

## Overlap in the Disqualification Rules for Regional Head Election Winners

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### Abstract

Regulations regarding the settlement of disputes in regional head elections are divided based on the types and qualifications of administrative violations, criminal administrative violations, electoral administrative disputes, criminal violations, outcome disputes, and ethical violations. The division of the qualifications of these problems has led to a settlement process that is not in harmony with each other. It even causes an overlapping process between one violation and another, between one judicial institution and another judicial institution, as in the case of the settlement of the cancellation of the winner of the regional head election in Bandar Lampung in 2020. This study investigates the issue of the rules for the cancellation of the candidate pair winning the regional head election. This study is normative juridical research. Furthermore, the research approach used is concept, legislation, and case approaches. The results of this study indicate that, based on the *ius contituentum*, the cancellation of the winner of the regional head election can be pursued through legal remedies for Criminal Administration Violations (Article 135A) which are tried by the Election Supervisory Body and Supreme Court. In addition, it can also be through the pathways of the Case of Dispute over Election Results (Article 156) which is tried by the Constitutional Court. The cancellation process by the two pathways has the potential to cause conflicting decisions on the same object, making it confusing at the execution stage.

### Keywords

cancellation; regulation;  
election winner



## I. Introduction

Dispute or dispute in something maintenance sovereignty people is something circumstances that are not can avoided. Various dispute in maintenance Election the Regional Head (Pilkada) will appear as consequence happening various violation good infringement which is administrative, criminal and difference sound.

All type dispute that will arise in Pilkada has been anticipated with various Settings good settings that are preventive nor repressive. Arrangement preventive could be seen from a number of norms in Constitution number 10 of 2016 concerning Pilkada containing about what is allowed and prohibited done during the maintenance process Pilkada. Settings that are preventive this formed in order for maintenance Pilkada no colored by things that can damage the truth Pilkada as implementation sovereignty people.

Whereas settings that are repressive is presence governing norms about the enforcement process law (law *enforcement*) against violations that occurred During maintenance Pilkada good violation the carried out by organizers, participants, teams' success and or society. Every violation in Pilkada will processed by law by agency judiciary.

Seriousness effort enforcement law in organizing Pilkada could seen from qualification types disputes and institutions the trial that was given authority for judge him. At least there is six type qualification violation in Pilkada namely: Violation Administration (Article 138), Offense Administration Criminal (Article 135 A), Election State Administrative Dispute (Article 153), Violation Criminal, Election Result Dispute (Article 156) and Violation of the Code of Ethics (Article 136). Temporary institution the trial that was given authority for judge is District Courts, State Administrative High Courts, Supreme Courts and Courts Constitution. Judiciary this only will judge type appropriate dispute with their respective competencies, such as Court Constitution (MK) only will judge Case Disputes over Results (Article 156) or no type dispute or another violation.

**Table 1.**Qualification and Completion Process Dispute Pilkada

No	Type	Completion Process	Legal basis
1	Violation Administration	Bawaslu - KPUD	(Article 138 of Law 10/2016)
2	Administrative Violation Criminal (Structured, Systematic, and Massive)	Bawaslu Province -KPUD-MA	( Article 135 A and Article 73 of Law 10/2016)
3	Election Administrative Dispute	Bawaslu -PT TUN-MA	(Article 154 of Law 10/2016)
4	Follow Criminal Election	Bawaslu Province - Police - JPU-PN-PT	( Article 1 45 Law 10/2016)
5	Election Result Dispute	MK	(Article 156 of Law 10/2016)
6	Ethical Violation	Bawaslu -DKPP	( P origin 13 6 Law 10/2016 )

However, the settings that have been mapped about type violations and institutions the trial the permanent no could parse problems that arise in Pilkada. At Pilkada simultaneously in 2020, for example, there are something problems that arise consequence happening *vatique of norm* or blur mean in Settings solution violation in Pilkada. *Vatique of the norm* seen when occur cancellation or disqualification to partner candidate participant Elections that get voice most. In Bandar Lampung City Election, there are three partner candidate who becomes participant Pilkada. Namely, a couple number massage 1 Rycko Menoza - Johan Sulaiman carried by the party bearer Party group Karya (Golkar) and Party Prosperous Justice (PKS). Partner Number massage 2 M. Yusuf Kohar-Tulus Purnomo Wibowo promoted by the Party Democrat, Party National Mandate (PAN), PKB, Perindo, and PPP. Partner Number massage 3 Eva Dwiana-Dedi Amrullah carried \_ Party Indonesian Democracy of Struggle (PDIP), NasDem, and Gerindra. Post collection vote on December 09, 2020 and Determination Acquisition vote by the Election Commission of Bandar Lampung City, then third partner candidate the get sound:

