



Termination of Investigation on Election Crime Cases in 2019

Syukri Akun¹, Audyna Mayasari Muin²
Faculty of Law, Universitas Hasanuddin Makassar

ARTICLE INFO

Article history:

Received Jun 2, 2022

Revised Jul 15, 2022

Accepted Jul 27, 2022

Keywords:

Termination of
Investigation;
Criminal act;
Election

ABSTRACT

This study aims to analyze what is the basis for stopping the investigation of election crimes and analyze the ideal concept of handling election crimes in Indonesia. The type of research carried out is descriptive analysis, which is a study that intends to provide an overview of something about social phenomena that aims to provide a systematic, factual and accurate description and the discussion in this thesis uses an empirical juridical approach, namely examining existing problems juridically by using laws and regulations. -applicable legislation and legal theories supported by the study of library data. The results of the study show Termination of the investigation of cases of election crimes, based on 2 (two) reasons, namely juridical reasons and non-juridical reasons. The juridical reason is that there is not enough evidence to prosecute, this is based on the provisions of Article 7 paragraph (1) letter i in conjunction with Article 109 paragraph (2) of the Criminal Procedure Code. The non-juridical reason is that in the main case (principal) there has been a Court decision stating Liberation (Vryspraak), while the Election Crime investigated is an assessor (following) on the main case. Because the main case has been acquitted, the logical consequence is that the investigation of the election crime case which is assessor in nature must be stopped. 2) The ideal concept in handling election crimes in Indonesia is to strengthen the Bawaslu Institution. The granting of authority to the Bawaslu Institution needs to be carried out, that authority includes the appointment of investigators and public prosecutors. Institutionally, Bawaslu must also be independent in making decisions. Decisions issued are no longer influenced by other institutions.

ABSTRACT

Penelitian ini bertujuan untuk menganalisis apa yang menjadi dasar penghentian penyidikan terhadap tindak pidana pemilu dan menganalisis konsep yang ideal terhadap penanganan tindak pidana pemilu di Indonesia. Jenis penelitian yang dilakukan bersifat deskriptif analisis yaitu suatu penelitian yang bermaksud memberikan gambaran sesuatu tentang gejala sosial yang bertujuan untuk memberikan gambaran secara sistematis, faktual dan akurat dan pembahasan pada tesis ini menggunakan pendekatan secara yuridis empiris yaitu meneliti permasalahan yang ada secara yuridis dengan menggunakan peraturan perundang-undangan yang berlaku dan teori-teori hukum yang didukung dengan studi data kepustakaan. Hasil penelitian menunjukkan. Penghentian penyidikan perkara tindak Pidana Pemilu, didasarkan atas 2 (dua) alasan, yaitu alasan yuridis dan alasan non yuridis. Alasan Yuridis adalah tidak terdapat cukup bukti untuk melakukan penuntutan, hal ini didasarkan pada ketentuan Pasal 7 ayat (1) huruf i juncto Pasal 109 ayat (2) KUHAP. Alasan Non Yuridis adalah bahwa pada perkara pokoknya (prinsipal) telah ada putusan Pengadilan yang menyatakan Pembebasan (Vryspraak), sedangkan tindak Pidana Pemilu yang disidik adalah bersifat assesoir (mengikuti) pada perkara pokoknya. Karena perkara pokoknya telah diputus bebas, maka konsekuensi logisnya bahwa penyidikan perkara Tindak Pidana Pemilu yang bersifat assesoir harus dihentikan penyidikannya. 2) Konsep ideal dalam penanganan tindak pidana pemilu di Indonesia adalah dengan penguatan Lembaga Bawaslu. Pemberian kewenangan kepada Lembaga Bawaslu perlu dilakukan, kewenangan itu mencakupi pengangkatan penyidik dan penuntut umum. Secara kelembagaan, Bawaslu juga harus mandiri dalam mengambil keputusan. Keputusan yang dikeluarkan tidak lagi dipengaruhi oleh Lembaga lain

This is an open access article under the [CC BY-NC](https://creativecommons.org/licenses/by-nc/4.0/) license.



Corresponding Author:

Thank You Account,
Faculty of Law,
Hasanuddin University Makassar,
Independence Pioneer Road KM 10 90245 Makassar City, South Sulawesi, Indonesia
Email: andisyukri54@gmail.com , audynamayasari@gmail.com

I. Introduction

As a country that adheres to the notion of democracy, it is mandatory to carry out general elections (elections) to elect leaders and representatives. Thus, to realize this, its implementation is regulated by laws and regulations (Amini, 2019).

After the amendment of the 1945 Constitution by the MPR at the 2001 annual session, elections began to be regulated explicitly in Chapter VIIB of the 1945 Constitution concerning Elections. The implementation of the General Election, which is a constitutional order, is then described in Article 22E paragraphs (1), (2) and (3) of the 1945 Constitution. From the article it is known that, democratic parties in Indonesia are held every 5 (five) years with the aim of electing members of the People's Representative Council, members of the Regional Representatives Council, President and Vice President, and to elect members of the Regional People's Representative Council on the principle of direct, general, free, confidential, honest and fair (DING, nd).

Several experts provide definitions of elections, including Jimly Asshidiqie who stated that elections are a way to democratically elect representatives of the people. In addition, Fajlurrahman Jurdi said that the general election is the process of selecting people to fill certain positions. These positions are diverse, ranging from president, people's representatives at various levels of government, to village heads.

