



# Abuse of authority of the chairman of the general election commission in the election process of the regent and deputy regent of Sabu Raijua

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## ABSTRACT

Research with the title Abuse of Authority of the Chairman of the General Election Commission in the Election Process of the Regent and Deputy Regent of Sabu Raijua, the research problem is Why was there an abuse of authority by the Chairman of the General Election Commission of Sabu Raijua Regency? This research uses normative legal research, based on the results of research on Article 3 of Law Number 31 of 1999 in conjunction with Article 18 and Article 81 of Law Number 30 of 2014 in conjunction with Article 13 and Article 14 of Law Number 8 of 2015 and interviews with the chairman of Bawaslu Sabu Raijua, the conclusion is that the reason for the abuse by the general election commission in the election of regents and deputy regents of Sabu Raijua is due to juridical reasons, technical reasons and substance; because the Chairman of the General Election Commission of Sabu Raijua Regency did not carefully examine the requirements of the candidate pair for Regent and Deputy Regent of Sabu Raijua; dishonest in making decisions; for not complying with the warning letter of the Chairman of the General Election Supervisory Board of Sabu Raijua Regency.

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## 1. INTRODUCTION

Direct general elections for regional heads are a form of direct democracy in Indonesia. In the context of consolidating and strengthening democracy, direct regional elections are the strongest pillar of national democracy (Legowo, 2005). Direct regional elections map the community in certain social groups which leads to social conflict, meaning that the election process is prone to give birth to conflicts of interest (interest conflicts) (Chaniago, 2016). Dean G. Pruitt and Jeffrey Z. Rubin offer 5 (five) conflict resolution mechanisms, namely the first is contending, where the settlement emphasizes only one party. The second is yielding (yielding) where one party tries to accept the solution offered by the other party. The three problems solving (problem-solving) is a step to finding a win-win solution for both parties. Fourth, withdrawing (withdrawal) in this case one party chooses to withdraw from the problems that occur to avoid prolonged conflict. The fifth is in action (silent), namely doing nothing (Azmi, 2020). Pilkada organizers are the General Election Commission. One of the regional general election commissions that will carry out general elections for the regions and deputy regional heads in 2020 is the regional general election commission for Sabu Raijua district. In the election of the regent and deputy regent in the Sabu Raijua district, there were three pairs of candidates for the head of the regent and deputy regent who took part in the process of selecting the

regent and deputy regent who would later be appointed and installed as regent and deputy regent of Sabu Raijua district if they obtained the most votes and became regent and elected deputy governor.

In the administrative selection process for the three regional head and deputy regional head candidates, in this case, the regent and deputy regent of Sabu Raijua by the Sabu Raijua district general election commission, no deficiencies in administrative requirements or administrative violations were found by the candidate pairs Orient RiwuKore and Thobias Uly . However, after the pair Orient RiwuKore and Thobias Uly were appointed as regents and deputy regents-elect who would later be appointed and appointed as regents and deputy regents of Sabu Raijua, the Sabu Raijua district election supervisory body stated that the elected regents had been appointed and would be sworn in as regents. Sabu Raijua has two nationalities, namely United States citizenship and Indonesian citizenship. thus requesting that the inauguration be postponed to be legally finalized by the competent authority. Responding to the fact that the regent of Sabu Raijua who will be sworn in has two nationalities, the pair of candidates for regent and deputy regent number one, Nicodemus Rih Heke and Yohanes Uly Kale filed a lawsuit with the Constitutional Court on 15 February 2021 to be disputed to obtain a decision that has permanent legal force and to guarantee legal certainty regarding the citizenship status of the elected regent of Sabu Raijua, because in the election process Sabu Raijua often cannot fulfill a sense of justice (Hendrawan, 2015).