**Table 2.** Acquisition Voice Bandar Lampung City Election

<b>Number message</b>	<b>Candidate Pair Name</b>	<b>Acquisition Voice</b>
1	Rycko Menoza -Johan Sulaiman	92,428 votes
2	M. Yusuf Kohar-Tulus Purnomo	93,280 votes
3	Eva Dwiana-Deddy Amarullah	249,241 votes

Source: <https://kpu-bandarlampungkota.go.id/kpu-rampungkan-pleno-paslon-3-raih-voice-terbanyak/>

Victory partner candidate number sequence 3 (Eva Dwiana-Deddy Amarullah) then canceled by the Supervisory Board Election (Bawaslu) Lampung Province because declared proven to do violation administration criminal acts of a TSM nature as set in Articles 135A and 73 of Law 10 of 2016. Verdict Bawaslu the eldest in Supervisory Board Decision Elections Lampung Province Number 02/Reg/L/TSM-PW/08.00/XII/2020 dated January 6, 2021. On the basis of Decision Bawaslu this so Commission Election the General of Bandar Lampung City issued a Commission Decision Election General City of Bandar Lampung Number: 007/HK.03.1 Kpt /1871/KPU- Kot /I/2021 About Cancellation Candidate Pairs \_ Election Mayor and Deputy Mayor of Bandar Lampung Year 2020 dated January 8, 2021.

Cancellation by the KPUD of course is shape cancellation that becomes polemic in logic think law. Cause, cancellation the occur when after occur determination partner winning candidate or get voice most. Which means, if want cancel victory partner candidate who gets voice the most so mechanism judiciary that can taken is Case Dispute on Election Results (PHPkada) in the Court Constitution. With so, then looks what is the resolution process? law on guess the violation committed by the winner Pilkada no in accordance with slice problems and powers from each institution judiciary dealing with it.

## **II. Research Method**

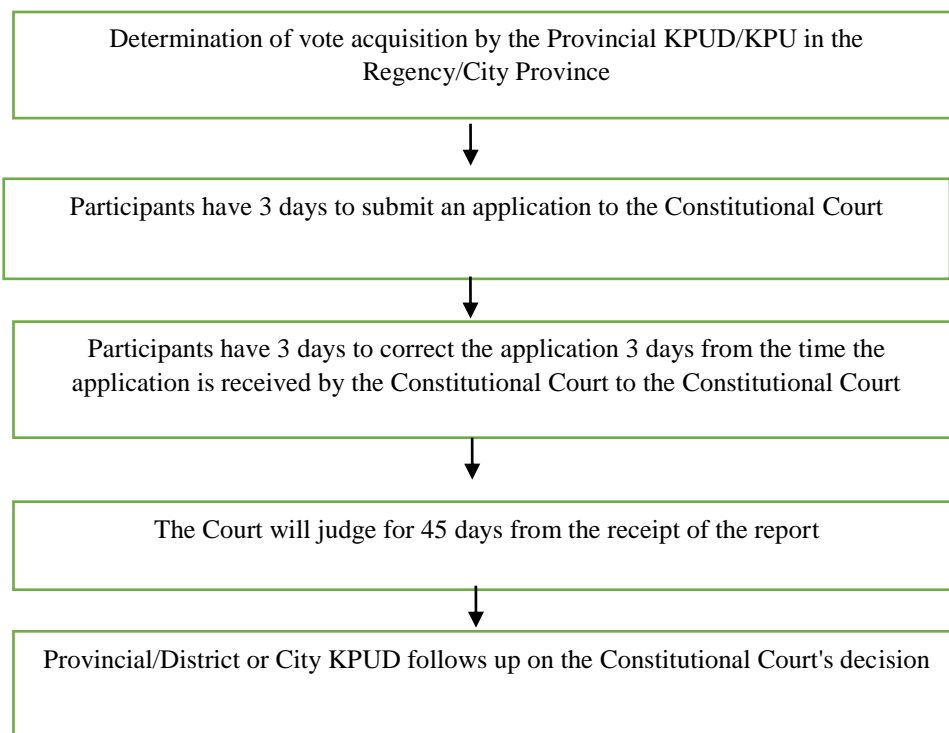
Study about Settings regarding the cancellation process victory partner candidate head region and deputy head area this use type study juridical-normative. That is, research that is doctrinal. Approach study consist from approach concept, approach regulation legislation, and approaches case. Ingredients law consist from ingredients primary, secondary and tertiary laws obtained through the process of inventory, and classification. Analysis technique ingredients the law used is descriptive and prescriptive.