The definition of General Elections, hereinafter referred to as Elections as referred to in Article 1 point 1 of Law Number 7 of 2017 concerning General Elections states that Elections are a means of implementing people's sovereignty to elect members of the People's Representative Council, Members of the Regional Representative Council, President and Vice President, and to elect Members of the Regional House of Representatives, which is carried out directly, publicly, freely, confidentially, honestly and fairly within the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia (Anshori, 2019).

Elections are a means of channeling people's sovereignty. People's sovereignty is actually "from the people for the people and by the people" which means first, the people have sovereignty, responsibilities, rights and obligations to democratically elect leaders who will run the government in their respective regions to manage and serve all levels of society (AYUDA, nd). The people elect the President and Vice President who will carry out government functions in accordance with the rules and fulfill promises to the community and implement the vision and mission in their 5-year term. The people's sovereignty as mandated in Article 1 paragraph (2) of the 1945 Constitution has a purpose, namely placing the people as having the highest power in exercising government power. The people are sovereign and the holder of the highest power in the government, which means all power comes down to the people. The means to maintain the sovereignty of the people is through elections. the absence of competitive, fair and just elections, can be considered as a lack or absence of democracy (Bayo et al., 2018).

In order to ensure that the implementation of the General Election can run in accordance with the corridors of legislation, election management institutions such as the General Elections Commission (KPU), the General Elections Supervisory Body (Bawaslu), and the Election Organizing Honorary Council (DKPP) have been established with interrelated functions and tasks. each other (Sihombing et al., 2021).

In the implementation of the General Election, although there are laws and regulations that specifically regulate its implementation so that it can run properly and democratically and without fraud, there are still violations and indications of fraud. There are violations and fraud committed by the organizers, participants and even by the community itself. Therefore, it is necessary to have supervision from Bawaslu and its staff so that general elections can really be carried out on the basis of direct, general, free, confidential, and honest and fair principles. With the supervision carried out, it is hoped that public confidence in the election results will be higher (Achwan, 2021). Especially for alleged violations of election crimes, the handling process involves elements of other law enforcement agencies such as the police and prosecutors who are members of the Integrated Law Enforcement Center, hereinafter referred to as the Gakkumdu Center. As mandated in Law Number 7 of 2017 concerning General Elections, that the establishment of a Gakkumdu center is to equalize understanding and patterns of handling election crimes. The Gakkumdu formed is attached to Bawaslu, Provincial Bawaslu, and Regency/city Bawaslu (Muhammad, nd).

In order to strengthen the process of handling election crimes, investigators and public prosecutors who are members of Gakkumdu are temporarily assigned and are not given other tasks from their original agencies while carrying out their duties at Gakkumdu. With the experience and human resources possessed, it is hoped that the presence of investigators and public prosecutors at Bawaslu will further increase the quality of the process of prosecuting election crimes (Yuliawati, 2021).

However, it can be seen that the presence of the Gakkumdu center in handling election crimes actually causes problems in the handling process, as stated by observers and election activists that it is better for the Gakkumdu center in the next election to be disbanded, because so far the Gakkumdu center is considered to have hampered the work of Bawaslu in achieve electoral justice. Many cases cannot be followed up even though according to Bawaslu, the alleged violation has fulfilled the elements, but the differences in interpretation among members of the Gakkumdu case cannot be followed up to the next stage. (Dyah, 2019).

The process of handling election crimes is regulated in Bawaslu Regulation Number 7 of 2017 concerning the handling of findings and reports of general election violations. Furthermore, specifically regulating integrated law enforcement centers is regulated in Bawaslu Regulation Number 31 of 2018 concerning Integrated Law Enforcement Centers. (Pritama & Wahyudhi, 2020). In terms of carrying out the process of handling alleged violations, it can be done when there are findings and reports. Findings of alleged violations were found by election supervisors at all levels, while reports were submitted by Indonesian citizens with voting rights, election observers and election participants (Hudia et al., 2021).

If there are findings or reports of alleged violations received by the election supervisor, the election supervisor will pay attention to the fulfillment of the formal and material requirements of the findings or reports. If there is an allegation of a criminal violation, then 1x24 hours a discussion must be carried out in the Gakkumdu center starting from the time the findings or reports are received and registered by the election supervisor. In Bawaslu Regulation Number 31 of 2018 concerning the Gakkumdu Center, it is regulated for 4 (four) discussions (Febriandi, 2021).

In the discussion, it is not uncommon for an alleged violation to be discussed in Gakkumdu, due to differences in the views of members who are members of the Gakkumdu center, a case is terminated even though the alleged violation has met two pieces of evidence as stated in the Criminal Procedure Code and has fulfilled the elements of the article to be alleged. . Sometimes even in the discussion process to equalize understanding, after Bawaslu carries out the process of handling violations and investigators obtain strong evidence, the Gakkumdu center agrees to carry out a further handling process at the investigation stage. However, on the way, after an investigation was carried out, the Gakkumdu center stopped the investigation. However, in the process of handling (Alwy & Afdhal, 2019).

