



Studying the Steps of the General Election Commission in Responding to the Recommendations of the Election Supervisory Body

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Abstract: This research is to find out the GEC's steps in responding to Election Supervisory Body (ESB) recommendations of the Gorontalo Regency in the 2020 Pilkada. The method used in this research is a normative research type that uses a statutory and case study approach. The results of this study indicate that in responding to the Gorontalo ESB recommendation letter, the Regency GEC Gorontalo held a plenary meeting with the ability to conduct consultations with the Gorontalo Provincial GEC, then the Gorontalo Regency GEC asked for information from the election candidate as the reported party, then the GEC asked for information as well as consulted with experts including legal lecturers and also related officials who ultimately poured out the results of the study by making the Gorontalo Regency GEC decision Number: 658/KPU-Kab/X/2020 concerning Follow-Up of the Recommendations of the Gorontalo Regency Election Supervisory Body (ESB) Against Alleged Election Administration Violations, dated 17 October 2020 in Form PATL-2 based on the provisions of Law Number 1 of 2015 and GEC Regulation Number 13 of 2014.

Keywords: Legal Analysis; GEC follow-up; ESB recommendation.

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1. Introduction

In a rule of law state, the entire implementation of state administration and citizens must be in accordance with all kinds of applicable legal rules, it is undeniable that without law, social life is impossible to run properly and orderly, as Hans Kelsen said "law is a system of norms," norms that regulate all the continuity of human life.¹ The law in question is an order of norms and a hierarchical arrangement that culminates in the constitution, the Indonesian constitution in this case is the 1945 Constitution of the Republic of Indonesia. Then, instead of that, the law that is upheld and applies must reflect the will of the people and guarantee the role of citizens in the process of adoption of state decrees and regulations.

Thus in order to achieve a law that is formed with the function of guaranteeing the interests of all citizens and not only guaranteeing the interests of the ruling elite.² Since the founding of this country, democracy is a long process which is not easy in which it experiences ups and downs according to the regime in power. In a democratic rule of law, governance is always carried out through public policies. The process of public policy in a constitutional democracy implies the involvement of elements of the government, the business world and the wider community, which is based on and encouraged by noble human and civilizational values, and is carried out by heeding the values and principles of good governance.

General elections serve as the main means of practicing people's sovereignty, and are generally understood as views or also the concept of a democratic state as stated in Article 1 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia which reads, "Sovereignty is in the hands of the people and implemented according to the Constitution."³

In this way, general elections can be understood as one of the benchmarks for the establishment of the main pillars of a country's democracy so that citizens hold the right to participate and manifest their voices in political matters. Sovereignty of the people that adheres to a democratic system and is known as a system of representative democracy.

¹ Wiranda Putri Madamba, Fenty U. Puluhulawa, Lisnawaty W. Badu, Jufryanto Puluhulawa, and Mohamad Rivaldi Moha, "Application Of Territorial Principles Against Pedophile Criminal Act Perpetrators Perpetrated By Foreign Citizens," *JURNAL LEGALITAS*, 2021, doi:10.33756/jelta.v14i01.11114.

² Bobi Aswandi and Kholis Roisah, "Negara Hukum Dan Demokrasi Pancasila Dalam Kaitannya Dengan Hak Asasi Manusia (Ham)," *Jurnal Pembangunan Hukum Indonesia* 1, no. 1 (2019): 128, doi:10.14710/jphi.v1i1.128-145.

³ Novendri Mohamad Nggilu, Lisnawaty W Badu, and Suwitno Y Imran, "ALIENATION CHANGES IN FORMATION COMMISSION OF INDONESIAN CONSTITUTION OF 1945 (Contemplation Towards The Fifth Amendment)," *Jurnal Pembaharuan Hukum*, 2018, doi:10.26532/jph.v5i1.1975.

In practice, people's representatives play a role in implementing people's sovereignty by sitting in parliament which is a representative or representative of an area they represent, therefore people's representatives have a proper role with the aim of upholding the interests of the people, therefore they must be chosen by the people themselves so they can act on people's name.