After receiving the lawsuit from the number one candidate pair for regent and deputy regent, the constitutional court registered it as a case at the Constitutional Court to be examined and tried based on the applicable laws and regulations. After going through the process and procedural examination of the case at the Constitutional Court, the panel of Constitutional judges decided in its decision Number 133/PHP.BUP-XIX/2021 which in its decision stated that it granted the applicant's request in part, ordering the Sabu Raijua district general election commission to carry out a vote repeat with the provisions referring to the ruling on case Number 135/PHP.B-XIX/2021, rejecting the applicant's application other than the rest. Apart from that, in decision number 135/PHP.B-XIX/2021, it stated that in part it granted the applicant's request, Regarding the decision of the Constitutional Court, the general election commission for Sabu Raijua district set July 7, 2021, as the date for the re-voting of the candidates for regent and deputy regent of Sabu Raijua. The decision of the constitutional court is a legal breakthrough that has an impact, it can be positive or negative. It is positive, of course, if we see corrections that can be made, such as a re-voting (Haruni, 2009). Guasman further stated that the decision of the constitutional court could provide corrections to the process of converting the people's voice through general elections which affected the results of the vote acquisition (Tatawu, 2018). When examined from the field of state administrative law, the administrative violations committed by the pair of candidates for regent and deputy regent of Sabu Raijua number two, namely Orient Riwu Kore and Thobias Uly, especially Orient Riwu Kore who have two nationalities and were not known by the general election commission of Sabu Raijua on when examining the administrative requirements of candidate pairs, it was an abuse of authority in the form of arbitrary actions by the general election commission on Sabu Raijua in favor of the elected regent of Orient RiwuKore, which was carried out by not carefully examining the population administration requirements regarding the citizenship status of Orient Patriot RiwuKore. Juridically according to Law Number 30 of 2014 concerning Government Administration,

Regardless of whether the chairman of the Sabu Raijua district election commission has been punished or not, it is clear that there has been an abuse of authority by the chairman of the Sabu Raijua election commission in the implementation of the Sabu Raijua district head and deputy regent elections. Based on the conditions of these problems, the authors are interested in conducting research with the title Abuse of Authority by the Chairman of the general election commission of Sabu Raijua Regency in the Election Process of the Regent and Deputy Regent of Sabu Raijua.

## 2. RESEARCH METHOD

This research belongs to the type of normative legal research, which is research based on secondary data in the form of legal materials obtained by legal means and following research procedures. The approach technique used in this study is the concept approach technique and the statutory approach technique. The sources of legal materials in this study come from primary legal materials and secondary legal materials. Primary legal materials, namely legal materials obtained from laws and

regulations, include Law Number 30 of 2014 concerning Government Administration, Law Number 31 of 1999 concerning Eradication of Corruption Crimes, Law Number 20 of 2001 concerning Changes Against Law Number 31 of 1999 concerning Eradication of Corruption Crimes, Law Number 37 of 2008 concerning the Ombudsman, Law Number 10 of 2016 concerning the Election of Governors, Regents and Mayors, Constitutional Court decisions Number 133/PHP.BUP-XIX/2021 and Number 135/PHP.BUP-XIX/2021, and secondary legal materials in the form of literature as well as the results of previous studies that have a direct relationship with the research problem. The legal materials collected in this study were conducted through structured interviews and document studies. The key respondents are the Chair of the Sabu Raijua regional election supervisory body. Legal materials that have been collected in research are classified, edited, and analyzed using descriptive qualitative, evaluation, and argumentation. BUP-XIX/2021 and Number 135/PHP.BUP-XIX/2021, and secondary legal materials in the form of literature and results of previous research which have a direct relationship with the research problem. The legal materials collected in this study were conducted using structured interviews and document studies. The key respondents are the Chair of the Sabu Raijua regional election supervisory body. Legal materials that have been collected in research are classified, edited, and analyzed using descriptive qualitative, evaluation, and argumentation. BUP-XIX/2021 and Number 135/PHP.BUP-XIX/2021, and secondary legal materials in the form of literature and results of previous research which have a direct relationship with the research problem. The legal materials collected in this study were conducted using structured interviews and document studies. The key respondents are the Chair of the Sabu Raijua regional election supervisory body. Legal materials that have been collected in research are classified, edited, and analyzed using descriptive qualitative, evaluation, and argumentation. Chairman of the Sabu Raijua regional election supervisory body. Legal materials that have been collected in research are classified, edited, and analyzed utilizing descriptive qualitative, evaluation, and argumentation. Chairman of the Sabu Raijua regional election supervisory body. Legal materials that have been collected in research are classified, edited, and analyzed using descriptive qualitative, evaluation, and argumentation.

### 3. RESULTS AND DISCUSSIONS

Indroharto provides the notion of authority in a juridical sense by emphasizing that authority is a component granted by laws and regulations to cause legal consequences. (Indroharto, 2000). Indroharto further saw that authority as an ability or ability or skill, where the skill or ability only exists or is granted by statutory regulations. The ability or skills provided by these laws and regulations give rise to legal consequences. For example, there are various State Administrative Decisions made by State administrative bodies or officials, from those that are regulatory to State administrative decisions made by individual concrete State administrative bodies or officials. Pradjudi Atmosudirdjo provides an understanding of authority in terms of the competence of an administrative body, by saying that authority is the power to take public legal actions. So the authority only covers or only concerns certain parts (Atmosudirdjo, 2020).