Thus, cases whose status has been raised to the investigation stage should no longer be stopped. Unless there are certain conditions that force the investigation to be terminated. As stated in Article 109 of the Criminal Procedure Code (Tornado, 2018). Although we all know that, investigators and public prosecutors should also understand that stopping a case when there is peace does not violate the formalism of the law, but actually reads the law more meaningfully. Borrowing Satjipto Rahardjo's term, Law is a document that is open to or contains interpretation. Laws that are perceived as unfair by the community may be put to sleep (statutory dormancy) or sidelined (desuetudo). (ANTHONI et al., 2019).

However, this condition is different from the handling of election crimes. Where it has been stated in Article 486 paragraph (1) of Law Number 7 of 2017 concerning General Elections that in order to equalize the understanding and pattern of handling election crimes, Bawaslu, the State Police of the Republic of Indonesia, and the Attorney General's Office of the Republic of Indonesia formed Gakkumdu. With the joining of the Police and the Prosecutor's Office, it is hoped that there will be a common understanding from the start that will allow for no termination of the investigation. In fact, so that this does not happen, the pattern of handling election crimes does not recognize the termination of the investigation (Bambang, 2021).

II. RESEARCH METHODS

1. Types of research

The types of research carried out in the writing of this scientific work (thesis) are as follows. This research is descriptive analysis, which is a research that intends to provide a description of something about social phenomena that aims to provide a systematic, factual and accurate description. Method The approach in conducting research and discussion in this thesis uses an empirical juridical approach, namely examining the existing problems juridically by using the applicable laws and regulations and legal theories supported by the study of library data.

2. Research sites

With the form of writing that is juridical-empirical, in this thesis research, the author chooses the research location with a focus on the Bawaslu office of West Sulawesi Province and Bawaslu of Majene Regency, West Sulawesi Province.

3. Data Types and Sources

This research includes empirical juridical law research, so the types of data used are primary data and secondary data. Primary data is data obtained directly from the results of interviews with respondents and sources. Secondary data is data obtained through the literature that is directly related to the problems discussed in this study as well as archives / registers at the research location offices. The source of data used in this research is library research, which is examining various literatures related to the object of research, the applicable laws and regulations in this case the Criminal Procedure Code (KUHAP), Law Number 7 2017 concerning General Elections and Bawaslu Regulations relating to the handling of Election Crime Violations. Field research (field research) is collecting data by systematically observing the phenomena of several cases in various media. Conducting direct observations in the field, especially to the Bawaslu of West Sulawesi Province and Bawaslu of Majene Regency with interview techniques.

III. RESULTS AND DISCUSSION

1. The Authority of Bawaslu in the Process of Election Crimes

Bawaslu is the organizer of the election together with the KPU and the Election Organizing Honorary Council (DKPP) based on Law no. 7 of 2017 concerning General Elections. In the laws and regulations, Bawaslu is explained in article 1 paragraph (17) of Law Number 17 of 2017 concerning Elections, Bawaslu is an election management agency tasked with overseeing the

implementation of elections throughout the territory of the Unitary State of the Republic of Indonesia. Supervision is carried out on election participants, KPU election organizers and their staff, neutrality of the ASN, TNI and Polri and the general public.

With the presence of Bawaslu in organizing the general election, it is hoped that the election will run democratically. The presence of the General Election signifies the Indonesian nation as a democratic country because of the presence of an institution that can process any fraud in the election. Elections are very basic in the life of the Indonesian state administration, because elections are a means of implementing people's sovereignty which can be traced from the history of the founding of the Republic of Indonesia, namely the old order era, the new order era and the reform era.

Election supervisors in Law Number 7 of 2017 concerning Elections have reached the level of polling stations. This answered the anxiety in the previous election that did not present election supervisors at the most crucial level in the implementation of the election, namely the Polling Place (TPS).

Taking into account the duties of the Bawaslu, there are tasks mentioned in Article 93 letter i of Law no. 7 of 2017 concerning General Elections which states that Bawaslu is in charge of: conveying allegations of election crimes to Gakkumdu. In addition to taking action, Bawaslu is also tasked with preventing election violations and preventing disputes over the election process. in taking action as stated in Article 94 paragraph (2) of Law no. 7 of 2017 concerning General Elections, Bawaslu is in charge. Receiving, examining and reviewing alleged election violations. investigate allegations of election violations determine allegations of violations of election administration, alleged violations of the code of ethics of election administrators, and/or alleged election crimes; and decide on election administration violations. In addition to the duties of Bawaslu, it is also given the authority as stated in Article 95 of Law no. 7 of 2017 concerning General Elections as follows. Receive and follow up on reports relating to alleged violations of the implementation of laws and regulations governing elections, examine, review, and decide on election administration violations. Receive, examine, mediate or adjudicate, and decide on the dispute resolution of the election process. recommend to the relevant agencies regarding the results of supervision on the neutrality of the civil-state apparatus, the neutrality of the members of the Indonesian National Armed Forces, and the neutrality of the members of the Indonesian National Police. take over temporarily the duties, powers, and the obligations of the Provincial Bawaslu and Regency/Municipal Bawaslu in stages if the Provincial Bawaslu and Regency/Municipal Bawaslu are temporarily absent due to sanctions or other consequences in accordance with the provisions of the legislation; Requesting information needed from related parties in the context of preventing and taking action against administrative violations, violations of the code of ethics, alleged election crimes, and election process disputes, correcting the decisions and recommendations of the Provincial Bawaslu and Regency/City Bawaslu if there are things that are contrary to the provisions of the legislation , establish Provincial Bawaslu, Regency/City Bawaslu, and LN Panwaslu; and appoint, foster, and dismiss members of Provincial Bawaslu, Kanupaten/City Bawaslu members, and members of LN Panwaslu.