In this way, general elections can be understood as one of the benchmarks for the establishment of the main pillars of a country's democracy so that citizens hold the right to participate and manifest their voices in political matters. Sovereignty of the people that adheres to a democratic system and is known as a system of representative democracy. In practice, people's representatives play a role in implementing people's sovereignty by sitting in parliament which is a representative or representative of an area they represent, therefore people's representatives have an appropriate role with the aim of upholding the interests of the people, therefore they must be chosen by the people themselves so they can act on behalf of the people's name.

General elections can be a means of upholding the sovereignty of the Indonesian people to elect state leaders and members of parliament in the legislature which are held on the basis of free, public, secret, honest, fair and direct based on Pancasila and the 1945 Constitution of the Republic of Indonesia.⁴

First, elections must be competitive, meaning that general election participants must be autonomous and free. Then secondly, general elections which are held gradually, must be held regularly and with a clear timeframe. Furthermore, thirdly, general elections should be inclusive, meaning that all groups in society have the same opportunity to participate in general elections and discriminatory treatment is not allowed for a group, ethnicity, or group in the election process. Fourth, voters must be given the freedom to consider and discuss their preferences in a free atmosphere, not under pressure, and have easy access to broad information. Finally, fifth, the general election organizers are not impartial but free or independent.⁵

In its implementation, general elections are commonplace where there will be obstacles and challenges, whether they come from general election organizers (GEC, ESB), election participants (President and Vice President, Head and Deputy Head of Regions, and candidates for legislative members). Therefore, there is a need for thorough, thorough and thorough monitoring and supervision in the election process. ranging from preparation, implementation to the resolution of election disputes. Even so, the order in which the general election is held does not rule out the possibility of violations. Which certainly can affect the quality of the general election. Therefore, in the general election

⁴ Erman I. Rahim, "Partisipasi Dalam Perspektif Kebijakan Publik," *Lietuvos Respublikos Bankų Įstatymas*, no. Ix (2004): 55, <http://eprints.uanl.mx/5481/1/1020149995.PDF>.

⁵ Ramly Hutabarat, "PERANAN PARTAI POLITIK MENYERAP ASPIRASI MASYARAKAT DAN HUKUM POLITIK YANG TIDAK SEMANTIK," *Jurnal Hukum & Pembangunan*, 2017, doi:10.21143/jhp.vol35.no3.1521.

implementation system, there is an institutional mechanism that is entrusted with being able to resolve election disputes. Which functions as an institution tasked with rectifying and repairing returns as well as restoring the dignity of the general election which acts as the foundation for the formation of credible government legitimacy. Election disputes are a series of settlement and restoration of election violations.⁶

ESB as one of the election management bodies On October 1 2020 received a report on allegations of election administration violations using the authority of the Gorontalo Regent who is also the 2020 Gorontalo Regent Candidate for programs and activities that benefit or harm one pair of candidates in their own region or other regions with number reports 10/LP/PB/Kab/29.04/X/2020 and 10/LP/PB/Kab/29.04/X/2020.

Responding to the report, the Gorontalo District Election Supervisory Body issued a recommendation letter for the Kab. Gorontalo Number: 210/K.GO-03/PM-06.02/X/2020 on October 11 to the General Election Commission of Gorontalo Regency on the basis of the provisions stipulated in Article 139 paragraph 1 of Law Number 10 of 2016 which in it contains recommendations for canceling the pair of candidates on the basis of Article 34 Paragraph (5) related to administrative violations for violating the provisions of Article 71 Paragraph 3 of Law Number 10 of 2016, which regulates the prohibition for regional heads to use their authority or programs and activities that are beneficial or detrimental to one candidate pair six months before the determination of the elected candidate pair and in conjunction with Article 89 letter b GEC Regulation Number 1 of 2020 which stipulates that an incumbent is declared ineligible if it benefits or harms one of the candidate pairs six months before the determination of the elected candidate pair.