Based on the definitions stated above, Indroharto views authority as ability, while Prajudi Atmosudirdjo views authority as power. Authority in its application is often equated with authority, even though there is a real difference between authority and authority. Prajudi Atmosudirdjo defines authority as formal power, namely power over a certain group of people or power over a certain area of government. Power or authority or *gezag* and within the authority, there are several authorities, while authority or competence, or *bevoegdheid* only covers one of these authorities (Tjandra, 2021). So authority is broader than authority. Based on the definition of authority as stated above, it can be said that authority includes rights and obligations, while authority only includes rights, or in other words, authority is broader than authority.

#### 3.1 Types of Authority

In accordance with the principles of the rule of law adopted by the Republic of Indonesia, as stated in Article 1 paragraph (3) of the 1945 Constitution which confirms that the State of Indonesia is a state of law. This implies that there is a principle of legality, which means that every government action carried out by a State administrative agency or official must be based on the applicable laws

and regulations and of course must also be accountable based on the applicable laws and regulations (Anggara, 2018).

If the authority is not based on the applicable laws and regulations, then the government organ that exercises the authority is declared legally incompetent so the authority is null and void. The authority of the government is divided into three, namely: a) The absence of *rationemateriae*, meaning that the equipment is essentially seen from the material or substance of its authority; b) The *ratione loci* is not authorized, meaning that the equipment within certain area boundaries is not authorized; c) *Ratione-temporary* incompetence, meaning that the equipment is only authorized for a certain period (Ridwan, 2006).

### 3.2 Division of Authority

Authority is divided into two, namely free authority and bound authority. What is meant by free authority is a free authority or *freiesermessen* or discretionary of power is the authority granted by law to organs of government to act other than what is stipulated in law as long as it is not contrary to law, public order, or decency. Example: Government policy in reducing the population explosion by implementing a Family Planning program or Family Planning for married couples of childbearing age so that they are only allowed to have two children is sufficient.

What is meant by bounded authority is the authority granted by law to government organs to act following what has been determined in the law. An example of the president's authority in making government regulations and government regulations in lieu of laws as specified in the 1945 Constitution.

### 3.3 How to Obtain Authority

In the implementation of state administrative law, the thing that gets the most attention from every state administrative agency or official before carrying out their duties is authority. Without government authority on state administrative bodies or officials, this is a mere effort to catch wind or futility. Judging from the method of obtaining authority, theoretically, experts divide authority into three types, namely as follows:

1. Attribution. This attribution authority is obtained directly from the Constitution, this attribution is also a normal way of obtaining government authority so that the authority obtained by attribution by government organs is genuine. In other words, attribution means the emergence of new authority which previously was not owned by the organ of government concerned. Example Article 22 paragraph (1) of the 1945 Constitution authorizes the President to issue a government regulation in lieu of law in cases of compelling urgency. In this attribution, legislators who are competent to provide attribution of governmental authority are divided into two, namely: a) Those who are located as original legislators, in Indonesia are at the central level, namely the People's Consultative Assembly as constituents and the People's Legislative Assembly together with the Government as those who form laws, and at the regional level, namely the Regional People's Representative Council together with the Regional Government as those that form Regional Regulations; besides that there is the Constitutional Court which acts as a negative legislator, which is given the attribution authority to declare null or void a law, or an article or paragraph of a law, and, b) who acts as a delegated legislator, such as the President based on in the provisions of the law issued government regulations, in which government authorities were created to state administrative bodies or officials and at the regional level, namely the Regional People's Legislative Council together with the Regional Government as the one who forms Regional Regulations; besides that there is the Constitutional Court which acts as a negative legislator, which is given the attribution authority to declare null or void a law, or an article or paragraph of a law, and, b) which acts as a delegated legislator, such as the President based on the provisions of the law issue government regulations, in which government authorities are created for state administrative bodies or officials and at the regional level, namely the Regional People's Legislative Council together with the Regional Government as the one who forms Regional Regulations; besides that there is the Constitutional Court which acts as a negative legislator, which is given the attribution authority to declare null or void a law, or an article or paragraph of a law, and, b)

which acts as a delegated legislator, such as the President based on the provisions of the law issue government regulations, in which government authorities are created for state administrative bodies or officials (Indroharto, 2000).