2. Issuance of Termination of Investigation Letter (SP3)

The series of criminal acts handling processes starting from investigation, investigation, prosecution and trial in court are contained in Law Number 8 of 1981 concerning the Criminal Procedure Code which is often called the Criminal Procedure Code (KUHAP). With the issuance of the determination of the suspect by the investigator, thus the matter has gone through the investigation process. If it refers to Article 1 point 2 of the Criminal Procedure Code, the investigation is a series of actions by investigators to collect evidence so as to make light of a criminal act and find the suspect.

From this series of processes, investigators are authorized by law to stop investigations that have been carried out. Limitatively, the law has stated that there are reasons that can be used by investigators to stop an investigation. In Article 109 paragraph (2) which reads in full as follows: in the event that the investigator stops the investigation because there is not enough evidence or the incident does not constitute a criminal act or the investigation is terminated for the sake of law, the investigator shall notify the public prosecutor, the suspect or his family. Based on these provisions, the investigation may be terminated if the following conditions are met: Insufficient Evidence If the investigator does not obtain sufficient evidence to prosecute a suspect or the evidence obtained by the investigator is insufficient or insufficient to prove the suspect's guilt before the trial, the investigator has the authority to decide on the termination of the investigation. In terms of sufficient evidence or not, we can pay attention to the provisions of Article 183 of the Criminal Procedure Code which affirms that the minimum limit of proof (there are at least two pieces of evidence) which when we relate it to Article 184 (1) of the Criminal Procedure Code states that what is meant by valid evidence is: Witness testimony, Expert testimony, Witness, Instructions, Defendant's statement.

In carrying out the investigation process, the provisions of Article 184 of the Criminal Procedure Code become the basis for investigators to determine whether the evidence obtained is truly sufficient or not. If it turns out that the evidence is not sufficient, then the case that is being investigated must be stopped. Insufficient evidence, meaning that the investigator does not have sufficient evidence to determine a person as a suspect. If something like this happens, it is certainly a little confusing because when the investigation process takes place, and when it is about to designate someone as a suspect, the investigator already has 2 sufficient pieces of evidence. Then if the reason is not enough evidence as the basis, then it means that there is evidence that was annulled by the investigator as evidence.

Thus, if the termination of the investigation is carried out on the grounds that there is insufficient evidence without giving a strong reason why the evidence is insufficient, then this will create a bad image of the police as investigators in the eyes of the public. In addition, the matter may be submitted to a pre-trial hearing, either at the request of the public prosecutor or from a third interested party, to assess whether the act of stopping the investigation is legally justifiable or not. This applies to the termination of investigations in general criminal cases. However, it does not rule out the possibility of a case whose investigation is terminated if later it turns out that there is a new reason that the investigator can conduct an investigation of the suspect. If it is deemed by the investigator that in the case the evidence is insufficient, the investigation of the case will be terminated. However, if at a later date the investigator (on his own initiative or at the urging/request of an interested party) can and successfully collect sufficient evidence, the case that has been terminated can be reopened. If a case is closed for the sake of law, it means that the case cannot be prosecuted or criminalized. The provisions of the case being closed by law are contained in Article 76 of the Criminal Code to Article 85 which regulates the abolition of the authority to prosecute criminals. The abolition of the claiming authority is explained as follows:

Nebis In Idem Nebis in idem is a legal principle that applies in both civil and criminal law. In civil law, this principle implies that a case with the same object, the same parties and the same subject matter, which is decided by a court that has permanent legal force which grants or refuses, cannot be re-examined a second time. If there has been a decision in the form of punishment, acquittal, or acquittal from a lawsuit, and the decision has obtained permanent legal force, the person can no longer be examined, prosecuted and tried for the second time for the same incident.

To uphold the principle of a fast, precise and low cost judiciary, and at the same time to uphold legal certainty in people's lives. If the investigator concludes that based on the results of the investigation and investigation, there is not enough evidence or reason to prosecute the suspect before the trial, why procrastinate in handling and examining the suspect. It is better for the investigator to officially declare the termination of the investigation, in order to immediately create

legal certainty both for the investigator himself, especially for the suspect and the community. So that the investigation avoids the possibility of demanding compensation, because if the case is continued, but it turns out that there is not enough evidence or reason to sue or punish, automatically the suspect/defendant has the right to demand compensation based on Article 95 of the Criminal Procedure Code.

3. Pre-Trial

The definition of pre-trial according to law in this case Law Number 8 of 1981 concerning Criminal Procedure Law as regulated in Article 1 number 10 is as follows: The authority of the district court to examine and decide according to the method stipulated in the Criminal Procedure Code concerning whether or not an arrest and or detention is legal at the request of the suspect or his family or other parties on behalf of the suspect. A suspect is any person who is made a suspect by an investigator based on an allegation of a crime committed by him. Whether or not the termination of the investigation or the termination of the prosecution at the request for the establishment of law and justice, the request for compensation or rehabilitation by the suspect or his family or other parties on behalf of his proxies whose cases have not been brought to court.