The Gorontalo district GEC as the election management body also responded to the letter/recommendation of the Kab. Gorontalo said on October 17 by issuing Decree Number: 658/KPU-Kab/X/2020 concerning the Follow-Up of the Recommendations of the Gorontalo Regency Election Supervisory Body (ESB) Against Alleged Election Administration Violations. on the recommendation letter given by the Gorontalo Regency ESB which justifies the actions of the Gorontalo district head. which according to the reporter was a rejection of the Gorontalo Regency ESB recommendation letter and violated Article 139 paragraph 2 of Law Number 10 of 2016 which regulates the GEC in following up the ESB recommendation letter but the reporters who did not accept the GEC's decision continued their actions by reporting the GEC to Honor Council of the Election (HCE) and HCE resulted in Decision Letter Number 168-169-PKE-DKPP/XI/2020 in which HCE gave consideration to the decision that GEC had followed up the ESB recommendation letter in accordance with its authority based on Article 13 letter p Law Number 8 Year 2015, Article 139 paragraph 2 of Law Number 1 of 2015, and Article 140 paragraph 1 and paragraph 2 of Law Number 1 of 2015 However, even so the

⁶ Fauzi Wahyu Pradika, Happy Anugraha Putra, and Anwar Noris, "Lembaga Penyelesaian Sengketa Pemilu Yang Ideal Di Indonesia," *DIVERSI : Jurnal Hukum*, 2020, doi:10.32503/diversi.v6i1.793.

HCE continues to issue strong warning sanctions against the Chairperson and members of the GEC by imposing sanctions on dismissal of the chairman of GEC Gorontalo district.

Therefore the author is interested in studying the GEC's steps in responding to the ESB recommendation because if it is seen that the GEC has followed up on the ESB recommendation according to existing regulations but the reporters did not accept it and continued their report to the HCE resulting in a sanction of dismissal of the GEC chairman which should not have been necessary This is done because the GEC has acted in accordance with existing regulations.

2. Method

The type of normative research that is most relevant to this research, therefore the researcher uses this type of research where this type of normative research is research that basically uses a case study of literature, the method of which is to examine literature related to this research, especially legal issues related being faced in this research, this normative legal research aims to be able to give birth to arguments, theories and new concepts as a guide in solving the problems being faced. The data that has been obtained is then analyzed through a qualitative analysis approach.⁷

3. Studying the Steps of the General Election Commission in Responding to the Recommendations of the Election Supervisory Body

October 1, 2020 Gorontalo Regency ESB received a Report on Alleged Election Administration Violations reported by Br. Robin Bilondatu with the reported Gorontalo Regency GEC and Gorontalo Regent a.n Nelson Pomalingo (Defendant I) regarding Election Administration Violations as stated in Form Model A.1. The reporter who resides in Jalan Raya Hamlet, Bakti Village, Pulubala District, Gorontalo Regency according to his Identity Card (KTP) has fulfilled the requirements to become a reporter based on Article 4 paragraph (1) Perbawaslu 8 of 2020, an Indonesian citizen who has the right to vote on After receiving the report, the Gorontalo Regency ESB carried out an initial review process on October 3, 2020, to examine the fulfillment of the formal and material requirements for reports, as in form A.4 which concludes that the report submitted by Robin Bilondatu did not meet the formal and material requirements. Then the Gorontalo Regency ESB submitted a notification of the completeness of the report on October 3, 2020 according to form model A.4.1.

After receiving the Notification of Report Completeness, pursuant to Article 14 paragraph (2) Perbawaslu 8 of 2020 the Complainant completes the formal requirements and/or material requirements of the Report and submits the fulfillment of the formal

⁷ Nirwan Junus, Karlin Zakaria Mamu, and Mohamad Syahnez W. Aditya Cono, "Granting Business License to Fuel Traders 'Pertamini' As a Form of Legal Protection," *Jambura Law Review*, 2021, doi:10.33756/jlr.v3i1.7270.

requirements and/or material requirements of the Report to the Election Supervisor no later than 2 (two) days after notification as referred to in paragraph (1) is delivered.