2. Delegation. The authority of this delegation is obtained by way of submission, meaning that there is a transfer of responsibility from those who give the delegation (delegates) to those who receive the delegation (delegates). A delegation must meet certain conditions, namely; a) The delegation must be definitive, meaning that delegates can no longer use the delegated authority themselves; b) Delegation must be based on statutory provisions, meaning that delegation is only possible if there are provisions for that in statutory regulations; c) Delegation is not to subordinates, meaning that in employment relations delegation is not permitted; c) The obligation to provide information (explanation) means that delegates have the authority to request explanations from the delegates regarding the exercise of this authority; Indroharto argued that sub-delegation could also occur in delegation if it was stipulated in the basic regulations that the delegation could further delegate the governmental authority he obtained based the delegation to other officials. Regarding this sub-delegation *mutatis mutandis* also applies provisions regarding delegations in general. In everyday life, we never encounter giving authority by way of sub-delegation (Indroharto, 2000).
3. Mandate. The mandate is the acquisition of authority by way of delegation from the government or higher-level state administration officials to subordinates. The delegation is intended to give authority to subordinates to make decisions on behalf of the state administration official who gives the mandate. In this mandate, there is no transfer of responsibility from the mandate giver to the mandate, or in other words, the responsibility remains with the mandate giver. This can be seen in the word *behalf of*, thus all legal consequences arising from a decision issued by the mandate are the responsibility of the person giving the mandate. The authority obtained by way of this mandate, by Indroharto added that the mandate is not subordinate. This is very rare. in many cases, the mandate to non-subordinates requires provisions in the basic regulations. If such provisions do not exist, then a mandate to non-subordinates can only be valid if three conditions are met, namely; a) The Mandataris is willing to accept the granting of the mandate; b) The mandated authority includes the day-to-day authority of the mandates; c) The relevant statutory provisions are not against the form of granting the mandate (Indroharto, 2000). Based on the opinion above, the writer can conclude that the way to obtain authority can be seen from the point of view of state administrative law and the point of view of state administrative law by using the term power which means the same as an authority, and how to obtain authority through attribution, delegation, sub-delegation, mandate and sub mandates. The author tends to use the method of obtaining authority through attribution, delegation, and mandate because that is the most widely used in the practice of state administrative law every day.

### 3.4 Authority and duties of the District General Election Commission

Article 13 of Law Number 8 of 2015 states the powers and duties of the district general election commission which include: a) Planning programs and budgets; b) Planning the schedule for the election of regents and deputy regents; c) Develop and stipulate the work procedures of the district general election commissions, sub-district election organizers, polling organizers, and voting organizer groups in the election of regents and deputy regents with due observance of guidelines from the general election commission and/or provincial general election commissions; d) Prepare and establish technical guidelines for each stage of the election of the regent and deputy regent in accordance with the provisions of the laws and regulations; e) Establish sub-district voting committees, voting committees, and voting organizer groups in the election of regents and deputy regents; f) Coordinate, organize and control all stages of the election of the regent and deputy regent in accordance with statutory provisions with due observance of guidelines from the general election commission and/or provincial general election commission; g) Receive voter lists from the sub-district election committee in holding elections for regents and deputy regents; h) Updating voter data based on population data stipulated and submitted by the government by taking into account the latest data

on the election of DPR, DPD and DPRD members; election of president and vice president; as well as determine as a voter list; h) Receive voter lists from the sub-district election committee, i) Determine pairs of regent and deputy regent candidates who have met the requirements; j) Announce the elected pair of regents and deputy regents and prepare the official report; k) Imposing administrative sanctions and/or temporarily disabling PPK members, PPS members, district/municipal election commission secretaries, and regency/municipal election commission secretariat employees who are proven to have committed an act that disrupted the stages of holding elections based on the recommendation of the Regency/Municipal Panwaslu and / or provisions of laws and regulations; l) Carry out socialization of Election administration and/or related to the duties of the Regency/City general election commission to the public; m) Evaluating and preparing reports on the election of the Regent and Deputy Regent as well as the election of the Mayor and Deputy Mayor; n) Delivering the results of the election for the Regent and Deputy Regent as well as the election for the Mayor and Deputy Mayor to the provincial election commission, the Governor and the Regency/Municipal DPRD; and o) Carry out other duties and powers given by the general election commission, and the provincial election commission.

