

THE IMPLICATIONS OF CONSTITUTIONAL COURT DECISION REGARDING THE LIMITATION OF REGIONAL HEADS' TERMS ON THE CONSTITUTIONALITY OF REGIONAL HEADS' NOMINATIONS

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Abstract

The limitation of regional heads' terms in Indonesia is basically related to two things, the first is to avoid abuse of authority, and the second is to regenerate leadership in the regions, therefore the limitation of the regional heads' terms is very important. This research is normative legal research with a statute approach and a case approach, by analyzing the decisions of the Constitutional Court such as Decision Number 22/PUU-VII/2009, Number 67/PUU-XVIII/2020, and Number 2/PUU-XXI/2023. This study examines how the Constitutional Court interprets the term limits of regional heads, including the calculation of the term of office for regional heads who do not complete their term of office. The results of this study show that the Constitutional Court emphasizes that a term of office that is served for half of the term or more is counted as one full term, both for definitive officials and temporary officials. This interpretation aims to ensure legal certainty and prevent abuse of power, by providing protection for the constitutional rights of citizens who wish to run for re-election. The Constitutional Court's decision also confirms that the norm of term limits for regional heads is in line with the principles of justice, proportionality, and legal certainty guaranteed in the 1945 Constitution. Thus, this term limit is not only served to prevent the dominance of power, but also to encourage the regeneration of healthy leadership in the Indonesian democratic system. The implications of this Constitutional Court decision are very important for the implementation of the 2024 Simultaneous Regional Head Elections, where the KPU and Bawaslu must ensure the consistent implementation of this norm, to ensure the creation of fair, transparent, and quality elections.

Keywords: Constitutional Court Decision, Limitation of Regional Head Term, Norms, Interpretation

INTRODUCTION

Limiting the regional heads' term is a fundamental element in a democratic system to ensure the circulation of leadership and prevent power from being centered on certain individuals for too long. In the context of governance in Indonesia, the regional heads' term has been regulated in Law Number 10 of 2016 concerning the Election of Governors, Regents, and Mayors which limits the regional heads' term to two terms. This limitation is actually intended to maintain the sustainability of democracy, avoid the possibility of abuse of authority due to monopoly of power, and open up space for leadership regeneration which is expected to strengthen governance in the regions.

The philosophy of limiting the term of office of regional heads in Indonesia is basically related to two things, the first is to avoid abuse of authority, and the second is to regenerate leadership in the regions, therefore limiting the term of office of regional heads is very important. (Agang, 2018).

Universally, term of office comes from the words "masa" and "jabatan". The term "masa" in the Indonesian Dictionary means a certain time or length of time. If referring to the term of office of the Regional Head, it can be interpreted as the time period that a Regional Head has in holding the position as Regional Head whose term of office is calculated from the inauguration until the person resigns from the position as Regional Head. If interpreted simply, the term of office of the Regional Head is seen from the period of time that a person has in holding a position as a regional leader (Rahayu & Kartika, 2023).

Research on the implications of the Constitutional Court's decision regarding the limitation of regional head terms is very relevant in answering the questions above. This study is expected to provide a deeper understanding of the impact of this decision on the constitutionality of regional head nominations, especially in the context of state administration in Indonesia. This study also aims to analyze the implications of this decision on the implementation of local democracy, political stability, and the development of governance at the regional level.

Term limits for regional heads are a fundamental aspect of democratic governance in Indonesia, aimed at preventing the accumulation of power, ensuring leadership rotation, and supporting a refreshment in regional governance. Term limits are regulated in the Regional Election Law, which stipulates that a regional head can serve a maximum of two consecutive terms. However, the implementation of this regulation often faces challenges, especially with the decisions of the Constitutional Court (MK) which reinterpret various provisions in the Regional Election Law. Some of the most significant MK decisions in this context are MK Decision Number 22/PUU-VII/2009, MK Decision Number 67/PUU-XVIII/2020, and MK Decision Number 2/PUU-XXI/2023, which provide new interpretations related to the term limits for regional heads.