Whereas the reporter Robin Bilondatu, after receiving notification of the completeness of the report, then completed his report on October 3, 2020, the Gorontalo Regency ESB gave a receipt for the repair of the report according to form model A.3.1 then the Gorontalo Regency ESB conducted a study of the corrective documents included by the complainant, then the Regency ESB Gorontalo through a plenary meeting decided to register the report with the register number 11/LP/PB/Kab/29.04/X/2020 on 6 October 2020 then after the report registration process was completed, the Gorontalo Regency ESB invited the parties namely the Reporting Party, the Reported Party, witnesses and experts to be asked for information related to the incident of alleged violations submitted by the complainant.

Then on October 11, 2020, the GEC received a decision letter number, Gorontalo Regency ESB Letter Number: 210/K.GO-03/PM-06.02/X/2020, Regarding the Continuation of Election Administration Violations. Based on Form Model A.1 (Reception Report Number: 11/LP/PB/Kab/29.04/X/2020 and Form Model A.11 (review of alleged violations) Number: 11/LP/PB/Kab/29.04/X/2020 , with the reported party the Regent of Gorontalo Regency a.n. Nelson Pomalingo and the Chair and Members of the Regency GEC, Gorontalo The recommendation letter contains:

- a. The reported Gorontalo Regency GEC Chairperson and Members committed election administration violations against the provisions of Article 89 letter b GEC Regulation Number 3 of 2017 as last amended by GEC Regulation Number 9 of 2020.
- b. Reported Prof. Dr. Ir. H. Nelson Pomalingo, M.Pd. as a candidate for Regent/Incumbent commits a violation of Article 71 paragraph (3) of Law number 1 of 2015 as last amended by Law Number 6 of 2020;
- c. Request the Chairperson and Members of the Gorontalo Regency GEC to amend the Decree of the Gorontalo Regency GEC number: 270/PL.02.3-Kpt/7501/KPU-Kab/IX/2020 concerning Determination of Serial Number and List of Candidate Pairs for the 2020 Gorontalo Regent and Deputy Regent Election with comply with the provisions of Article 71 paragraph (5) of Law number 10 of 2016 in conjunction with Article 90 paragraph (1) letter f of GEC Regulation Number 3 of 2017, as last amended by GEC Regulation Number 9 of 2020.

As a rule of law, it is appropriate for us to carry out our duties, rights and authorities which have been regulated in the law, guided by the law and its derivative regulations, especially the GEC, ESB and HCE which are a unit of the general election system, which involves many parties and plays a major role in the occurrence of democracy as mandated by law.

The GEC as an election management body has been guaranteed and protected by the 1945 Constitution, therefore it is categorized as a state institution that has what is called

constitutional importance. As an important institution, GEC is emphasized as being national, permanent and independent (independent) with the same institutional level as other state institutions established by law.⁸

GEC provisions for following up on ESB Recommendations are as follows:

- a. Article 13 letter p Law Number 8 of 2015 follows up immediately the recommendations of the Regency/Municipal Panwaslu on findings and reports of alleged election violations"
- b. Article 139 paragraph (2) of Law Number 1 of 2015, Provincial GEC and/or Regency/Municipal GEC must follow up on the recommendation of Provincial ESB and/or Regency/City Panwaslu as referred to in paragraph (1)
- c. Article 140 paragraph (1) and paragraph (2) of Law Number 1 of 2015:
 1. Provincial GEC and/or Regency/City GEC examines and decides on administrative violations as referred to in Article 139 paragraph (2) no later than 7 (seven) days after the Provincial ESB and/or Regency/City Panwaslu recommendation is received;
 2. Further provisions regarding procedures for resolving election administration violations are regulated in GEC Regulations;

Based on the provisions of GEC Regulation Number 25 of 2013 as amended by GEC Regulation Number 13 of 2014 Concerning Settlement of General Election Administration Violations states:

Article 5: The types of elections referred to in Article 3 paragraph (1) include:

- a. Election of members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council;
- b. Election of President and Vice President; and
- c. Election of governors and deputy governors, regents and deputy regents, as well as mayors and deputy mayors.