## **III. Result and Discussion**

Determination partner candidate participant Elections that get voice the most or winner Pilkada no is Step end in maintenance election Governor, Regent and Mayor. Post determination this then the process that can appear is dispute or dispute. Dispute is steps that must be traversed if there is guess violation committed by partner \_ candidate participant Pilkada especially by couple's candidate who gets voice most (winner). Victory partner candidate who gets voice the most could sue through two case models or dispute. Namely, things Disputes over Results (Article 136 of Law 10 of 2016) and Violations Administration Criminal (Article 135 A and Article 73 of Law 10 of 2016).

### 3.1 Matters Disputes over Election Results

Case Election Result Dispute (PHPkada) is the thing that happened Among participant election with organizer Pilkada or Commission Election Regional General Elections (KPUD). on the matter dispute this, which becomes applicant is participant election or partner candidate who feels harmed or treated cheat or feel that partner candidate who gets voice most (winners) Pilkada To do fraud during the selection process so that evaluate that the win should canceled. who became respondent in PHPkada this not partner candidate who gets voice the most but organizer Pilkada or KPUD. This thing occur because what was made as object lawsuit to Court The Constitution (MK) is a KPUD Decree concerning Determination Acquisition Election Result Vote.



**Figure 1.** Solution Flow Result Discord

Source: Books Pilkada Law Construction: The Middle Way of Justice Procedural and Substantial.

Object tired in PHPkada focus on things as following:

- a. Chosen applicant as partner candidate Governor and Deputy Governor;
- b. Chosen applicant as partner candidate Regent and Deputy Regent;
- c. Chosen applicant as partner candidate Mayor and Deputy Mayor;

However, in practice, Court The constitution also does various expansion interpretation to things that become room scope PHPkada. one \_ expansion mean in implementation The Court 's authority is inclusion infringement which is structured, systematic and massive as part from object case being tried. In Thing this could seen in Case Election Results Dispute East Java in 2008 and the General Elections Regency Pandeglang in 2010. Where the Constitutional Court stated that:

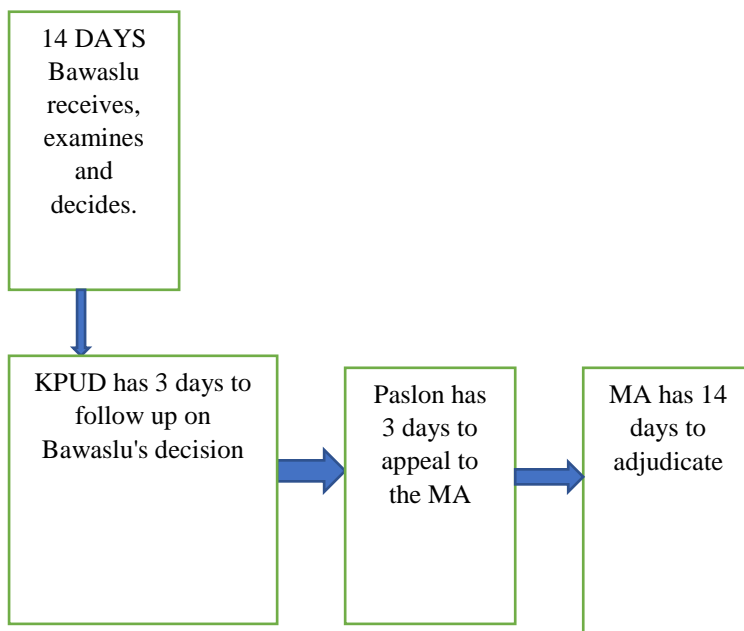
*" Court differentiate various violation to in three categories. First, offense in a process that is not influential or no could appraised the effect to results voice Elections or General Election as making billboards, paper simulation that uses symbols and tools display that doesn't in accordance with the procedures that have been set in regulation legislation. For type offenses such as this Court no could make it as base cancellation results counting votes determined by KPU or Provincial / Regency /Municipal KPU. This thing fully Becomes realm Justice general and/ or PTUN. Second, violation in the election process or Influential local elections to results Elections or General Election such as money politics, involvement person office or civil servants, guess criminal Elections, and so on. Offenses like \_ this could cancel results Elections or General Election along influential by significant, i.e because occur by structured, systematic, and massive whose dimensions has set in various decision Court. Violations of a nature no significant affect results Elections or General Election as \_ \_ sporadic, partial, individual, and gifts that are not can proved the effect to choose picker no made basis by the Court for cancel results counting vote by KPU/ Provincial / Regency /City KPU. Third, violation about condition Becomes candidate who is principle and can measured (such as condition no once sentenced criminal prison and conditions validity endorsement for candidate independent) can made base for cancel results Elections or General Election because there are participants who do not fulfil condition since early"*

Including TSM violation as part from room scope PHPkada of course contrary with construction law on violation of TSM which in Law 10 of 2016 concerning Pilkada set in Article 135 A and institutions the trial that was given authority judge is The Supreme Court (MA) is not Court Constitution (MK). In context this of course will give birth friction powers and decisions. MK can just cut off something case with state that partner candidate winner Pilkada proven to do violations that are TSM but on the other hand the Supreme Court can emit decision that partner candidate winner Pilkada no proven to do something TSM violations. \_ Difference decision between the MA and the Constitutional Court You're welcome is final and binding.

### **3.2 Violation Administration Criminal**

Violation Administration Criminal is infringement which is Structured, Systematic and Massive (TSM) conducted by participants election. Elements of TSM in violation this character cumulative or no stand up alone. Violations that are structured is fraud committed by officers \_ structural, good apparatus government nor organizer Election by collectiveor by together. Violation of systematic is planned violation by ripe, organized , even very neat . Violations that are massive is is impact very wide offense the effect to results Election no only partially.

Violation Administration Criminal this could proposed by couple candidate participant Lost election \_ to the Supervisory Board Election (Bawaslu). Decision Bawaslu could in the form of disqualification winner Pilkada to couples who get voice the most or winner Pilkada. Decision Bawaslu about cancellation victory partner candidate winner Pilkada the must be prosecuted followed by KPUD.



**Figure 2.** *Solution Violation Administration Criminal*

However, the KPUD 's decision no is final and binding. Correctional KPUD decision or cancel victory partner candidate still could submitted cassation to Supreme Court (MA). In Thing this, the winner Canceled elections \_ victory could submit lawsuit to MA. Application from winner Pilkada this tried by the Supreme Court in time 14 days.

Solution case disqualification winner Pilkada on base violation administrative nature structured, systematic and massive is a solution process that gives rise to various problematic. Namely: First, violations that are TSM are: type actual violation \_ is violation criminal although in construction law Article 135 A Pilkada Law qualified as violation administration. It says as violation criminal because deed TSM violations are \_ \_ deed violate provision regulation legislation as to do money politics, manipulating government programs for interest partner candidate certain, deployment apparatus State Civil Service (ASN) and so on. Construction law that violations of a TSM nature are qualified as violation administration of course is type construction law based on form \_ sanctions that will given to partner candidate who did violation. Because, in violation administration this so partner proven candidate. To do violation will get penalty administration in the form of disqualification as participant or no penalty criminal in the form of prison.