Regarding the task of the general election commission to examine the requirements for regional head and deputy regional head candidates, Farry stated that research on the requirements for regional head candidates and deputy regional head candidates as stipulated in laws and regulations includes both administrative requirements and technical requirements (Kumayas, 2015). Article 17 of Law Number 30 of 2014 concerning Government Administration states 1) Government agencies and/or officials are prohibited from abusing their authority; 2) Prohibition of abuse of authority as referred to in paragraph (1) includes: (a) Prohibition of exceeding authority; (b) Prohibition of mixing authority and/or (c) Prohibition of acting arbitrarily. Regarding the three types of abuse of authority as mentioned in Article 17 above, it is further explained in Article 18 of Law Number 30 of 2014 concerning Government Administration, stating that:

1. Government Agencies and/or Officials are categorized as exceeding the Authority as referred to in Article 17 paragraph (2) letter if the Decisions and/or Actions taken: a) exceed the term of office or the validity period of the Authority; b) exceeding the boundaries of the area of application of the Authority; and/or contrary to the provisions of laws and regulations.
2. Government Agencies and/or Officials are categorized as mixing up the Authorities as referred to in Article 17 paragraph (2) letter b if the Decisions and/or Actions taken: a) Outside the scope of the field or material of the Authority given; and/or, b) Contrary to the purpose of the Authority given.
3. Government Agencies and/or Officials are categorized as acting arbitrarily as referred to in Article 17 paragraph (2) letter c if the Decisions and/or Actions taken are: Without the basis of Authority; and/or Contrary to Court Decisions that have permanent legal force.

Constitutionally, the authority to resolve regional election disputes is the Supreme Court, but the Supreme Court delegates this authority to the Constitutional Court based on article 236C Law Number 12 of 2008 which states that the authority of the Supreme Court in resolving the direct regional election results is transferred to the authority of the Constitutional Court (Suhartono, 2016). The authority of the Supreme Court is regulated in Article 106 Law Number 32 of 2004 concerning Regional Government which determines that:

1. Objections to the determination of the regional head and deputy regional head election results can only be submitted by pairs of candidates to the Supreme Court no later than 3 (three) days after the determination of the regional head and deputy regional head election results.
2. The objections referred to in paragraph (1) only relate to the results of the vote count which affect the election of pairs of candidates.
3. Submission of objections to the Supreme Court as referred to in paragraph (1) shall be submitted to the high court for regional head and deputy provincial regional head elections and to the district court for district/city regional head and deputy regional head elections (Harefa et al., 2020). The purpose of the prohibition of abusing power or authority is so that authority is divided in such a way that the opportunity for abuse of government authority over

its authority can be minimized and not concentrate government power in the hands of one person or entity (Ulum, 2021).

Based on the provisions of Article 50 of Law Number 8 of 2015 and the provisions of Article 18 paragraph (2) of Law Number 30 of 2014, it can be identified that the form of abuse of authority committed by the chairman of the Sabu Raijua district general election commission is mixing authority. which are most often carried out by incumbent candidates (Governors, Regents, and Mayors), state officials, regional officials, ASN officials, TNI/POLRI members, and Village Heads or other designations, including the chairman of the General Election Commission (Saiful et al., 2021) In addition, incumbent candidates also abuse authority, for example putting pressure on the State Civil Apparatus (ASN) within the scope of their government, using APBD funds for outreach and winning campaign teams, as well as campaigning outside the predetermined schedule, alias stealing the start for prospective incumbents who declares its return to competing in the democratic party which is held every five years (Anugrah, 2019). The regulation prohibiting the abuse of authority in regional head elections has been regulated in the Regional Head Election Law, which is regulated in the provisions of Article 71 in conjunction with Article 188 and Article 190 of Law Number 10 of 2016 concerning the Election of Governors, Regents and Mayors. According to Law Number 32 of 2004 concerning Regional Government, Article 59 paragraph (1), Article 57 paragraph (1) and paragraph (7), and Article 107 paragraph (1 and 2) of Law Number 32 of 2004 concerning Regional Government there are several aspects that need to be critiqued together, such as: a) Candidature, b) Pilkada organizers, c) Election supervisory committee, and d) Determination of election results

### **3.5 Theoretical Reasons for the Abuse of Authority by the Chairman of the Sabu Raijua Regional General Election Commission**