The purpose and objective of holding this pre-trial hearing institution is as a horizontal correction among fellow law enforcement agencies, namely the police, prosecutors and courts. In addition, Article 77 of the Criminal Procedure Code regulates the pretrial authority which reads: The District Court has the authority to examine and decide in accordance with the provisions of this law concerning: Whether or not an arrest, detention, termination of an investigation or termination of a prosecution is legal. Compensation and or rehabilitation for a person whose criminal case is terminated at the level of investigation or prosecution. In carrying out the interests of examining criminal acts, the law has given authority to investigators and public prosecutors to carry out coercive measures in the form of arrest, detention, confiscation and search. the legal action limits and even contradicts the rights of the suspect, therefore the granting of such authority must be regulated in detail to prevent abuse and arbitrary actions from investigators and or public prosecutors. With the regulation of forced efforts in a limited manner in the Criminal Procedure Code, it is hoped that it will be able to provide guarantees and protection of human rights, protection of human dignity as naturally owned by a state of law.

The existence of the term pretrial is due to the fact that in carrying out their authority, law enforcement officers cannot be separated from the possibility to carry out actions that are contrary to the provisions of the applicable laws and regulations. Article 1 point 10 of the Criminal Procedure Code (KUHAP) states that pretrial is the authority of the district court to first examine and decide whether or not an arrest and or detention is legal at the request of the suspect or his family or other parties for the suspect, the second is legal or not. termination of investigation or termination of prosecution at a request for the sake of law and justice, and thirdly a request for compensation or rehabilitation by the suspect or his family or other party on his behalf whose case has not been brought to court.

4. Factors Affecting the Decision to Stop the Investigation

In Bawaslu Regulation Number 31 of 2018 concerning the Integrated Law Enforcement Center, it is known that in carrying out the process of handling election crimes, 4 (four) discussions were carried out by the Gakkumdu center. The following is an explanation of what the Gakkumdu center does in conducting the discussion.

The First Discussion in article 20 paragraph (1) states that the Election Supervisor together with investigators and the Prosecutor shall conduct the first discussion within a maximum of 1x24 (one time twenty-four) hours starting from the date on which the findings or reports are received and registered by the Election Supervisors. Furthermore, in paragraph (3) it is stated that the results of the discussion as referred to in paragraph (1) are to conclude whether the findings or reports meet the formal and material requirements, and determine the articles that will be

suspected of the findings or reports of alleged election crimes that have been received and registered by the Election Supervisor. Then the results of the discussion are stated in the minutes of discussion I which are signed by the Election Supervisor, Investigators, and Prosecutors.

Second Discussion Article 23 paragraph (1) states that the Election Supervisory with Investigators and Prosecutors shall conduct a Second Discussion no later than 14 (fourteen) days after the findings or reports are received and registered by the Election Supervisors. furthermore in paragraph (3) states that the results of the discussion as referred to in paragraph (2) to conclude the findings or reports constitute an election crime or not an election crime. in paragraph (4) it is stated that if the findings or reports of alleged election crimes are based on conclusions, the discussion as referred to in paragraph (3) is stated to have alleged electoral crimes, the Election Supervisor will continue to handle the alleged election crimes to investigators. The results of the second discussion are then stated in the minutes and signed by the election supervisor, investigator and prosecutor.

Third Discussion Article 26 paragraph (1) states that the investigator conveys the results of the investigation in the third discussion led by the Gakkumdu Coordinator from the National Police. This third discussion was carried out during the investigation process. Furthermore, paragraph (4) states that the third discussion results in a conclusion whether or not the case can be delegated to the prosecutor. The results of the third discussion are set out in the minutes signed by the election supervisor, investigator and prosecutor.

In the registered case Finding Number: 08/TM/PL/Kab./30.02/III/2019 On 12 March 2019 it was concluded that the first discussion met the formal and material requirements, therefore, proceeded to the process of handling election supervisory violations and investigation. In the conclusion of the discussion, it was stated that the Reported Party was suspected of committing an election crime in the form of participating in face-to-face campaign activities in Baurung village. Based on article 280 paragraph (3) of Law Number 7 of 2017 concerning Elections, it is stated that "everyone as referred to in paragraph (2) is prohibited from participating as the organizers and election campaign teams" Juncto Article 494 which states that "every state civil apparatus, member of the Indonesian National Armed Forces, and the Indonesian National Police, Village Heads, Village Apparatuses, and/or Village Consultative Body members who violate the prohibition as referred to in article 280 paragraph (3) shall be punished with imprisonment for a maximum of 1 (one) year and a fine of a maximum of Rp. 12,000,000.00 (twelve million rupiah).

This case is the development of the first case that we have handled, but the first case where the suspect is the chairman of the Majene Regency DPRD was declared acquitted by the District Court and upheld by the High Court. Based on the results of the third discussion conducted by the Gakkumdu center, we agreed not to continue the case to the prosecution stage because the first case was declared acquitted by the court. We, the Gakkumdu center, are of the opinion that if it is continued, this case will be in vain because it relates to the first case which has been declared acquitted. The following table summarizes the number of handling violations carried out by the Majene Regency Bawaslu.