Second, authority Bawaslu. Supervisory Agency Elections (Bawaslu) are given institution \_ authority to “judgment” offenses TSM administration. Article 135A paragraph (2) of Law 10 of 2016 states that Bawaslu Province receive , check , and decide violation administration Election as referred to in paragraph (1) in period a maximum of 14 ( four twelve ) days work . When Bawaslu given authority for judge violation elemental administration violation criminal of course Thing the is a solution process that does not right. Because, Bawaslu is institution organizer Pilkada no institution Justice Pilkada.

Proof that Bawaslu is institution organizer Pilkada could seen in Article 1 number 5 of Law Number 15 of 2011 concerning Organizer Elections that state: Organizers is organization that organizes Elections consisting of on Commission Election General and Supervisory Board Election (Bawaslu)”

Position Bawaslu as organizer so make Bawaslu by theoretical no could operate function enforcement law. Because, in system law, a violation should be solved through

mechanism law and by institutions Justice or enforcer law in accordance with system applicable court \_ in a country. In context occur violation administration (TSM) then should be solved by mechanism law. That is, if end from the violation process administration this tried by the Supreme Court (MA) then more formerly should judged by the agency judiciary in the environment / under the MA. In system judiciary in the MA environment is that something case before submitted cassation go to MA then should go through the judicial process judex juris more previously in the District Court (PN) or High Court (PT) because PN and PT are institution Justice under MA. With logic this then the solution process on violation administration criminal will run linearly with logic enforcement law. That is, from The District Court continued to appeal to High Court and ends cassation to Supreme Court. When the above process violation administration resolved at Bawaslu so of course the completion process the no in accordance with linearity logic institution enforcer law in Indonesia and even tend mix up Among domiciled institution \_ as organizer with domiciled institution \_ as enforcer law.

Beside that, when violation administration based on qualification violation Criminal in the form of violations that are TSM, then the settlement process no through Bawaslu more formerly but processed at the Joint Center Integrated Law Enforcement (Gakumdu) in Pilkada. On the other hand, if TSM violation \_ forced for given penalty administration then the solution process on dispute administration before submitted to Supreme Court then actually should through State Administrative Court (PT TUN) and State Administrative High Court (PT TUN) such as in solution Election State Administrative Dispute head area as set in Article 154 of Law 10 of 2016 concerning Pilkada. PTUN and PT TUN are Justice administration in the neighborhood Supreme Court (MA) so that all process completion violation administration should tried by the judiciary state administration not by the Supervisory Agency Election (Bawaslu).

Third, beshiking. Van der Pot states that Beschikking is deed the law carried out by the tool's government, statements will tool government that in organize things special, with meaning stage change in field relationships law. Decision Bawaslu about results inspection on guess violation mandatory TSM administration \_ \_ be prosecuted followed up by KPUD (Article 135 A of Law 10 of 2016). Decision Bawaslu must \_ followed up by this KPUD by firm state that verdict or decision from Bawaslu no character absolute remember for could apply decision the still depend to beshiking from KPUD. Whereas something decision own strength tie since decided and read out.

In Thing respond decision Bawaslu, KPUD has two choices. Namely, following up decision Bawaslu with method emit decision about disqualification partner candidate who gets voice the most as carried out by the Bandar Lampung KPUD which canceled the victory partner Eva Dwiana-Deddy Amarullah. On the other hand, KPUD can just no follow up decision Bawaslu or ignore decision Bawaslu disqualifying \_ partner candidate winner Pilkada. Although Article 135A paragraph (4) of Law 10 of 2016 states that KPUD must follow up decision Bawaslu but the " mandatory word " no could force the KPUD to intact for could follow up decision Bawaslu. Because, " must say " in Article 135 A paragraph (4) is no accompanied with threat penalty or consequence law whatever if KPUD does not want to follow up. For example, KPUD does not will got penalty in the form of subtraction budget or even threat prison if no operate his obligations for follow up decision Bawaslu.

Then can the KPUD be able to declared no comply with the provisions regulation legislation? by normative, as part from system the Indonesian state administration, the KPUD automatically institutional should follow up decision Bawaslu disqualifying \_

partner candidate winner Pilkada. Moreover, in oath position commissioner Bawaslu there is sentence will obey and run every provision regulation legislation in force in Indonesia.