First, Constitutional Court Decision Number 22/PUU-VII/2009, Constitutional Court Decision Number 22/PUU-VII/2009 is a decision related to the judicial review of Article 58 letter o and the Explanation of Article 58 letter o of Law Number 32 of 2004 concerning Regional Government. The applicants in this case are Prof. Dr. drg. I Gede Winasa (Applicant I) as the Regent of Jembrana and H. Nurdin Basirun, S.Sos (Applicant II) as the Regent of Karimun. The core of the applicants' petition is regarding the provision limiting the term of office of regional heads to 2 periods which is considered open to multiple interpretations and creates legal uncertainty. The applicants argue that the provision has harmed their constitutional rights because it prevents the opportunity to run again as regional heads. The Constitutional Court in its considerations stated that the difference in the regional head election system (direct or indirect) does not affect the calculation of the term of office. The Court is on the opinion that both Law 22/1999 and Law 32/2004 regulate the same thing regarding the term of office of regional heads, namely 5 years. This decision was pronounced in a Plenary Session of the Constitutional Court open to the public on Tuesday, November 17, 2009 by 9 Constitutional Justices. With this decision, the Constitutional Court confirmed that the limitation of two terms of office for regional heads remains constitutional and applies to both direct and indirect election systems. It is important to note that this decision provides legal certainty regarding the calculation of terms of office, where a term of office is counted as one full period if the term of office has been served for half or more.

Constitutional Court Decision Number 22/PUU-VII/2009 is one of the early decisions that confirmed that a one-term term is calculated based on whether a regional head has served half or more of the term. The Constitutional Court in this decision stated that serving half or more of one term is still counted as one full term, regardless of whether the regional head has served definitively or only as a temporary official. This has an impact on the nomination rules, where regional heads who have served half or more of the term are considered to have served one full term, thus affecting their right to run for office in the next term. (MK Decision Number: 22/PUU-VII/2009).

Second, Constitutional Court Decision Number 67/PUU-XVIII/2020 filed by Mohammad Kilat Wartabone. The petition for material review was filed against Article 7 paragraph (2) letter n of Law No. 10/2016 concerning Regional Head Elections which regulates the limitation of the term of office of regional heads. The applicants argued that the phrase "serving as Governor, Regent, Mayor" is contrary to Article 28D paragraph (1) of the 1945 Constitution because it is discriminatory and does not provide legal certainty. The applicant's main argument is that in one term of office, the position of regional head can be filled by two legal subjects, namely the elected regional head and the deputy regional head who replaces him if he is unable to. This case began with a concrete case in Bone Bolango Regency where Deputy Regent Hamim Pou replaced the deceased Regent. The Constitutional Court in its decision emphasized that a person is considered to have served one term if he serves as regional head or acting regional head for half or more of the term of office.

This decision is in line with the previous Constitutional Court Decision No. 22/PUU-VII/2009 which provides an interpretation of the limitation of the term of office with a calculation of half or more than half of the term of office. The limitation of the periodization of the term of office of regional heads is needed to realize the principles of democracy and limitation of power in accordance with the spirit of the 1945 Constitution. The Constitutional Court stipulates that the calculation of 2 terms of office is calculated based on the inauguration in the same position, with the first term of office being 5 full years and the second being at least 2.5 years. This decision provides legal certainty that both the elected regional head and the deputy who replaces him, if he serves more than 2.5 years, are counted as one full term. Thus, the limitation of the term of office applies equally to both the definitive regional head and the replacement official, in order to achieve justice and legal certainty in accordance with the constitution.

Constitutional Court Decision Number 67/PUU-XVIII/2020 strengthens this provision by stating that a term of office that has been served for half or more is still counted as one full term, including if the regional head serves as an acting official. This decision further emphasizes the understanding that regional heads cannot run for office more than twice, even if one of their terms of office is only part of a period. This interpretation of the Constitutional Court is based on the principle of constitutional democracy that upholds the limitation of power and rotation of leadership as an effort to maintain the integrity of regional government from potential abuse of power. (MK Decision Number: 67/PUU-XVIII/2020).