Table 1. Recapitulation of the Number of Handling of Violations of the Majene Regency Bawaslu

No	District/District	Amount Finding	Number of reports	Not registered	Registration	Violation Handling				
						Adm	Criminal	Ethics	Not a violation	other
1	Majene	8	5	-	13	1	2	2	5	3
2	proud	2	-	-	2	-	-	-	1	1
3	Proud East	1	-	-	1	-	-	-	-	1
4	Pamboang	1	-	-	1	-	-	-	-	1
5	Sendana	1	-	-	1	-	-	-	-	1
6	Tammrodo	-	-	-	-	-	-	-	-	-
7	Sendana	-	-	-	-	-	-	-	-	-
	Tubo	-	-	-	-	-	-	-	-	-

8	Ulumanda	-	-	-	-	-	-	-	-
9	Malunda	-	-	-	-	-	-	-	-
	Total	13	5	-	18	1	2	2	6

Data source: Majene Regency Bawaslu Violation Handling Division

By observing the table above, the Reports and Findings received by the Majene Regency Bawaslu are known that 8 (eight) findings and 5 (five) reports are all registered. The handling of these violations is detailed as much as 1 (one) election administration violation, 2 (two) criminal cases, 2 (two) violations of the election organizer's code of ethics and other laws as many as 3 (three) alleged violations and there are 5 (five) cases that were terminated because they were declared not a violation.

In addition to the findings and reports received by the Regency Bawaslu, the sub-district Panwaslu also received reports and findings. Here are the details. Banggae sub-district has 2 (two) findings, both of which are registered as 1 (one) is declared a violation of the other law then 1 (one) is declared not a violation. then the East Banggae sub-district has 1 (one) finding which is then registered and a violation handling process is carried out. the result after the study was declared as another violation of law. Furthermore, the Pamboang sub-district also received 1 (one) finding and was registered. After handling the violation, the finding is declared as another violation of law. In the second discussion at the Gakkumdu center, Bawaslu was of the opinion that cases of alleged election crimes were ready to proceed to the investigation stage, although there were still witnesses who had not been questioned but at the time of the investigation, forced efforts could be made because the investigator has the authority to forcibly summon witnesses. Similar to the opinion of Bawaslu, investigators also agreed to raise the case to the investigation stage. The Prosecutor's Office also believes that the cases being handled can be increased to the investigation stage with various notes that several witnesses must be presented in the investigation. In the third discussion, Bawaslu is of the opinion that cases that have been investigated by the police are appropriate to be delegated to the prosecutor's office. The police are of the opinion that cases with police reports numbered: LP/76/II/2019/SPKT has fulfilled the elements and has sufficient evidence so that it is very feasible to transfer it to the Mamuju District Attorney, the opinion of the Prosecutor's Office said that the case could not be transferred to the Mamuju District Attorney because the police could not present the suspect until the end of the term. investigation. With the end of the investigation period the case was deemed insufficient evidence. The following is a list of handling violations carried out by the process at the Bawaslu of Mamuju Regency. With the end of the investigation period the case was deemed insufficient evidence. The following is a list of handling violations carried out by the process at the Bawaslu of Mamuju Regency. With the end of the investigation period the case was deemed insufficient evidence. The following is a list of handling violations carried out by the process at the Bawaslu of Mamuju Regency.

Table 2. Data on Handling of Election Violations in 2019 Bawaslu of Mamuju Regency

No.	Type of Violation	Amount
1	Code of ethics violation	4
2	Criminal Offense	6
3	Other Legal Violations	24
4	Administrative Violation	28
5	PSU	2
	Amount	64

Unlike the case that occurred in Majene Regency and Mamuju Regency, investigators stopped the case on the grounds that there was insufficient evidence because within 14 days of investigation, the suspect was not found and cannot be questioned. The results of an interview with a member of the Mamuju Bawaslu, the Coordinator of the Division for Handling Violations of the Bawaslu in Mamuju Regency, Faisal Jumalang, stated that:

We agreed on this case between Bawaslu, the Police and the Prosecutor's Office to be upgraded to the investigation stage because based on the results of the clarification and the results of the investigation it was stated that there was sufficient evidence. However, at the time the investigation was carried out and a summons was made to the suspect, the suspect did not fulfill the summons by the investigator. Finally, the investigation period for 14 days the suspect could not be examined. Finally, in the discussion the three investigators did not agree to be forwarded to the prosecutor's office and finally issued a warrant for the termination of the investigation (SP3).

Article 480 paragraph (1) of Law Number 7 of 2017 concerning General Elections states that Investigators of the Indonesian National Police submit the results of their investigations accompanied by case files to the public prosecutor no later than 14 (fourteen) days after receiving the report and can be carried out without the presence of the suspect. Similarly, in article 480 paragraph (4) of Law Number 7 of 2017 concerning Elections, it is stated that: The public prosecutor delegates the case files as referred to in paragraph (1) and paragraph (3) to the district court no later than 5 (five) days after receiving the case file. and can be carried out in the absence of the suspect. With regard to the article, the prosecutor actually has no reason to stop a case on the grounds that the suspect cannot be questioned during the investigation process. Furthermore, the head of the Bawaslu of Mamuju Regency, Rusdin explained in an interview. We at Bawaslu encourage that this case can be continued for examination in the Court, but in the third discussion that we are doing. The prosecutor refused to continue this case on the grounds that the case had sufficient evidence because it had been in for 14 days and the suspect could not be investigated because the whereabouts of the suspect was unknown. Even though we at Bawaslu convey that even though the suspect is not present, the examination can still be carried out, as regulated in Law Number 7 of 2017 concerning Elections, but the prosecutor still does not want the case to be transferred to the prosecutor's office.