Article 13 paragraph (1): "Provincial GEC/Aceh KIP, Regency/City GEC/KIP, PPK, PPS, PPLN, KPPS/KPPSLN may conduct consultations with GEC at 1 (one) level above

CHAPTER III Follow-up on Recommendations by the Election Supervisory Body by the General Election Commission Article 17 GEC Regulation Number 25 of 2013,: GEC, Provincial GEC/KIP Aceh, GEC/KIP Regency/City, PPK, PPS, PPLN, KPPS/KPPSLN must follow up on ESB recommendations according to the level.

Article 18 GEC Regulation Number 13 of 2014, The follow-up as referred to in Article 17 includes the following activities: a. Re-examine data or documents as recommended by ESB according to their level; and/or b. Exploring, seeking, and receiving input from

⁸ Suparman Marzuki, "Peran Komisi Pemilihan Umum Dan Pengawas Pemilu Untuk Pemilu Yang Demokratis," *Jurnal Hukum Ius Quia Iustum* 15, no. 3 (2008): 393-412, doi:10.20885/iustum.vol15.iss3.art8.

various parties for the completeness and clarity of understanding of the report. Election Administration Violations.

Article 19 paragraph (1) and paragraph (2):

- 1) Based on the follow-up as referred to in Article 18 GEC, Provincial GEC/KIP Aceh, Regency/Municipal GEC/KIP, PPK, PPS, PPLN, KPPS/KPPSLN make decisions in a plenary meeting.
- 2) The decision referred to in paragraph (1) is set forth in the PAPTL-2 Form.

Article 20 Paragraph (1) and Paragraph (2)

- 1) The decision as referred to in Article 19 is announced to the public.
- 2) Provincial GEC/KIP Aceh, Regency/Municipal GEC/KIP, PPK, PPS, PPLN, KPPS/KPPSLN report the settlement of alleged Election Administration Violations to GEC 1 (one) level above no later than 3 (three) days after the decision is made.

By reading the provisions above we can understand the GEC's explanation in what is the Follow-up of the Gorontalo Regency ESB Recommendation, the GEC explains what is meant by Follow-up Recommendations is to first carry out an inspection, look back at the data or documents of the Gorontalo Regency ESB recommendation letter and explore, search for and receive input from various parties for clarity and understanding of alleged administrative violations on the recommendation then decided through a plenary meeting to discuss the results of the follow-up on the recommendations of the Gorontalo Regency ESB and decide on the results of the follow-up in the plenary minutes and set forth in the Formulimodel PAPTL-2 in the Decree of the Gorontalo Regency GEC No. : 658/KPU-Kab/X/2020 concerning Follow-up on the Recommendations of the Gorontalo Regency Election Supervisory Body regarding alleged Election administration violations.

On October 11, 2020, after receiving the Gorontalo Regency ESB Letter Number: 210/K.GO-03/PM-06.02/X/2020, the GEC followed up and compiled a chronology and initial scrutiny of the ESB's recommendations through a plenary meeting, which basically concluded to conduct consultations with the Gorontalo Provincial GEC as well as make reports and requests for instructions in completing Election Administration Handling, then the GEC immediately requested information from various experts on 13-16 October 2020, including Prof. Dr. Aminuddin Ilmar, S.H., MH, Lecturer at the Faculty of Law, University of Hasanudin Makassar/Head of the Department of Constitutional Law, University of Hasanudin (UNHAS) Makassar, Dr. Daud Markus Liando, S.IP, M.Sc, Lecturer in Elections at Samratulangi University, Manado, North Sulawesi, Director General of Regional Autonomy, Ministry of Home Affairs, delivered by Dr. Saydiman Marto, S.STP, M.Sc, Head of Sub Directorate Region IV (Sulawesi) Director General of Regional Autonomy Ministry of Home Affairs Hariyanto Manan, SE, Head of the Budget Division at the Gorontalo Regency Financial Agency, and the GEC also conducted consultations and simultaneously submitted reports to the GEC RI regarding the Follow-up Process on the recommendation of the Gorontalo Regency ESB.