However, the verdict Bawaslu stated that partner candidate winner Pilkada proven to do TSM violations at the time has determination acquisition voice results election so could Becomes reason concrete from KPUD for no follow up decision Bawaslu because the KPU can quibble that the dispute \_ post counting acquisition voice is Case Dispute results in MK while type other things include violation administration the sentence that was decided Bawaslu the has pass limit time. The KPUD 's rejection of decision Bawaslu could seen in the example the case of the Tasikmalaya KPU which refused decision Bawaslu West Java which states partner candidate number massage 2 (Ade Sugianto-Cecep Nurul Yakin) proved to do violation. Tasikmalaya Election Commission refuse for follow up decision Bawaslu with use argument that:

- a. that reports violation administration be delivered pass limit time;
- b. that report guess violation administration criminal the submitted after determination winner Pilkada so that guess violation administration the no again Becomes authority Bawaslu and must submitted through the settlement process dispute results election in court Constitution;
- c. that the Commission assesses no found strong argument \_ for state policy Regent contain coflick of interest;
- d. no there is enough evidence \_ strong and convincing existence profit earned \_ partner candidate number 2, Ade Sugianto-Cecep Nurul Yakin, from policies issued by the Regent so that element violation Article 71 paragraph 3 no proven.

Together with that, the verdict Bawaslu about recommendation that partner candidate who gets voice the most proven to do violation administration is shape decisions that are recommendations. As something decisions that are recommendation so final verdict in fact is in the KPUD so when the KPU does not follow up or no match with decision Bawaslu is something things that can accepted in reason law. This means that the KPU 's obligation to decision or recommendation Bawaslu only mean that the Commission is obliged give response in 3 days time on recommendation Bawaslu. KPUD 's response to recommendation Bawaslu no should match with recommendation Bawaslu or KPUD can think on the other hand, that is, what was decided by Bawaslu no in accordance with real situation. In the case KPUD responds different with recommendation Bawaslu so in context the KPUD has could declared operate his obligations for follow up decision Bawaslu as set in Article 135A paragraph (4) which states " Provincial KPU " or Regency /City KPU is obligatory follow up decision Bawaslu Province with publish Provincial KPU decision or Regency /City KPU in period no later than 3 (three) days work counted since publication decision Bawaslu Province. "Article 135 A paragraph (4) here no requires the KPUD to emit same decision with decision Bawaslu which means give room to KPUD for different decision with Bawaslu.

On the other hand, the verdict Bawaslu which stated winner Pilkada proven To do violation could just ignored by KPUD if KPUD does not neutral or side with partner candidate certain. When KPUD commissioner is very pro or be on the side partner winning candidate. Pilkada (partners that Bawaslu disconnected to do violation) then almost confirmed decision Bawaslu the will ruled out.

Fourth, limitation time. Arrangement about solution violation administration criminal as set in Article 135A and Article 73 of Law 10 of 2016 concerning Pilkada no own detailed settings. Detailed settings in context this is when could start and end something categorized violation Article 135 A. Consequence from no existence limitation time about beginning and end of the completion process on violation administration criminal this so



make solution on violation administration criminal this apply to the stage process maintenance Pilkada in stage end or get to the stage all processes in maintenance Pilkada has declared over even until winner Pilkada official appointed as head region and deputy head area.

Obscurity limitation time the clear could used by parties certain specifically partner candidate head losing area in Pilkada. Partner losing candidate in Pilkada will utilise room violation administration criminal for cancel victory partner candidate who gets voice most. That means, partner declared candidate lost by KPUD will try effort sue winner Pilkada with guess to do violation administration TSM crimes. For partner losing candidate, attempt cancel victory partner candidate who gets voice the most through the process at Bawaslu is a process that is assessed own profitable potential or successful. Because the process at Bawaslu rated more easy, easy even very potential for could intervened. recognized or no mate losing candidate of course will use all effort for permanent realize his ambition Becomes head area although acquisition his voice no maximum. Whereas actually, when already there is determination acquisition voice so all related offenses \_ with maintenance Pilkada already should clear and only leaving Case Disputes on Election Results in Court Constitution. Because, if after determination acquisition voice results election still there is a resolution process on violation administration Criminal so Thing, they could mess up stages maintenance Elections that have already been enter Step end.