The occurrence of judicial abuse of authority, namely when there were reports or complaints (Article 2 and Article 3 of the Ombudsman Regulation of the Republic of Indonesia Number 2 of 2009), there were findings from the inspection results of the government's internal supervision apparatus (Article 44 of Law Number 30 of 2014), the findings of the examination of the financial auditing agency (Article 23E of the 1945 Constitution of the Republic of Indonesia), findings on the results of examinations of the people's representative council, regional people's representative councils, (Article 316 paragraph (1) juncto Article 365 paragraph (1) of Law Number 17 the Year 2014) financial and development supervisory agency (Article 54 of Presidential Decree Number 103 of 2001), inspectorate general of the Ministry of Home Affairs, regional inspectorate (Article 5 in conjunction with Article 12 of Government Regulation Number 41 of 2007). Meanwhile, the causes or reasons for abuse of authority in administering government in this discussion are divided by the authors into three reasons, namely juridical reasons and technical reasons, and substantial reasons, the full description of which is as follows:

1. The juridical reasons for the abuse of authority in the administration of government are because (1) there are no death penalty sanctions and additional penalties for trying to impoverish government officials who commit abuse of authority, (2) sanctions for confiscation of officials' property (Article 18 paragraph (1) of Law Number 31 1999) who commit corruption because the abuse of authority has not been properly implemented by the courts, (3) Supervision by authorized institutions or officials over government administrators is passive, (4) community participation as stipulated in Article 8, Article 9 of Law Number 28 of 1999 juncto Article 41, Article 42 of Law Number 31 of 1999 is not yet optimal, (5) The function of the Government's Internal Oversight Apparatus as regulated in article 20 paragraph (1) of Law Number 30 of 2014) is not maximal, (6) government officials violate the oath of office, (7) the application of administrative sanctions in the form of permanent dismissal to officials who abuse their authority as stipulated in Article 81 of Law Number 30 of 2014 has not been maximized.
2. The technical reasons for the abuse of authority in government administration are due to (1) the vastness of the duties of state administration, (2) incomplete or unclear laws and regulations, (3) limited guidelines or instructions for implementation in the workplace, (4) poor organization and management, (5) lack of mastery of tasks or affairs and procedures for solving them, (6) lack of remuneration of personnel, (7) limited means of support in work (Atmosudirdjo, 2020).

Substantial reasons for abuse of authority in administering government are because (1) government officials do not heed the procedures in force; (2) the substance of authority is contrary to the law, morals or ethics, or decency, (3) officials make decisions because of threats, (4) government officials decide only part of the affairs, (5) there are additional conditions beyond the authority of officials, (6) officials the government is not materially authorized (Atmosudirdjo, 2020). Other substantive reasons are that authority is used for personal or political purposes, authority is used contrary to law, and authority is used for purposes other than those regulated in law. Based on these three reasons, the most dominant juridical reason is that the courts or officials in authority do not strictly punish government officials who abuse their authority. This is supported by Diko Utomo's statement that officials abused the authority, opportunities, or facilities available to them because of their position or position to benefit the pair of candidates for regent and deputy regent number two (Utomo, 2015).

### **3.6 Empirical Reasons for the Abuse of Authority by the Chairman of the Sabu Raijua Regional General Election Commission**

Ahmadagja stated that based on the institutional structure, human resources, regulatory instruments, and budget, Bawaslu is the institution that is seen as the most prepared to resolve regional election disputes (Lubis & Ramadhan, 2022). Empirically (based on the results of the author's direct interview with the Chairman of the Election Supervisory Board for the Sabu Raijua district, Yudi Tagihuma, S.Sos, November 17, 2021) stated that there were four reasons for the abuse of authority by the state administration officials, including the chairman of the general election commission, namely:

1. The chairman of the General Election Commission for Sabu Raijua district did not pay close attention to the requirements for pairs of regional head candidates (regent candidates and Sabu Raijua deputy regent candidates). This is supported by the opinion of Hamdan Zoelva that violations committed by General Election Commissions as election organizers in forms such as violations in the candidate pair verification stage (Zoelva, 2016). This inaccuracy can be seen from the lack of seriousness of the Chairperson of the General Election Commission of Sabu Raijua district in researching or examining the administrative requirements of candidate pair number two Orient patriot RiwuKore and Thobias Uly, especially the citizenship status and identity card of the Orient Patriot RiwuKore brothers, namely having dual citizenship and two identification cards. resident, each citizen of the United States of America and the identity card of a citizen of the United States of America and the identity card of an Indonesian citizen, Orient Patriot RiwuKore does not invalidate or erase any of his citizenship;
2. The chairman of the General Election Commission for Sabu Raijua district was dishonest in deciding to determine the pair of regional head candidates (regent candidate and Sabu Raijua deputy regent candidate). The dishonesty of the Head of the Sabu Raijua District Election Commission in deciding on the determination of the pair of regional head candidates (regent candidate and deputy regent candidate) Sabu Raijua was seen in the letter determining the pair of regional head and deputy regional head candidates serial number two Orient Patriot RiwuKore and Thobias Uly, It is known de facto and de jure that the candidate for regional head on behalf of Orient Patriot RiwuKore is a citizen of the United States which is proven from the passport and identity card of the Orient Patriot RiwuKore brother. The dishonesty of the chairman of the general election commission, Sabu Raijua, in making this decision contradicts the general principles of state administration, namely the principle of legal certainty. This was supported by the opinion of Ni'matul Huda who stated that the regional election organizers acted carelessly and worked unprofessionally (Huda, 2011);
3. The chairman of the Sabu Raijua district General Election Commission deliberately acted unilaterally to benefit pair number two, namely Orient Patriot RiwuKore and Thobias Uly. The unilateral action taken by the Chairman of the General Election Commission of Sabu Raijua district was in the form of not caring about the reality that happened to the regional head candidate on behalf of Orient RiwuKore who suddenly lived in the Sabu Raijua district area during the election process for the regional head and deputy regional head of the Sabu district Raijua, even though originally Orient Patriot RiwuKore was domiciled in the United States of

America. The intention carried out by the chairman of the general election commission for Sabu Raijua district included the intention to benefit other people, namely candidate pair number two on behalf of Orient Patriot RiwuKore and Thobias Uly.

The Chairman of the Sabu Raijua General Election Commission Did not heed the written warning letter from the Chairman of the General Election Supervisory Board of Sabu Raijua district. Recognition by the Chairman of the Election Supervisory Board for the Sabu Raijua district, Mr. Yudi Tagihuma, S.Sos, stated that he had repeatedly issued warning letters to the chairman of the General Election Commission for the Sabu Raijua district, Kirenius Padji regarding the presence of the Orient Patriot RiwuKore brothers in the Sabu Raijua district, suddenly when the process of electing regional heads and deputy regional heads of Sabu Raijua district. Regarding our warning letter, in this case, the chairman of the Election Supervisory Board for the Sabu Raijua district, the chairman of the General Election Commission for the Sabu Raijua district, Kirenius Padji, did not heed it, so the chairman of the Election Supervisory Board for the Sabu Raijua district took legal action through the Constitutional Court of the Republic of Indonesia by joining a pair regional head candidate number one and regional head candidate pair number three as the applicant party and related parties in the case examination process at the Constitutional Court of the Republic of Indonesia. In addition, the actions of the general election commission which did not heed the warning letter were also included in the violation of the code of ethics (Jamaludin, 2019).

#### 4. CONCLUSION

The reasons for the abuse of authority by the chairman of the Sabu Raijua district election commission consist of theoretical reasons which include: juridical reasons, technical reasons, and substance reasons; Apart from that, there are empirical reasons, namely: The Chairperson of the General Election Commission for Sabu Raijua district did not pay close attention to the requirements for pairs of regional head candidates (candidates for Regent and candidates for deputy regent of Sabu Raijua). area (regent candidate and deputy regent candidate for Sabu Raijua). The chairman of the Sabu Raijua district General Election Commission deliberately acted unilaterally to benefit pair number two, namely Orient Patriot RiwuKore and Thobias Uly.