Third, Constitutional Court Decision Number 2/PUU-XXI/2023. This case is a constitutional review petition filed by Drs. Edi Damansyah, M.Si represented by Muhammad Nursal regarding Article 7 paragraph (2) letter n of Law Number 10/2016 concerning Regional Head Elections 1. The applicant questions the term "serving" in the article, arguing that it needs to be interpreted clearly to only apply to definitive regional heads, not temporary/acting officials. The applicant's concerns arose because he previously served as Acting Regent and definitive Regent of Kutai Kartanegara, and planned to run again in the 2024 regional elections 11. The applicant considers that the unclear meaning of "serving" in Article 7(2)(n) creates legal uncertainty about whether his term of office as Acting Regent will be counted in the two-term limit. The constitutional basis for the application is Article 28D paragraph (1), paragraph (3) and Article 28J paragraph (2) of the 1945 Constitution, concerning the right to legal certainty, equal treatment before the law, and equal opportunities in government. The applicant argues that the term needs to be explicitly defined as only applying to definitive officials because:

- a. Creates legal uncertainty regarding nomination requirements
- b. Unfairly restricting rights without considering the temporary nature of the acting official
- c. Potentially detrimental to candidacy preparations such as coalition formation

The Court examines whether this case meets the requirements for judicial review based on Article 60 (2) of the Constitutional Court Law regarding cases that have been previously decided. Although similar provisions have been tested, this application uses a different constitutional basis and focuses specifically on the distinction between definitive and acting officials. In examining the various types of regional head positions, the Court noted several categories

- a. Acting Official (Plt)
- b. Daily Executive (Plh)
- c. Temporary Official (Pjs)
- d. Official (Pj)

Each category has a different legal basis, requirements, authority and term of office. For example, an Acting Official is appointed when a definitive official is temporarily incapacitated, while an Acting Official serves during the election campaign period. The Court considered whether counting the term of office of an Acting Official in the term limits would violate the constitutional rights to legal certainty and equal treatment. This case highlights important differences between different types of

regional head positions and their legal implications for term limits. While the Court upholds the existing interpretation, this decision provides useful clarification on the constitutional framework governing regional leadership transitions and term limits. This decision helps build jurisprudence on how term limits apply to different categories of regional heads, which is particularly relevant given the complexity of Indonesia's regional autonomy and local governance systems. This decision balances the need for clear eligibility rules with constitutional protection of the right to political participation.

Over time, new challenges have emerged that prompted the Constitutional Court to issue Decision Number 2/PUU-XXI/2023. This decision emerged amidst the discourse on simultaneous regional head elections, which were designed to improve the efficiency and consistency of governance. In this decision, the Constitutional Court considered the need to create harmony between the election schedule and the term of office of regional heads, considering that the implementation of simultaneous regional elections does not reduce the constitutional rights of regional head candidates. The Constitutional Court is of the opinion that although restrictions on the term of office of regional heads are still needed, there needs to be certain flexibility to adjust the inauguration and end of term schedules so as not to disrupt the established election cycle. (MK Decision Number: 2/PUU-XXI/2023).

These Constitutional Court decisions have important implications for the constitutionality of regional head candidacy in Indonesia. On the one hand, these decisions emphasize constitutional limitations on term limits, which aim to prevent excessive power at the regional level. However, on the other hand, these decisions also raise challenges related to the political rights of regional heads who still want to run even though they have reached the term limit. These changes in the interpretation of the term of office show that there is flexibility in the law that can adapt to the ever-evolving political dynamics and needs of the regions.

The implications of this change are quite complex, especially in terms of regional political stability and the principles of democracy. The regulation of term limits through Constitutional Court decisions is intended to maintain a balance between the individual rights of regional officials and the public interest and order in the local government system. However, different interpretations from period to period regarding the term limits have given rise to debate among academics and legal practitioners, especially regarding the possibility of inconsistency in the implementation of regional head nominations. This study is very important, especially the interpretation of the limitation of the term of office of regional heads and the implications of the Constitutional Court's decision on the limitation of the term of office of Regional Heads on the nomination of Regional Heads.