After receiving various expert statements, the GEC held a plenary meeting to discuss the results of follow-up on the recommendations of the Gorontalo Regency ESB and decided on the results of the follow-up in the plenary minutes and set forth in the PAPTL-2 Form (FOLLOW-UP TO THE RECOMMENDATIONS OF THE GORONTALO REGENCY ELECTION SUPERVISORY AGENCY REGARDING ALLEGED ELECTION ADMINISTRATIVE VIOLATIONS Number: 658 /KPU-Kab/X/2020) at the Gorontalo Regency GEC Office on 16-17 October 2020.

The following day, October 17 2020, at the Gorontalo Regency GEC Office, the Defendants announced to the public via Livestreaming the Gorontalo Regency GEC Facebook Account by inviting the Mass Media and announced on the Gorontalo Regency GEC announcement board.

The Defendants submitted the PAPTL-2 Form on October 19, 2020, (Follow-up to the RECOMMENDATION OF THE GORONTALO REGENCY ELECTION SUPERVISORY BOARD (ESB) REGARDING ALLEGED VIOLATIONS OF VIOLATION OF THE DECISION OF THE HONORARY COUNCIL OF ELECTION (HCE) ADMINISTRATION MANAGERS Number: 658/KPU-Kab/X/2020) to the Gorontalo Regency ESB and Gorontalo Provincial GEC through letter Number: 594/PY.02.1-SD/7501/KPU-Kab/X/2020, October 19 2020, Regarding Follow-up on the Gorontalo Regency ESB Recommendation.

The steps above are a form of follow-up by the Gorontalo Regency GEC on the Gorontalo Regency ESB Recommendation as emphasized by the GEC in the HCE Decision Number 168-169-PKE-DKPP/XI/2020 The General Election Commission explained that it had followed up the Gorontalo Regency ESB recommendation based on Article 140 Paragraph 1 Law Number 1 of 2015, jo. Article 18 GEC Regulation Number 25 of 2013 as amended by GEC Regulation Number 13 of 2014, and Gorontalo Provincial GEC Letter Number: 536/PY.02.1-SD/75/Prov/X/2020, October 13, 2020, Regarding Follow-up Recommendations, by first carrying out an inspection, re-examining the data or document letter/recommendation of the Gorontalo Regency ESB and exploring, seeking and receiving input from various parties for clarity and understanding of the alleged administrative violation of the recommendation and then deciding it through a plenary meeting Discussing the follow-up results on the Regency ESB recommendation Gorontalo and decide on the follow-up results in the Plenary Minutes and set forth in the PAPTL-2 Model Form in the Gorontalo Regency GEC Decree Number: 658/KPU-Kab/X/2020 concerning Follow-Up of the Recommendations of the Gorontalo Regency Election Supervisory Body Against Alleged Election Administration Violations, dated 17 October 2020.

Based on the provisions of Article 19, Article 20 and Article 21 of GEC Regulation Number 25 of 2013, GEC has carried out the follow-up results as follows:

- a. decide through a plenary meeting and have written it down in the PAPTL-2 Form regarding the follow-up on the recommendations of the Election Supervisory Body on Alleged Election Administration Violations;
- b. announce to the public on October 17, 2020 via Livestreaming the Gorontalo Regency GEC Facebook Account and announced on the Gorontalo Regency GEC announcement board.
- c. submit the PAPTL-2 Form to the Gorontalo Regency ESB by letter Number: 594/PY.02.1-SD/7501/KPU-Kab/X/2020, October 19 2020, Regarding Follow-up on the Gorontalo Regency ESB Recommendation.

However, even though the GEC has carried out its duties in following up on the ESB recommendation above according to HCE in its decision letter Number 168-169-PKE-DKPP/XI/2020 HCE as enforcer of the election organizers' code of ethics in considering its decision regarding GEC's follow-up to the ESB Recommendation, The HCE stated as follows "HCE is of the opinion that the GEC, in following up on the ESB recommendation, only carried out the formal-procedural requirements set out in the laws and regulations."