In these 2 (two) cases, the list of cases that have been investigated has been added to but was later discontinued. Nationally presented data in a national seminar organized by the Bawaslu of the Republic of Indonesia, Member of the Indonesian Election Supervisory Body for the 2017-2022 Period, Ratna Dewi Pettalolo, presented data on handling violations as follows:

Table 3. Data on Handling Violations of the Election Supervisory Body of the Republic of Indonesia in 2019

Report Type	Administration	Criminal	Amount
Findings and Reports	1.126	2,798	3.924
Registered	927	2,798	3.725
Forwarded to investigators	-	582	582
Forwarded to the prosecution	-	409	409
Forwarded to court	-	380	380

Regarding the data above, it can be explained that there were 582 cases that were forwarded to investigators but 409 cases were submitted by the public prosecutor. This means that there are 173 cases terminated by investigators. By looking at the data, it is known that if the case is investigated, the case will not always be continued by the prosecutor's office. Even though the process of handling election crimes, Bawaslu, the Police and the Prosecutor's Office were present together in handling it. When the case was handled jointly from the start, no more cases were stopped during the investigation. And if there is any doubt, the case should have been stopped from the start.

5. The Ideal Concept of Handling Election Crimes

The handling of election crimes has changed from election to election. However, there are always problems in the handling process. It is known that since the beginning of the establishment of the Election Supervisory Agency as regulated in Law Number 2 of 1980 concerning the second

amendment to Law Number 15 of 1969 concerning the Election of Members of the Consultative Body/People's Representatives, law enforcement elements have been involved such as the Attorney General at the central level and Kajati at the regional level I and Kajari. in the level II area. However, this law has not yet regulated the mechanism for handling violations. However, with the involvement of law enforcement elements, it implies that in the event of election violations, especially criminal ones, there are law enforcement elements who can carry out the process of handling criminal acts.

In the 2009 elections, the laws used were different in the previous elections, namely using Law Number 10 of 2008 concerning the Election of Members of the DPR, DPD and DPRD and Law Number 42 of 2008 concerning the Election of President and Vice President and Law Number 22 of 2007 concerning Election Organizers. This year is the first time that cases of alleged election crimes have been handled by the Gakkumdu Center. In the 2014 election, the regulations governing the general election were again changed to Law Number 8 of 2012 concerning the election of members of the DPR, DPD and DPRD but the Law on the Election of the President and Vice President did not change but the law on election management was also changed to Law Number 15 of 2011 concerning Election Organizer.

In the 2019 election, the law that was reused was changed to Law Number 7 of 2017 concerning elections. This law is a codification of 3 laws, namely the law on the election of the DPR, DPD and DPRD, the law on the election of the President and Vice President and the Law on Election Organizers. in this law, which explicitly regulates the duties and functions of the Gakkumdu Center. By paying attention to each election period, full attention is shown to the law enforcement process marked by involving law enforcement elements such as the Prosecutor's Office, Police and even judges who have colored their involvement in the implementation of elections in Indonesia. Indonesia has held elections 12 (twelve) times, starting from 1955-2019, however it can be said that this country has not implemented a standard election law enforcement mechanism. Election law enforcement in the implementation of elections in Indonesia, really needs to get serious attention, this is because these violations both administratively and criminally have a tremendous adverse impact on the quality of the implementation of elections in Indonesia.

In Law Number 7 of 2017 concerning Elections, which is the last law used in the 2019 elections, it is clear that the government and DPR show seriousness in eradicating electoral crimes through the establishment of Gakkumdu. It is known that Gakkumdu as an integrated law enforcement center has an important role in handling election crimes. However, in practice there are still obstacles faced in dealing with electoral crime cases. From the results of the research conducted, the authors offer a concept that becomes an indicator in the form of strengthening this authority and institution that can strengthen and tend to be very effective in implementing law enforcement in the implementation of elections in Indonesia. the solution is to strengthen the position of Bawaslu as an election law enforcer. Regarding the solution regarding the role of Bawaslu in organizing elections in Indonesia, is to make an amendment to Law Number 07 of 2017 concerning Elections, which regulates the functions and authorities possessed by Bawaslu. Previously, this institution was only formed to supervise the election and receive reports for further review and recommendations or reported to the competent authority, by strengthening the authority and function of Bawaslu, the handling of criminal acts which regulates the functions and authorities of Bawaslu. Previously, this institution was only formed to supervise the election and receive reports for further review and recommendations or reported to the competent authority, by strengthening the authority and function of Bawaslu, the handling of criminal acts which regulates the functions and authorities of Bawaslu. Previously, this institution was only formed to supervise the election and receive reports for further review and recommendations or reported to the competent authority, by strengthening the authority and function of Bawaslu, the handling of criminal acts

In Law Number 7 of 2017 concerning Elections, it only states that Bawaslu functions as a party that receives reports of alleged violations of the implementation of laws and regulations regarding elections, then submits findings and reports to the Police in the context of cases of criminal violations in elections. Thus, the strengthening of Bawaslu can be done by giving the authority to enforce electoral criminal law in the implementation of general elections in Indonesia. Of course, if this is done, then improvements to regulations must be made. If this is done, it will provide a significant change in the concept of democracy in Indonesia.

