts, academics, and legal practitioners. According to Anwar Soleh and Durohim Amnan, the decision opens up broader opportunities for political parties to nominate candidate pairs for regional heads, thereby making political competition more competitive and potentially producing skilled and qualified leaders through a more rigorous competition process. Similarly, Hasim Hartono also stated that this decision has had a significant impact on the regional head nomination mechanism, particularly in reducing the dominance of large political parties and minimizing the possibility of single candidate pairs, which previously often occurred due to the high nomination threshold. However, the next challenge is how to effectively implement these new provisions in the practice of regional head elections. The public needs to be provided with a sufficient understanding of the single candidate election mechanism, including the consequences of voting for an empty ballot and how votes are counted. Therefore, voter education is a very important factor in ensuring that the level of public participation is maintained and ensuring that the implementation of the regional elections continues to run democratically, participatively, and in accordance with the principle of popular sovereignty.

Regional head elections with a single candidate pair present new challenges to the implementation of democracy in Indonesia. Implementing this provision requires clear public education regarding the election mechanism and the consequences of voting for the blank ballot to ensure voter participation is maintained. From a regulatory perspective, the General Elections Commission (KPU) has prepared technical regulations, such as KPU Regulation No. 8 of 2024, to systematically regulate the implementation of single-candidate elections. Democratically, this mechanism serves as public oversight to reject candidates deemed inconsistent with public aspirations, while simultaneously preventing unhealthy political practices. Its presence also impacts the dynamics of political parties, which are now required to be more selective and strategic in nominating candidates to avoid defeat due to the blank ballot. The adjustment of the nomination threshold through The Constitutional Court ruling No. 60/PUU-XXII/2024, which lowered the nomination requirement to between 6.5% and 10% of valid votes, opens up space for more parties and candidates to compete. This change is expected to improve candidate quality, expand political participation, and strengthen the principle of popular sovereignty in regional elections.

Constitutional Court (MK) Decision Number 60/PUU-XXII/2024 is an improvement on previous decisions, namely:

1. The Constitutional Court ruling Number 143/PUU-~I/2023 (December 21, 2023), related to the request for judicial review of several provisions in Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors, especially related to the threshold for nominating regional heads. This decision tests the provisions regarding the threshold for nominating regional heads, known as the “ *threshold* ”. This threshold is the percentage of votes obtained required by a political party or coalition of political parties to nominate a candidate for regional head;
2. The The Constitutional Court ruling No. 90/PUU-~I/2023, issued in October 2023, played a significant role in the dynamics of changes in election law in Indonesia, particularly regarding the nomination threshold. While this decision specifically regulates the presidential threshold for the 2024 elections, its implications have also influenced the discourse on regional head nominations, demonstrating the need to create a more inclusive political competition. The decision sparked a push for a nomination system that not only benefits large parties but also provides opportunities for smaller parties and independent candidates. This awareness then led to the issuance of The Constitutional Court ruling No. 60/PUU-~II/2024, which lowered the threshold for regional head nominations and strengthened democratic principles by expanding access for more candidates to participate in regional elections.

The lowering of the nomination threshold has opened up the opportunity for alternative candidates, providing more diverse options for voters who previously felt underrepresented by candidates from major parties. This also allows independent candidates and smaller parties to compete and offer new ideas and solutions to local issues. Furthermore, this change has triggered new political dynamics at the regional level, as major parties may be required to form coalitions with smaller parties to qualify for nomination, potentially altering the political power landscape and creating new alliances in regional elections. This situation is interesting to examine further, particularly in relation to the legal political principles outlined in The Constitutional Court ruling No. 60/PUU-~II/2024 and how the threshold requirements within regional election regulations can be reformulated to minimize the occurrence of single candidate pairs and strengthen the quality of democracy at the local level

## RESEARCH METHODS

The method is the initial stage in the research procedure, as it determines what should be included in a study. Furthermore, this method also serves as a guide regarding the issues to be studied and written about in the study. This research uses the Normative Juridical research method, which explains the rules governing specific legal categories. According to Peter Mahmud Marzuki, many approaches can be used in legal science, including the statutory approach, the comparative approach, and the conceptual approach.