RESEARCH METHOD

The type of research used is a normative legal research type. According to Peter Mahmud Marzuki, normative research is a process to find a legal rule, legal principles, or legal doctrines to answer the legal problems faced. (Peter Mahmud, 2007). Normative legal research is library research, namely research on secondary data. Secondary data has a scope that includes personal letters, books, to official documents issued by the government. (Soekanto & Mamudji, 2004). This normative approach will focus on legal issues regarding Constitutional Court Decision Number 22/PUU-VII/2009, Constitutional Court Decision Number 67/PUU-XVIII/2020 and Constitutional Court Decision Number 2/PUU-XXI/2023. This study uses a statute approach and a case approach. This research approach is carried out in the following manner:

The Statute Approach will be carried out by reviewing all laws and regulations related to the issue being studied. In this study, the statutory approach can provide an opportunity to study and analyze issues in the considerations of Constitutional Court judges. The case approach will be carried out by reviewing cases in Constitutional Court Decision Number 22/PUU-VII/2009, Constitutional Court Decision Number 67/PUU-XVIII/2020 and Constitutional Court Decision Number 2/PUU-XXI/2023. Legal material analysis will be carried out first by identifying the collected material, then reviewing it based on legal theory, then processing and analyzing it using systematic interpretation analysis, namely by reviewing the legal problems studied together with other relevant articles, both in one law and in other laws, in order to obtain the results of the problems to be studied. The analysis method uses descriptive analysis and interpretation.

Descriptive analysis to obtain a systematic and objective picture. After the data is collected, an analysis of the legal principles and applicable regulations is carried out by reviewing each document in detail. This analysis aims to find patterns, similarities, or differences in the application of related laws or regulations.

RESULTS AND DISCUSSION

Legal Certainty Regarding Term Limits for Regional Heads: Constitutional Interpretation of the Norm of Article 7 paragraph (2) letter n of Law 10/2016

The construction of the norm in Article 7 paragraph (2) letter n of Law 10/2016 regulates the requirements for Indonesian citizens who wish to become candidates for Governor, Regent, or Mayor. This provision stipulates that the regional head candidate must have never served as Governor, Deputy Governor, Regent, Deputy Regent, Mayor, or Deputy Mayor for two terms in the same position. However, even though there is a maximum limitation of two terms of office, this article still raises problems related to the calculation of the term of office, especially in situations where the regional head does not complete his term of office up to five years.

The problem that arises regarding the calculation of the term of office is the lack of clarity regarding how the term of office is calculated for regional heads who resign or are replaced before their term of office ends. The provisions in Article 7 paragraph (2) letter n do not provide clear guidelines in dealing with situations like this. This is important because it concerns legal certainty, not only for regional heads, but also for deputy regional heads who continue the term of office of regional heads who resign prematurely.

The principle of term limits for regional heads within the framework of a democratic rule of law in Indonesia aims to achieve good governance. These limits encompass the aspects of duration, scope of authority, and location of office. To promote healthy political education and uphold moral considerations, the term of office for regional heads must be clearly defined and restricted to ensure effective and accountable governance (Agang, 2018). The limitation of public office terms at all levels to a maximum of two periods aims to prevent the formation of oligarchies or the rise of new regimes due to prolonged tenure. (Kurniawan & Arianto, 2020).

The norm of Article 7 paragraph (2) letter n of Law 10/2016 is the legal basis that limits the term of office of regional heads. This norm stipulates that regional head candidates may never serve more than twice in the same position. This regulation was born as part of the spirit to ensure a healthy circulation of leadership and avoid potential abuse of power. However, in its implementation, problems arose related to the meaning of "serving" which has the potential to hinder the constitutional rights of citizens, including the Applicant who serves as the Regent of Kutai Kartanegara.

The applicant feels that the word "serving" in Article 7 paragraph (2) letter n of Law 10/2016 creates legal uncertainty. The applicant refers to his constitutional rights as guaranteed in Article 28D paragraph (1) and paragraph (3) of the 1945 Constitution. This article provides a guarantee of recognition, protection, and fair legal certainty as well as equal treatment before the law. The unclear meaning of "serving" could harm the applicant's right to run again as Regent.