In considering its decision, HCE clearly acknowledged that the GEC's follow-up was in accordance with the applicable laws and regulations, but even so, HCE as the enforcer of the code of ethics for election organizers in HCE Decision Number 168-169-PKE-DKPP/XI/2020, assessed the conclusions The Defendants stated that the three events in the ESB recommendation were a form of handling Covid-19 and regional economic recovery cannot be ethically justified.

Continuing the statement above, HCE considers that the GEC as the organizer of the election should have broad sensitivity and insight in dealing with regional political dynamics so that it can catch the intention of a program or activity as a form of abuse of office. The professional attitude of election administrators is not only measured based on the implementation of their duties and authorities in accordance with statutory provisions, but also the extent to which the duties and authorities possessed can present justice for the realization of regional elections with integrity. With regard to these considerations, the Gorontalo district GEC proved to be unprofessional in following up the recommendations of the Gorontalo Regency ESB. Based on these considerations, the HCE imposed more severe sanctions on the Chairperson of the Gorontalo Regency GEC in order to give a warning so that in the future the Gorontalo Regency GEC is more serious and responsible in carrying out its duties and authorities. Thus, the argument of the Complainant's complaint was proven and the Respondent's answers did not convince the HCE. The Defendants were proven to have violated the provisions of Article 6 paragraph (3) letters f and h in conjunction with Article 15 HCE Regulation Number 2 of 2017 concerning the Code of Ethics and Conduct for General Election Organizers.

In the HCE decision Number 168-169-PKE-DKPP/XI/2020, HCE assessed the GEC's actions based on Article 6 paragraph (3) letters f and h in conjunction with Article 15 HCE Regulation Number 2 of 2017 concerning the Code of Ethics and Conduct for General Election Organizers, it is stated as following:

Article 6 Paragraph (3) The professionalism of Election Organizers as referred to in paragraph (1) is guided by the principles:

f. professional means that in holding elections, election organizers understand their duties, powers and obligations supported by expertise based on knowledge, skills and broad insights.

h. Efficient means that in holding elections, election organizers make use of resources, facilities and infrastructure in holding elections according to procedures and on target.

Article 15 In carrying out professional principles, Election Organizers behave and act:

- a. maintain and maintain the honor of the Election Organizers;
- b. carry out tasks in accordance with the vision, mission, goals, and programs of the Election Organizing Body;
- c. carry out tasks according to position and authority based on the 1945 Constitution of the Republic of Indonesia, laws, regulations, and decisions relating to the holding of elections;
- d. prevent all forms and types of abuse of duties, authority and position, either directly or indirectly;
- e. ensure the quality of service to voters and participants in accordance with the professional standards of election administration
- f. act based on standard operating procedures and the substance of the election administration profession;
- g. carrying out duties as Election Organizers with high commitment; and
- h. not neglecting the implementation of tasks regulated in the Election Organizer organization.

In the end, after going through the stages as a mandatory procedure, HCE decided based on HCE Decision No. 168-169-PKE-DKPP/XI/2020, that:

1. Grant the Complainant's Complaint in part;
2. Impose a Sanction of a Severe Warning and Dismissal from the Chairperson's Position to Defendant I Rasid Sayiu as Chairman and concurrently a member of the Gorontalo Regency GEC as of the date the Verdict was read;
3. Impose a Stern Warning Sanction on Defendant II Kadir Mertosono, Defendant III Ruzli Z.B Utiahman, Defendant IV Rivon Umar, and Defendant V Rasid Patamani each as Member of Gorontalo Regency GEC as of the date this Decision was read;
4. Rehabilitate the good name of Defendant I Wahyudin M. Akili as Chairman and concurrently Member of the Gorontalo Regency ESB, Defendant II Moh. Fadjri Arsyad, and Defendant III Alexander Kaaba

respectively as members of the Gorontalo Regency ESB as of the reading of this Decision;