According to Peter Mahmud Marzuki, these approaches can be defined as follows:

- a) The statute approach is conducted by examining all laws and regulations related to the legal issue being studied.
- b) The conceptual approach is conducted through the study of legal concepts, such as sources of law, legal functions, legal institutions, and other relevant concepts. This approach is used to support the analysis of the research being conducted.
- c) The case approach is conducted by examining various cases related to the legal issue being studied, particularly cases that have been decided by the court and have permanent legal force (*inkracht van gewijsde*).

This research uses both a statutory approach and a conceptual approach, tailored to the research problem formulation. The statutory approach is conducted by examining various laws and

regulations related to the issue being studied, viewing the law as a comprehensive, holistic, and systematic system, in order to analyze the regulatory mechanisms for imposing sanctions related to the use of official vehicles outside of working hours. Meanwhile, the conceptual approach is carried out by studying the doctrines, principles and legal concepts that have developed in legal science to clarify the understanding of the problems being studied, so that the legal materials obtained can be analyzed systematically through logical legal arguments and in accordance with relevant regulations and theories. This research uses two types of approaches, the approach used in this research is the statutory approach and the Conceptual approach, this is based on the formulation of the problem in this research. Data collection is carried out by collecting legal materials using a card system and through literature searches by focusing on legal materials relevant to the research object.

## RESULT AND DISCUSSION

### 1. Legal Arrangements for Regional Head Elections for One Candidate Pair

#### a. Legal Regulations for Regional Head Elections Prior to Constitutional Court Decision Number 60/PUU-XXII/2024

Prior to the enactment of Constitutional Court Decision Number 60/PUU-II/2024, the regulation of regional head elections with a single candidate pair was based on the provisions of Law Number 10 of 2016, which permitted the holding of regional elections with a single candidate pair against an empty column. This condition arose due to the relatively high nomination threshold provisions for both independent candidates and candidates from political parties, thus potentially limiting the emergence of more candidates and triggering the proliferation of single candidate pairs in various regions. The regulations at that time did not fully provide a fair and inclusive competition space, thus opening up opportunities for political domination by large parties and weak alternative choices for voters. The empty column in regional head elections as regulated in Article 18 of PKPU 13/2018 only serves as an instrument of political expression when there is only one candidate pair, but conceptually and legally cannot be considered a legal subject with rights and obligations in the election. Legal subjects in elections are humans or legal entities that can be held accountable, have an identity, and have the right to vote and be elected, such as candidate pairs, political parties, or independent candidates. The blank column does not meet these characteristics because it has no legal identity, cannot be sanctioned, cannot be objected to, and does not have the constitutional right to vote or be elected. Therefore, placing the blank column as an election participant is contrary to the principles of public law and reduces the meaning of the constitutional rights of voters; Voting in the blank column is not a form of political support for a legal subject, but rather an expression of disapproval of the only available candidate. Thus, the blank column should be understood as a means of political expression, not as an election participant.

#### b. Legal Regulations for Regional Head Elections Following Constitutional Court Decision Number 60/PUU-XXII/2024

Decision Number 60/PUU-XXII/2024 issued by the Constitutional Court is a judicial review of Article 40 paragraph (1) of Law Number 10 of 2016, which previously stipulated a threshold for regional head candidacy of 20% of DPRD seats or 25% of valid votes. This provision was deemed to limit the constitutional rights of political parties, particularly small parties, and narrow the space for democratic competition. Through this decision, the Court declared the provision conditionally unconstitutional and reformulated the candidacy threshold to be more proportional based on the number of permanent voters, namely between 6.5% and 10% of valid votes. This change aims to create equality between the nomination route through political parties and the individual route, as well as strengthen the principles of justice and

participation in local democracy. This decision also provides broader opportunities for political parties, including those without seats in the DPRD, to propose regional head candidate pairs as long as they meet the specified electoral support threshold. Thus, the dominance of large political parties can be reduced, and the potential for the emergence of single candidate pairs can be minimized. Furthermore, this ruling affirms the Constitutional Court's role as the guardian of the constitution and democracy by ensuring that the law does not hinder political participation, but rather serves as a means to expand the involvement of the people and political parties in the regional governance process. From a political-legal perspective, Constitutional Court Decision Number 60/PUU-XXII/2024 can be viewed as a corrective and responsive step in improving the regional head nomination system, which was previously deemed too exclusive. Lowering the threshold opens up broader competition, improves the quality of democracy, and provides the public with more choices in determining regional leaders. However, the implementation of this ruling still requires ongoing evaluation and further regulatory support to optimally achieve the goal of realizing a fairer, more competitive, and more democratic regional election system in accordance with the principle of popular sovereignty