#### REFERENCES

- Anggara, S. (2018). *Hukum administrasi negara*. CV Pustaka Setia.
- Anugrah, F. N. (2019). Penyalahgunaan Wewenang (Abuse Of Power) Calon Petahana Terhadap Penyelenggaraan Pemilu Kepala Daerah Berdasarkan Undang-Undang Nomor 10 Tahun 2016 Tentang Pemilihan Umum Kepala Daerah. *WASAKA HUKUM*, 7(1), 263–283.
- Atmosudirdjo, P. (2020). *Hukum administrasi negara*.
- Azmi, R. H. N. (2020). Urgensi Realisasi Badan Peradilan Pilkada Untuk Menciptakan Sistem Penyelesaian Sengketa Hasil Pilkada Yang Efektif dan Konstitusional. *Jurnal Adhyasta Pemilu*, 3(2), 183–203.
- Chaniago, P. S. (2016). Mempertahankan Pilkada Langsung. *JURNAL POLINTER: KAJIAN POLITIK DAN HUBUNGAN INTERNASIONAL*, 2(1), 33–45.
- Harefa, Y., Siallagan, H., & Siregar, H. (2020). URGENSI PEMBENTUKAN BADAN PERADILAN KHUSUS DALAM PENYELESAIAN SENGKETA HASIL PILKADA LANGSUNG. *NOMMENSEN JOURNAL OF LEGAL OPINION*, 1(01), 139–152.
- Haruni, C. W. (2009). Kajian Yuridis Terhadap UU No. 12 Tahun 2008 Tentang Perubahan Kedua Atas UU No. 32 Tahun 2008 Mengenai Terbukanya Calon Perseorangan Dalam Pemilihan Kepala Daerah Secara Langsung. *Jurnal Humanity*, 5(1).
- Hendrawan, I. (2015). Penyelesaian Perselisihan Hasil Pemilihan Kepala Daerah Pasca Putusan Mk No. 97/Puu-Xi. 2013. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 4(1), 139–156.
- Huda, N. (2011). Penyelesaian sengketa pemilihan bupati Bengkulu Selatan di mahkamah konstitusi. *Jurnal Hukum IUS QUIA IUSTUM*, 18, 81–106.
- Indroharto, S. H. (2000). *Usaha Memahami Undang-Undang tentang Peradilan Tata Usaha Negara, Buku I: Beberapa Pengertian Dasar Hukum Tata Usaha Negara*.
- Jamaludin, T. (2019). ). *JPW (Jurnal Politik Walisongo)*, 1(1), 29–48.
- Kumayas, F. C. (2015). PEMILIHAN SERTA PENGANGKATAN KEPALA DAERAH MENURUT UNDANG-UNDANG NOMOR 1 TAHUN 2015 TENTANG PEMILIHAN GUBERNUR, BUPATI DAN WALIKOTA. *LEX ET SOCIETATIS*, 3(3).
- Legowo, T. A. (2005). Pemilihan Kepala Daerah secara langsung, Good Governance dan Masa depan otonomi

- daerah. *Jurnal Desentralisasi*, 6(4), 1–13.
- Lubis, E., & Ramadhan, N. (2022). VARIAN MODEL PENYELESAIAN SENGKETA PILKADA DALAM KERANGKA REGULATIF. *Jurnal Pancasila Dan Kewarganegaraan (JUPANK)*, 2(1), 1–9.
- Ridwan, H. R. (2006). *Hukum Administrasi Negara*, Jakarta: PT. Raja Grafindo Persada.
- Saiful, S., Thalib, H., & Zainuddin, Z. (2021). Kebijakan Hukum Pidana Mengenai Tindak Pidana Penyalahgunaan Wewenang Dalam Pemilihan Kepala Daerah. *Journal of Lex Generalis (JLG)*, 2(2), 754–769.
- Suhartono, S. (2016). Konstitusionalitas Badan Peradilan Khusus dan MK dalam Penyelesaian Sengketa Hasil Pilkada Langsung. *Jurnal Konstitusi*, 12(3), 503–523.
- Tatawu, G. (2018). Hakekat Hukum Putusan Mahkamah Konstitusi terhadap Sengketa Pemilihan Kepala Daerah (Pilkada). *Halu Oleo Law Review*, 1(2), 144–166.
- Tjandra, W. R. (2021). *Hukum administrasi negara*. Sinar Grafika.
- Ulum, M. B. (2021). Pemilihan Kepala Daerah di Indonesia Setelah Reformasi: Kesenambungan dan Perubahan. *Undang: Jurnal Hukum*, 4(2), 309–343.
- Utomo, D. A. (2015). TINDAK PIDANA KORUPSI PENYALAHGUNAAN WEWENANG DANA PENGAMANAN PEMILIHAN KEPALA DAERAH (Studi Putusan Pengadilan Tinggi Tindak Pidana Korupsi Semarang Nomor 19/Pid. Sus/PT. TPK. Smg). *Jurnal Hukum Pidana Dan Penanggulangan Kejahatan*, 4(1), 1–9.
- Zoelva, H. (2016). Problematika penyelesaian sengketa hasil pilkada oleh Mahkamah Konstitusi. *Jurnal Konstitusi*, 10(3).