In this context, the Constitutional Court plays an important role in interpreting legal norms to be in line with the principle of justice. Constitutional Court Decision Number 22/PUU-VII/2009 has provided clear guidance on calculating the term of office of regional heads. The Court considers that a person who serves for half a term or more is considered to have served a full term.

The Court in its decision emphasized the principle of proportionality and justice. It is unfair if someone who only served for a short time is equated with those who served longer. Therefore, the calculation of the term of office must take into account the length of time the office was served. If it is less than half a term of office, then it should not be considered a full period.

This Constitutional Court decision is based on Article 28D paragraph (1) of the 1945 Constitution which guarantees fair legal certainty. With this decision, the interpretation of "serving" becomes clearer. This provides protection of constitutional rights for those who wish to run for office again, including the Applicant in this case.

However, the problem arises when Article 7 paragraph (2) letter n of Law 10/2016 does not differentiate between definitive officials and temporary officials. The applicant argues that this ambiguity has the potential to harm him. Is the term of office served as a temporary official counted as one full period? The Court needs to provide a clear interpretation to answer this question.

In Decision Number 67/PUU-XVIII/2020, the Court reaffirmed its view on calculating the term of office. The Court stated that the term of office is counted as one period if half or more than half of the term of office has been served. This affirmation ensures that the interpretation of the term of office is consistent with the principles of justice and legal certainty.

The decision confirms that the norm of Article 7 paragraph (2) letter n of Law 10/2016 does not conflict with the 1945 Constitution. Thus, the limitation of two terms of office remains in effect, but must be interpreted in accordance with the principle of proportionality. This means that the calculation of the term of office must take into account whether a person has served half a term or more.

The applicant wants the phrase "serving" in Article 7 paragraph (2) letter n of Law 10/2016 to be interpreted as serving definitively. However, the Court considers that this interpretation is not necessary. Previous decisions have provided sufficient explanation that the term of office is calculated based on the length of time a person has served, either definitively or as a temporary official.

The Court rejected the request to limit the meaning of "serving" only to definitive officials. This interpretation is in line with the principles of justice and legal certainty. Both definitive officials and temporary officials must be subject to the same provisions if they serve for half a term or more.

This principle is important to maintain the integrity of regional head elections and avoid manipulation of terms of office. If temporary officials are excluded, there is potential for abuse where someone can avoid the two-term limitation by serving as a temporary official.

Thus, the norm of Article 7 paragraph (2) letter n of Law 10/2016 must be understood as a form of reasonable and fair restriction. This restriction aims to maintain democracy and a healthy circulation of leadership. This restriction also protects the rights of citizens to run again with clear and proportional conditions.

The Court's interpretation provides greater legal certainty. Every regional head who serves half a term or more is considered to have completed one term. This interpretation creates fairness for all parties and prevents potential injustice in calculating the term of office.

In this context, the Applicant's constitutional rights remain protected. The Applicant has the right to run again as long as he meets the provisions of the established term of office. If the Applicant only serves less than half a term, then the term of office cannot be counted as a full term.

However, if the Applicant serves more than half a term, then the term of office is counted as one term. This interpretation maintains a balance between individual rights and public interest. This ensures that no individual can hold office for too long and undermine the principles of democracy.

The Court also considers the principle of proportionality in each of its decisions. This principle ensures that the calculation of the term of office is carried out fairly and does not harm any party. Thus, the norm of Article 7 paragraph (2) letter n of Law 10/2016 has fulfilled the principle of justice mandated by the 1945 Constitution.

In its conclusion, the Court asserted that there were no constitutional issues in the norms being tested. The norms were in accordance with the principles of legal certainty and justice. The Court's decision ensures that every citizen has the same right to run for office in accordance with applicable provisions.

With this ruling, the interpretation of "serving" becomes stronger and more consistent. This provides legal certainty for all regional head candidates. This certainty also ensures that democracy continues to run well and there is no abuse of power.