### **Political and Legal Analysis of Constitutional Court Decision Number 60/PUU-XXII/2024**

The legal policy of regional head elections with single-candidate pairs, based on Constitutional Court Decision No. 60/PUU-II/2024, represents a paradigm shift in the implementation of regional elections toward a more inclusive and democratic system. This decision affirms that the previous nomination threshold provisions, as stipulated in Article 40 paragraph (1) of Law Number 10 of 2016, had limited the constitutional rights of small political parties and individual candidates, potentially creating artificial competition and increasing the phenomenon of single-candidate pairs. By lowering the nomination threshold to 6.5%–10% of valid votes, the Constitutional Court seeks to correct structural inequalities and open up space for fairer competition, thereby encouraging the presence of more alternative candidates in regional elections.

From a legal and political perspective, Constitutional Court Decision No. 60/PUU-11/2024 is a responsive legal product because it was created to fulfill the people's democratic aspirations and guarantee the protection of the political rights of voters and election participants. This decision corrects the root cause of the emergence of single-candidate pairs and directs the regional election process to remain competitive, substantive, and in accordance with the principle of popular sovereignty as outlined in the 1945 Constitution. However, despite the adjusted threshold, the phenomenon of single-candidate pairs in the 2024 regional elections still occurs in 37 regions. Therefore, further steps are needed to reconstruct the nomination regulations and evaluate the blank-column mechanism to ensure that regional democracy is not only procedural but also substantive.

To analyze whether the legal policy surrounding this decision is responsive or authoritarian, we can refer to the legal politics perspective developed by Mahfud MD. In his view, a responsive legal product is one that deeply reflects the aspirations of the people, both individuals and various social groups, thereby expressing a sense of justice prevalent in society. The process of forming these legal norms involves active public participation, where they are invited to contribute to developing rules relevant to real needs. Judicial institutions and legal regulations act as instruments to implement the will of the people, not the other way around, with formulations detailed enough to withstand arbitrary interpretation by the government. Thus, responsive law serves as a bridge between social justice and practical implementation, ensuring that decisions are not merely formal but also meaningful for people's daily lives.

The author assesses that Constitutional Court Decision No. 60/PUU-11/2024 is characterized by responsive law because it emerged from a democratic political configuration that opened up space for public participation, redressed structural inequalities in regional head

candidacy, and expanded democratic competition. However, this decision is also not entirely responsive, as it still leaves room for interpretation regarding its authority and impact. Therefore, this decision can also be seen as a form of periodic legal politics that emerges in response to the dynamics of evolving issues, particularly to accommodate regional head elections with a single candidate pair.

### **Dynamics of Regional Head Elections with a Single Candidate Pair**

the change in the regional head nomination threshold through Decision Number 60/PUU-XXII/2024 issued by the Constitutional Court is a corrective measure to strengthen democratic principles and open up broader political participation. The lowering of the threshold provides greater opportunities for political parties, particularly small political parties, and independent candidates to participate in regional elections, thus normatively aligning with the principle of popular sovereignty. However, empirically, this decision has not fully addressed the issue of the emergence of single candidate pairs, which still occurs in several regions in the 2024 regional elections. This indicates that the change in legal norms has not been fully accompanied by the readiness of the political system and internal dynamics of political parties to create more open and competitive competition. Furthermore, the phenomenon of empty-box wins has significant political-legal implications, particularly because it has the potential to lead to a vacancy in a definitive regional head and the filling of the position by an official appointed by the central government. This situation creates tension between the principles of local democracy and decentralization, and has the potential to diminish the significance of popular sovereignty in regional head elections. Therefore, more comprehensive reforms are needed not only in the aspect of the nomination threshold, but also in the nomination system as a whole, including strengthening internal democracy in political parties and structuring the mechanism for single candidate regional elections, so that the goal of substantive democracy, namely presenting legitimate leaders who truly come from the people's choice, can be optimally realized.