Determination acquisition voice Becomes stages end because only there is time three days (3 X 24 Hours) for the parties for submit cancellation acquisition voice results election to Court Constitution (MK). Limitation time three day for register cancellation to this court by implied state that no there are other related legal processes with Pilkada besides Case Election Results Disputes. If after stages determination acquisition voice results election still there is related matters \_ with Pilkada as violation administrative process \_ need time almost one month so Thing they will make process completion on case dispute results the election in the Constitutional Court must postponed or should waiting for the completion process on violation administration solved more first.

Arrangement about the completion process on Violation Administration Crimes that don't explicit arrange about limitation time when should solved is shape Settings time solution non compliance clear and make stages maintenance Pilkada Becomes complicated. Condition this is different with Settings about solution Dispute on State Administration of Pilkada (Article 153 UUU 10/2016) which firm give limitation time when State Administrative Disputes must be end and can executed. In Thing occur State Administrative Dispute then dispute they should decide no later than 30 days before collection sound. Article 154 number 12 states " Provincial KPU" or Regency /City KPU is obligatory follow up decision State Administrative High Court or decision The Supreme Court of the Republic of Indonesia regarding decision about determination partner candidate participant election along no pass stages no later than 30 (three) twenty days before day collection sound ".

Provision Article 154 number 12 is of course Becomes formula Article that gives certainty law on all stages Pilkada. If not, there is limitation about limitation when Administrative Disputes must be end so automatic stages Pilkada will disturbed. For example, there are partner candidate participant Elections that are not passed as participant Election by KPUD then partner candidate they will take the State Administrative Dispute process. That is submit lawsuit to the Supervisory Board Elections (Bawaslu) to the cassation process in the Supreme Court. Process of Bawaslu - KPU-PT TUN (Article 154 points 1-12) spends time long enough, if no restricted time when MA 's decision can follow up by KPUD then can just The Supreme Court 's decision is issued when stages

maintenance Pilkada has enter the collection period sound. However, setting that Supreme Court decision published three twenty day approaching day collection voice declared no apply so by automatic the Supreme Court 's decision Becomes expired by law. In fact, setting about solution violation administration criminal law is also regulated thus so that no there is cancellation view canceled candidate \_ post determination acquisition sound.

Fifth, No fulfil threshold limit difference sound. Threshold limit acquisition applied vote as condition for could submit Case Election Results Dispute (PHPKada) to Court Constitution of course is very burdensome formal requirements for partner losing candidate in Pilkada. burdensome because difference voice Among partner candidate winner Pilkada with partner candidate who wants submit lawsuit or partner losing candidate is 0.5%-2%. If difference voice Among partner candidate winner with losing candidate beyond number threshold limit the so by automatic partner losing candidate \_ no could submit case to Court Constitution or no there is hope again for cancel victory partner candidate who gets voice most. When the couple losing candidate \_ no could go through PHPkada to Court Constitution consequence no fulfil threshold limit difference voice so opportunity the only one who thinks them (couple losing candidate) can \_ taken is through track violation administration criminal to Bawaslu. Condition the of course no in tune with the spirit of limitation total dispute hasil Pilkada. Where, one argument enactment threshold limit difference voice is in skeleton for limit total case dispute results Pilkada that was tried by the Constitutional Court and built culture ready lose and be ready win. Culture ready lose and be ready win built \_ through enforcement threshold limit difference voice confirmed no succeed remember for partner candidates who don't ready lost still could go through track violation administration criminal.

Sixth, overlap overlap. Completion process on qualified offense \_ as violation administration the crime committed after determination acquisition voice results election potential give birth overlapping decisions \_ overlap Among decision PHPkada issued by the Court Constitution with decision on violation administration sentence issued by the Supreme Court. It could be, the Supreme Court said decision Bawaslu - KPU regarding cancellation victory partner candidate who gets voice the most should cancel because proven to do infringement which is structured, systematic and massive. On the other hand, the Court Constitution precisely state that victory partner candidate who gets voice the most no could canceled because partner winning candidate. Pilkada no proven to do violation. Two mutual decisions contradicting this of course confusing organizer Pilkada for execute it. That is, is will operate decision Supreme Court (MA) with cancel victory partner candidate who gets voice the most or operate The Constitutional Court's decision is permanent with the decision fixed past maintain partner candidate who gets voice most.