This norm reflects the spirit of reform in limiting the term of office of regional heads. The two-term limitation ensures that power is not centralized in the same individual. This is in line with the principles of democracy that uphold justice, legal certainty, and leadership circulation.

Thus, the norm of Article 7 paragraph (2) letter n of Law 10/2016 has clear and fair legal force. The Court has ensured that this norm protects the constitutional rights of citizens without sacrificing the principles of justice and legal certainty. This decision is an important guideline for the implementation of regional head elections in Indonesia.

In Decision Number 2/PUU-XXI/2023, the Constitutional Court reaffirmed the Constitutional Court Decision Number 67/PUU-XVIII/2020, which firmly affirms the principle of legal certainty regarding the term of office of regional heads. The Court stated that Article 7 paragraph (2) letter n of Law 10/2016 must be understood in line with the Constitutional Court Decision Number 22/PUU-VII/2009. In this consideration, the Court ensured that the phrase "never served" applies proportionally and fairly to every regional head candidate, both those who serve full terms and those who serve temporarily. This is to ensure equal treatment as regulated in Article 28D paragraph (1) of the 1945 Constitution.

Furthermore, the Court views that the term of office that is counted as one term is the term of office that has been served for half or more of the term of office. If a regional head or acting regional head has served for half a term of office or more, then it is counted as one full term of office. This interpretation ensures that there is no injustice in the application of term limits, while also preventing legal confusion in determining the eligibility of regional head candidates.

In the context of the application to test the word "serving" in Article 7 paragraph (2) letter n of Law 10/2016, the Court emphasized that there is no difference between officials who serve definitively and temporary officials. The Court's decision rejected the interpretation that differentiates these two categories, because it would be contrary to the principles of legal certainty and substantive justice.

This principle has also been emphasized in consistent legal considerations in various previous Court decisions.

Thus, the Court rejected the application requesting that the word "serving" in Article 7 paragraph (2) letter n only be interpreted as serving definitively. The legal certainty in this case is that anyone who has served half or more of a term of office, either definitively or as a temporary official, is still considered to have served one term. This interpretation aims to protect the constitutional rights of all parties and maintain the integrity of term limits for the sake of strengthening democracy.

This ruling strengthens the legal basis that the term limitation regulation aims to prevent monopoly of power and ensure healthy leadership circulation. With a clear and consistent interpretation from the Constitutional Court, every regional head candidate has equal legal protection without discrimination. This is an important foundation for maintaining the principles of democracy and fair legal certainty in Indonesia.

Implications of the Constitutional Court's Decision on Legal Certainty on Term Limits for Regional Heads in the 2024 Simultaneous Regional Elections

The role of Constitutional Court judges has a significant impact on petitioners who challenge legal products with conflicting norms. The Court does not have the authority to issue political decisions; instead, it is authorized only to adjudicate political decisions that deviate from legal or constitutional provisions (Safriadi, et al., 2018). Constitutional judges are key pillars of constitutional justice, playing a crucial role in upholding law and justice within the framework of constitutionalism (Gusman, 2024). The Constitutional Court (MK) decision regarding the limitation of the term of office of regional heads, as stated in Article 7 paragraph (2) letter n of Law 10/2016, has a significant impact on the constitutionality of regional head nominations. This norm limits a person from serving more than twice for the same position. This limitation aims to prevent the concentration of power and encourage leadership regeneration. However, in practice, this norm has sparked debate regarding the calculation of the term of office, especially for those who do not complete the full term of office.

One of the crucial issues that emerged was how to calculate the term of office for regional heads who did not complete the five-year term. Is serving for part of the term considered as one full term? Constitutional Court Decision Number 22/PUU-VII/2009 has confirmed that serving for half a term or more is considered as one full term. This decision provides clear legal guidance and prevents ambiguity of interpretation that could be detrimental to regional head candidates.

In Decision Number 67/PUU-XVIII/2020, the Constitutional Court strengthened this position. The Constitutional Court stated that the term of office is counted as one period if a person has served half or more of the term of office. The implication of this affirmation is to provide clear legal certainty, both for regional head candidates who serve definitively and as temporary officials. This is to ensure that the principles of justice and proportionality are maintained.