### **Reconstructing the Law on Regional Head Elections in Indonesia**

The legal regulation of regional head elections in Indonesia requires a clear legal framework as a guideline for the implementation of a quality democracy. In this regard, *ius constitutum* is the current positive law, while *ius constituendum* is the law envisioned as a direction for reform to realize a fairer electoral system. Therefore, various issues in regional elections need to form the basis for regulatory improvements to create fairer, more transparent, accountable, and integrity-based regional head elections.

#### 1) Normative Problems of Empty Columns in Regional Head Elections

Regional head elections with a single candidate pair raise democratic issues because the presence of an empty column does not constitute a legal entity with rights, obligations, or capacity to govern. Therefore, it merely serves as a symbol of rejection, not a legitimate choice of leadership. When an empty column wins, the region is instead led by an official appointed by the central government, which reduces popular sovereignty and strengthens the tendency for centralization of power. This situation contradicts the principle of competition in democracy as put forward by Joseph Schumpeter, who emphasized that democracy requires competition in selecting leaders. Therefore, regulatory improvements are needed to ensure a minimum of two candidate pairs and evaluate the existence of empty columns so that regional head elections truly guarantee healthy competition, legal certainty, and popular sovereignty.

#### 2) Filling the Position of an Acting Regional Head

The vacancy of a regional head position due to a single candidate and the victory of an empty column have serious consequences that have the potential to undermine democratic legitimacy and the principle of regional autonomy, because filling the position through an Acting Regional Head is essentially only temporary and extraordinary, not a routine mechanism. In constitutional law, filling public office is a necessity to ensure the continuity

of government and public service. According to Gede Panjta Astawa, this can be done through elections, appointments, or a combination of both. Joko J. Prihatmoko emphasizes the existence of appointment methods, election by the Regional People's Representative Council (DPRD), and direct election by the people. However, the mechanism for appointing acting officials, which has tended to be closed and non-participatory, contradicts the principle of popular sovereignty. Therefore, reforming the appointment mechanism to a more transparent, participatory, and democratic one is crucial to maintaining the legitimacy of regional government and preventing the tendency towards centralization of power.

### 3) Political Education and the Political Party System

Constitutionally, political parties are the main pillars of democracy, functioning to realize popular sovereignty as stipulated in the 1945 Constitution. According to Mahfud MD's political-legal theory, political parties serve as instruments of democracy that indirectly carry out a representative function. Within this framework, political education is a strategic function of political parties to increase public understanding, awareness, and participation, enabling them to engage rationally and critically in the political process, including regional head elections. This allows voters to make their choices based on the quality, integrity, and programs of the candidates, rather than pragmatic interests or elite pressure. The independence of political parties and the effective implementation of political education are also crucial for producing qualified leaders and strengthening government legitimacy, as high political participation reflects public trust in democracy. However, in a multiparty system, pragmatic coalition practices often neglect the ideological and educational functions of parties, necessitating strengthened regulations and commitments by political parties to prioritize public interests, improve the quality of political communication, and strengthen democratic legitimacy in the future.

## CONCLUSION

The conclusions of this study are:

1. Regional head election regulations prior to Constitutional Court Decision No. 60/PUU-II/2024 set a very high nomination threshold of 20% of DPRD seats or 25% of valid votes, thus limiting political participation and encouraging the emergence of single-candidate pairs. Following the ruling, the threshold was lowered to 10%, 8.5%, 7.5%, and 6.5%, respectively, depending on the number of registered voters (DPT), thus opening up wider competition for small parties and independent candidates. However, the existence of blank columns remains a regulatory weakness because they are not legal entities with rights and obligations, creating uncertainty in regional governance.
2. Constitutional Court Decision No. 60/PUU-II/2024 is a responsive legal product born of the dynamics of democratic politics and aimed at redressing inequalities in the regional election nomination system. However, this decision is not fully responsive, as it still leaves room for interpretation regarding its authority and impact. However, this decision shows that when the political process is open, the resulting legal products are increasingly aligned with the ideas of *ius constituendum*.

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