5. Order the General Election Commission to implement this Decision on Case Number 168-PKE-DKPP/XI/2020 no later than 7 (seven) days after this Decision was read out;
6. Order the Gorontalo Province ESB to implement this Decision on Case Number 169-PKE-DKPP/XI/2020 no later than 7 (seven) days after this Decision was read out; and
7. Order the Election Supervisory Body to oversee the implementation of this Decision

By taking into account the considerations of the HCE decision No. 168-169-PKE-DKPP/XI/2020 we can conclude that HCE acknowledged that the GEC's follow-up form was in accordance with the applicable regulations and laws, but HCE assessed the GEC's conclusion stating that the actions of the Gorontalo Regent as well as the 2019 Gorontalo Regent Candidate were a form of Covid countermeasures -19 and regional economic recovery cannot be justified ethically, the GEC is considered not to have broad sensitivity and insight in dealing with regional political dynamics so that it can catch the intention of a program or activity as a form of abuse of office. thereby violating the provisions of Article 6 paragraph (3) letters f and h juncto Article 15 HCE Regulation Number 2 of 2017 concerning the Code of Ethics and Conduct of General Election Organizers Number 2 of 2017 concerning the Code of Ethics and Conduct of General Election Organizers.

Responding to the argument stating that the GEC did not follow up on the recommendation of the Gorontalo Regency ESB which contained the cancellation of one of the parties as a participant in the Election of the Regent and Deputy Regent of Gorontalo Regency, the Constitutional Court gave its response in its decision as follows:

Decision of the Constitutional Court NUMBER 48/PHP.BUP-XIX/2021, the Constitutional Court in considering its decision stated:

"according to the Court, there was a recommendation from the Gorontalo Regency ESB which recommended the cancellation of related parties as participants in the 2020 Election of the Regent and Deputy Regent of Gorontalo Regency, but the Respondent did not immediately decide to cancel the Related Party as a participant in the 2020 Election of the Regent and Deputy Regent of Gorontalo Regency, this matter is a form of caution from the Respondent in addressing the case before it is decided.", then the Constitutional Court quoted Article 140 paragraph (1) of Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning Election of Governors, Regents, and the Mayor Becomes Law in which it states as follows "Provincial GEC and/or Regency/City GEC examines and decides on administrative violations as referred to in Article 139 article 139 paragraph (2) no later than 7 days after the ESB recommendation is received". The Constitutional Court then interpreted the word "examine" in the Article above to mean giving Provincial and/or Regency/Municipal GEC an opportunity.

Furthermore, in discussing the same case, the Constitutional Court's decision NUMBER 56/PHP.BUP-XIX/2021, the Constitutional Court in considering its decision stated, "according to the Court, there was a recommendation from the Gorontalo Regency ESB which recommended the cancellation of related parties as participants in the 2020 Election of the Regent and Deputy Regent of Gorontalo Regency, but the Respondent did not immediately decide to cancel the Related Party as a participant in the 2020 Election of the Regent and Deputy Regent of Gorontalo Regency, this matter is a form of caution from the Respondent in addressing the case before it is decided."

Therefore the Constitutional Court justified the GEC's actions which first conducted a review before issuing its decision and did not immediately decide to cancel the status of the related party's election participant.

4. Conclusion

Based on the results of the analysis and discussion described above, it can be concluded that in responding to the Gorontalo ESB recommendation letter, the Gorontalo Regency GEC complied with existing regulations by holding a plenary meeting which concluded to conduct consultations with the Gorontalo Provincial GEC, then the Gorontalo Regency GEC asked for information on election candidates. as the reported party, the GEC then asked for information as well as consulted with experts including law lecturers and also related officials who in the end put the results of their studies by making a Gorontalo Regency GEC decision Number: 658/KPU-Kab/X/2020 concerning Actions Continuing the Recommendation of the Gorontalo Regency Election Supervisory Body Against Alleged Election Administration Violations, dated October 17, 2020 in the PATL-2 Form based on the provisions of Law Number 1 of 2015 and GEC Regulation Number 13 of 2014.

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