With this interpretation, the potential for abuse of power can be minimized. Without a firm calculation, regional heads who serve temporarily can take advantage of legal loopholes to run for more than the two-term limit. The Constitutional Court's interpretation ensures that the restrictions apply equally to all, without distinguishing between the types of regional head positions, both definitive and temporary officials.

The constitutionality of regional head nominations also depends on the protection of individual rights. Article 28D paragraph (1) of the 1945 Constitution guarantees fair legal certainty and equal treatment before the law. The Constitutional Court's decision ensures that the right to run again remains respected, as long as it does not conflict with the principle of a two-term limitation. The rights of citizens to participate in general elections remain protected by this legal certainty. Regional Elections are expected to uphold the principles of people's sovereignty, democratic elections, equality, and fair legal certainty, while providing benefits for society. The implementation of the Constitutional Court's decision depends on legal regulations and the goodwill of all institutions and parties involved in the political process (Pratiwi, et.al, 2023)

Furthermore, the Constitutional Court rejected the petition seeking an interpretation that only definitive officials are counted in the term limitation. This decision prevents discrimination between definitive officials and temporary officials. Both have similar responsibilities and authorities in running regional government. Thus, there is no legal reason to differentiate the calculation of the term of office between the two. Another implication is maintaining the quality of local democracy. The two-term limitation ensures a healthy circulation of leadership and fair opportunities for new prospective leaders. This encourages innovation, transparency, and accountability in the implementation of regional government. Holding office for too long can trigger corrupt, collusive, and nepotistic practices that are detrimental to society.

The Constitutional Court's decision also has an impact on regional political stability. With legal certainty regarding the calculation of the term of office, political conflicts related to nominations can be minimized. All parties, both regional head candidates and election organizers, have a clear legal reference. This supports a more stable and orderly democratic process at the regional level. In addition, the legal certainty of this decision also protects the integrity of the election. A firm interpretation prevents manipulation of the law for the benefit of certain individuals or groups. The implementation of fair and transparent elections can only be realized if term limits are enforced consistently and without exception.

The Constitutional Court (MK) ruling on term limits for regional heads has had a significant impact on regional head candidacy in the 2024 Simultaneous Regional Elections. This limitation, which states that a person can only serve two terms for the same position, aims to prevent concentration of power and support leadership regeneration. However, debate has arisen over how to calculate the term of office for those who do not complete a full term, making it important to implement the MK ruling that clarifies the calculation.

Based on the Constitutional Court Decision Number 22/PUU-VII/2009 and Number 67/PUU-XVIII/2020 and Decision Number 2/PUU-XXI/2023, the term of office of regional heads who serve half a term or more is still counted as one full term. This provides clear legal certainty, avoids confusion of interpretation, and ensures that regional heads who serve temporarily cannot run for more than two terms. This Constitutional Court Decision provides strict guidelines that must be followed by the KPU and Bawaslu of provinces and districts/cities in ensuring compliance with the term limits.

The KPU and Bawaslu must work together to ensure that the Constitutional Court's interpretation is consistently applied in the implementation of the 2024 Simultaneous Regional Elections. Term limits must be applied without discrimination, both for definitive officials and temporary officials, because both have the same responsibilities and authorities. The existence of this legal certainty also supports the implementation of fair elections and prevents potential manipulation by regional head candidates who try to take advantage of legal loopholes to run for more than the two-term limit. From the perspective of the KPU and Bawaslu, it is important to educate regional head candidates and the public about this new provision, in order to avoid confusion regarding term limits. This will strengthen the integrity of the election and ensure that candidates competing in the 2024 Simultaneous Regional Elections meet the applicable requirements. This legal certainty also creates a healthier democratic environment by avoiding prolonged domination of power, which can reduce the quality of regional government.

In addition, the KPU and Bawaslu must ensure that the principles of fairness and transparency in regional head elections are maintained. With term limits, abuse of power can be minimized, and the quality of local democracy can be maintained. These limitations allow for the presence of new leaders with fresh ideas, which are essential to improving the quality of public services and encouraging innovation in local government.