In context difference decision Among the Supreme Court (MA) and the Supreme Court the Constitution (MK) so nature and strength tie the decision of the Supreme Court and the Constitutional Court are the same strong in front of law. Because, MA and MK have equal position in system Indonesian constitution. As a result, from second decision the no could ruled out one between both. In Thing judge, MA and MK do not each other bound one each other. MA and MK in judge related problems with Pilkada operate their respective powers, even though there are linkages on object on trial. In dynamics judiciary in Indonesia, conflict decision between institution Justice is something common. For example Supreme Court decision number 65P/HUM/2018 which states : KPU regulation number 26 of 2008 concerning Nomination Individual candidate member of the House of Representatives Region (DPD) declared no apply because contrary with Article 5 letter d and Article 6 paragraph 1 letter I of Law number 12 of 2012 concerning Formation Regulation Legislation even though KPU regulation number 26 of 2018 \_ made as act

carry on on the decision of the Constitutional Court number 30/PUU-XVI/2018 concerning testing Article 128 letter I of Law number 7 of 2017 concerning Election general .

Seventh, no each other wait. The judicial process in the Supreme Court regarding Violation Administration Criminal with the judicial process in the Court Constitution about Case dispute results election no each other waiting one each other. MA carries out the judicial process without see or waiting for the process carried out by the Court as well with the Court who judged Case Dispute results election without pay attention and wait for the judicial process in the Supreme Court. Even though the process is in progress violation administration in the form of cancellation victory partner candidate who gets voice most closely related with the court process Constitution. When the MA stated partner candidate who gets voice the most proven to do violation administration criminal and then sentenced penalty cancellation as participant Pilkada so by automatic the Supreme Court 's decision make partner candidate who gets voice most (winners) lose position law (legal standing) in the trial process in the Court Constitution.

Eighth, legal standing. Legal standing is position law or subject tired in argue. Legal standing be one formal requirements for could talk in something court. In Thing Case Election Result Dispute Regional Head, partner candidate who becomes winner Pilkada domiciled law or status as party related. When partner candidate who gets voice the most or winner Pilkada canceled by MA because violation administration Criminal so by the corresponding automatic no fulfil condition as party related in trial in the Constitutional Court. You can imagine, if the trial process at the Constitutional Court was take place, then party related has canceled by MA then what is the trial process in the Court Constitution could continued.

On the same side, party related in The Constitutional Court's trial is also based on to partner winning candidate \_ Pilkada or who get voice most. Because, gain voice party related this is what is made as base for count how many minimum difference \_ voice partner candidate who will submit Case Dispute Results to the Court. If difference voice Among party related with applicant on threshold 0.5-2% limit then applicant will declared no fulfil legal standing. Therefore, when \_ in the middle journey party court trial related declared as partner canceled candidate \_ the win so by automatic legal standing the applicant is also null and void by law and the trial process about Election Result Dispute should started from beginning again. That is, replace party related with partner candidates who get voice the most second in Pilkada.

#### **IV. Conclusion**

Arrangement about type and division authority in Thing solution problem good in the form of dispute nor dispute set in Law number 10 of 2016 concerning Election Regional Head. In Constitution this, there is six type problems that include Violation Administration (Article 138), Offense Administration Criminal (Article 135 A), Electoral State Administrative Dispute (Article 153), Violation Crime, Disputes on Election Results (Article 156) and Violation of the Code of Ethics (Article 136). Temporary institution the trial that was given authority for judge is District Courts, State Administrative High Courts, Supreme Courts and Courts Constitution. However, setting the not yet capable prevent and guarantee potency happening overlap judicial process overlap on various type violations that appear in maintenance Pilkada so that often found overlap overlapping resolution process problem on mutual object \_ related (intersected). Process of canceling status as participant Election for partner appointed candidate \_ as winner Pilkada in Bandar Lampung City is one of the example concretes. Where is Bawaslu emit decision

cancellation of participant status Pilkada to partner candidate winner Pilkada even though the cancellation process victory Pilkada post determination acquisition voice results election is object from Case Dispute Results that are authoritative judge him be in court Constitution.

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