

ABSTRAK

Putusan Mahkamah Konstitusi (MK) RI Nomor 104/PUU-XXIII/2025, yang diterima pada 16 Juni 2025 dan diperbaiki pada 21–23 Juli 2025, mengabulkan permohonan empat orang pemohon (Yusron Ashalirrohman, Roby Nurdiansyah, Yudi Pratama Putra, dan Muhammad Khairi Muslimin) secara parsial terkait uji materiil Pasal 139 ayat (1), (2), (3) dan Pasal 140 ayat (1) Undang-Undang (UU) Nomor 1 Tahun 2015 tentang Pemilihan Kepala Daerah (Pilkada).

Isu konstitusional yang diajukan adalah khawatirnya sistem "rekomendasi" Bawaslu yang tidak bersifat mengikat dapat melanggar Pasal 22E ayat (1) UUD 1945 (asas Pilkada jujur dan adil) serta Pasal 28D ayat (1) UUD 1945 (perlindungan hukum dan kepastian hukum). Dalam pertimbangannya, MK menilai bahwa sistem rekomendasi melemahkan fungsi Bawaslu, menimbulkan ambiguitas, dan menciptakan konflik kepentingan karena KPU sebagai penyelenggara tidak boleh memutuskan sendiri hasil pengawasan yang ia terlibat (asas *nemo iudex in causa sua*).

Amar putusan menyatakan bahwa pasal-pasal yang diuji bertentangan dengan UUD 1945 jika tetap dimaknai sebagai norma rekomendasi tanpa ikatan hukum. Norma tersebut harus ditafsirkan ulang menjadi putusan final dan mengikat, di mana Bawaslu berwenang menerima, memeriksa, mengkaji, dan memutuskan pelanggaran administrasi Pilkada, serta KPU diwajibkan menindaklanjutinya dalam maksimal 7 hari. Putusan ini bersifat final, mengikat secara hukum bagi semua pihak (*erga omnes*).

Secara implikasi praktis, Bawaslu kini memiliki fungsi quasi peradilan administratif yang lebih kuat dan harus menyusun mekanisme serta produk hukum yang sesuai. KPU tidak lagi dapat mengabaikan putusan tersebut kecuali melalui jalur hukum yang sah. Meskipun terdapat tantangan seperti kurangnya aturan pelaksana detail dan kebutuhan penyesuaian kapasitas SDM, putusan ini dianggap sebagai langkah besar untuk memperkuat demokrasi melalui pengawasan Pilkada dan berlaku langsung meskipun revisi UU belum dilakukan.

ABSTRACT

The Decision of the Constitutional Court (MK) of the Republic of Indonesia Number 104/PUU-XXIII/2025, received on June 16, 2025 and revised on July 21–23, 2025, partially granted the petition of four applicants (Yusron Ashalirrohman, Roby Nurdiansyah, Yudi Pratama Putra, and Muhammad Khairi Muslimin) regarding the material review of Article 139 paragraphs (1), (2), (3) and Article 140 paragraph (1) of Law Number 1 of 2015 concerning Regional Head Elections (Pilkada).

*The constitutional issue raised was the concern that the non-binding "recommendation" system of the General Elections Supervisory Agency (Bawaslu) could violate Article 22E paragraph (1) of the 1945 Constitution (principle of honest and fair Pilkada) and Article 28D paragraph (1) of the 1945 Constitution (legal protection and legal certainty). In its considerations, the Constitutional Court held that the recommendation system weakened Bawaslu's function, created ambiguity, and caused a conflict of interest because the General Elections Commission (KPU) as the organizer should not decide on the results of supervision in which it is involved (the principle of *nemo judex in causa sua*).*

*The operative part of the decision states that the tested articles are contrary to the 1945 Constitution if still interpreted as non-binding recommendation norms. These norms must be reinterpreted as final and binding decisions, where Bawaslu is authorized to receive, examine, review, and decide on administrative violations in Pilkada, and the KPU is required to follow up on them within a maximum of 7 days. This decision is final, legally binding for all parties (*erga omnes*).*

In practical terms, Bawaslu now has a stronger quasi-administrative judiciary function and must prepare appropriate mechanisms and legal products. The KPU can no longer ignore the decision except through legitimate legal channels. Although there are challenges such as the lack of detailed implementing regulations and the need to adjust human resource capacity, this decision is considered a major step to strengthen democracy through Pilkada supervision and is directly applicable even if amendments to the law have not been made.