Ultimately, the implication of the Constitutional Court's ruling for the KPU and Bawaslu is to ensure consistent implementation of term limits. This supports an orderly and stable democratic process and increases public trust in the implementation of elections. The Constitutional Court's ruling must be implemented responsibly, maintaining a balance between individual rights and public interests for the advancement of Indonesian democracy.

CONCLUSION

The Constitutional Court's decision regarding the limitation of the term of office of regional heads, as stated in Article 7 paragraph (2) letter n of Law 10/2016, provides legal certainty regarding the interpretation of the term of office. The Court emphasized that a term of office served for half a term or more is counted as one full term, both for definitive officials and temporary officials. This decision prevents potential legal manipulation by temporary officials who may try to run for more than the two-term limit. In addition, the Court also rejected the application that differentiates the calculation of the term of office between definitive and temporary officials, thus ensuring fair and equal treatment for all regional head candidates. The implications of this decision are very significant for the implementation of the 2024 Simultaneous Regional Elections, where the KPU and Bawaslu must ensure compliance with the term of office limitations by consistently implementing the Court's decision. This supports a more transparent and fair democratic process, reduces the potential for abuse of power, and maintains the quality of regional government by encouraging leadership regeneration. The legal certainty provided by the Constitutional Court also plays an important role in strengthening election integrity, ensuring healthy leadership circulation, and providing fair opportunities for new prospective leaders.

REFERENCES

- Agang, M. I. (2018). Pembatasan masa jabatan kepala daerah di Negara Republik Indonesia. *Borneo Law Review*, 2(2), 160-182.
- Gusman, D. (2024). Implikasi hukum putusan Mahkamah Konstitusi Nomor 143/PUU-XXI/2023 terhadap masa jabatan kepala daerah terpilih di Indonesia. *Unes Journal of Swara Justisia*, 7(4), 1374-1382.
- Hakim, A. R., Pratiwi, Y. D., Syahrir, S., Aliansa, W., & Palupi, A. A. (2023). Kekuatan hukum pertimbangan hakim Mahkamah Konstitusi mengenai penjabat kepala daerah. *Jurnal Usm Law Review*, 6(1), 15-33.
- Kurniawan, I. G. H., & Arianto, H. (2020). Polemik pembatasan masa jabatan untuk jabatan publik di Indonesia terkait dengan demokrasi dan Pancasila. *Lex Jurnalica*, 17, 264-270.
- Mahkamah Konstitusi. (2009). Putusan Mahkamah Konstitusi Nomor 22/PUU-VII/2009 tentang konstitusionalitas syarat masa jabatan bagi calon kepala daerah.
- Mahkamah Konstitusi. (2020). Putusan Mahkamah Konstitusi Nomor 67/PUU-XVIII/2020 tentang pengujian materil Undang-Undang Nomor 10 Tahun 2016 tentang perubahan kedua atas Undang-Undang Nomor 1 Tahun 2015 tentang penetapan.
- Mahkamah Konstitusi. (2023). Putusan Mahkamah Konstitusi Nomor 2/PUU-XXI/2023 tentang pengujian materil Undang-Undang Nomor 10 Tahun 2016 tentang perubahan kedua atas Undang-Undang Nomor 1 Tahun 2015 tentang penetapan.
- Nunung Puji Rahayu, & Adhitya Widya Kartika. (2023). Pengaturan masa jabatan kepala daerah dalam hukum positif Indonesia. *Jurnal Kertha Semaya*, 11(6), 1333-1348.
- Peter Mahmud. (2007). *Penelitian hukum*. Jakarta: Prenada Media Group.
- Safriadi, S., Rani, F. A., & Sjafei, M. S. (2018). Penemuan hukum oleh hakim Mahkamah Konstitusi dalam perkara pengujian undang-undang di Indonesia. *Syah Kuala Law Journal*, 2(3), 388-403.
- Soerjono Soekanto, & Sri Mamudji. (2004). *Penelitian hukum normatif: Suatu tinjauan singkat* (Cetakan kedelapan). Jakarta: Sinar Grafika.