The independence of Bawaslu has been degraded by other institutions. The position and authority of the election supervisory institution that is national, permanent and independent as mandated in Article 22 paragraph (5) of the 1945 Constitution which was later strengthened by the Constitutional Court Decision Number 11/PUU-VIII/2010 which places Bawaslu as an institution independent as the KPU. However, with the presence of the police and the prosecutor's office in handling election crime cases, Bawaslu is not independent in carrying out its duties. As previously explained, Bawaslu in enforcing election law is very strategic, where Bawaslu is the first party to supervise and obtain reports or direct findings of violations in the election, either administratively or criminally. However, on the way,

This is because the Bawaslu, the Police and the Prosecutor's Office often have different opinions in handling election crime cases. In line with this, Topo Santoso said that the Integrated Law Enforcement Center (gakkumdu) which consists of Bawaslu, the Police and the Prosecutor's Office is often not uniform in determining whether or not the criminal elements committed are fulfilled. This is often the reason why the investigators do not follow up on Bawaslu's recommendations. In an interview conducted with the chairman of the Majene Regency Bawaslu on behalf of Sofian, he explained that:

In the various criminal cases that we handle, we at Bawaslu always encourage them to be followed up to the investigation stage so that less evidence can be obtained when the investigation is carried out. We do this because we at Bawaslu have limited authority. If it is followed up at the investigation stage, the limited authority in Bawaslu can be covered by the authority possessed by the investigator. But even so, the handling of cases always stops at the Bawaslu because the members of the Gakkumdu center do not uniformly interpret a case. Regarding the number of findings and case reports that were stopped and not followed up, Bawaslu also does not have the authority to put pressure on the Police so that the cases that have been reviewed and recommended are investigated thoroughly, this has an impact which results in cases of violations, both administrative and criminal. every election. To overcome such problems of law enforcement, it becomes important then to strengthen the authority possessed by Bawaslu. Nurhidayat Sardini is of the opinion that the existence of election supervisors in political and administrative law reviews is important in order to avoid delegitimization of the process and results of the election implementation.

The Importance of Strengthening Bawaslu, With the current conditions, although the institutional change for election supervisors is getting stronger with the birth of Law Number 7 of 2017 concerning Elections, the existing strengthening is still considered half-hearted. Especially on the authority to handle election crimes. The strengthening of Bawaslu is based on so that the upcoming elections will become quality elections. In the future, Bawaslu is expected to be effective in enforcing the law for holding elections that have integrity, accountability and professionalism. Thus, an ideal concept is needed in handling election crimes in Indonesia. There are 2 (two) concepts that can be used in the implementation of electoral crime enforcement. the following is the description:

Bawaslu Has Their Own Investigators and Prosecutors To strengthen Bawaslu's position in law enforcement for election crimes, regulations must be revised. Preferably, the process of handling election crime violations, the entrance remains with Bawaslu but if Bawaslu through the plenary results states that the alleged violation has met the requirements to be raised to the investigation

stage because it already has two pieces of evidence as stated in the Criminal Procedure Code and the Constitutional Court Decision, then the case is an immediate investigation is carried out. Of course, the results of this plenary session are still based on the results of research by Bawaslu who are assisted by investigators in conducting investigations.

Thus, in Bawaslu there is no longer any clarification process to the complainant, the reported party and the witnesses, which is a very long and tiring process. Summons to the complainant, the reported party and the witnesses are carried out only at the investigation stage. This will also erase the classic problem that occurred in Bawaslu which does not have the power to compel people to call people to have their statements heard. As previously explained, it is not uncommon for the process of handling alleged violations to be stopped because the reported and witnesses were not present when invited by Bawaslu to be asked for clarification. However, when an investigation is conducted, the investigator has the power to compel to summon someone for questioning.

IV. CONCLUSION

Based on the research conducted, it can be concluded that Gakkumdu takes a full role in carrying out the process of handling election crimes. starting from Investigation, Investigation, Prosecution to the Decision of the Gakkumdu Court, it is never free to conduct discussions. Non Juridical Reason for Termination of Investigation (Bawaslu Case of Majene Regency). By looking carefully at the cases that occurred in Majene Regency. In the case handled by the Gakkumdu Center of Majene Regency in the 2019 election, there was 1 (one) case that was terminated for non-juridical reasons, namely the reason for stopping the investigation was not contained in the Criminal Procedure Code. And pretrial only examines and assesses the truth and determination of acts of coercion carried out by investigators and public prosecutors in matters relating to arrest decisions, detention, termination of investigators and prosecution as well as compensation and rehabilitation. Pretrial is an imitation of the Rechter Commissioner in the Netherlands. In the case of an election crime handled by Gakkumdu, Majene Regency, stopping a criminal case that is not based on what is stipulated in the Criminal Procedure Code regarding the legal reasons for stopping the investigation. Thus, the factors that influence the termination of the investigation, apart from juridical reasons, are also non-juridical reasons. By stopping a case because it is still related to another case and the other case is declared acquitted by a court decision so that the investigation is stopped, it becomes a juridical reason presented in the discussion conducted by Gakkumdu.

Reference

- Achwan, A. (2021). OPTIMIZATION OF THE ROLE OF ELECTION MONITORS IN HELPING THE 2019 ELECTION TO REALIZE DIRECT, GENERAL, FREE, CONFIDENTIAL, HONEST AND FAIR ELECTIONS IN PATI REGENCY. Sultan Agung Islamic University, Semarang.
- Alwy, S., & Afdhal, A. (2019). THERAPEUTIC AGREEMENT AS THE BASIS FOR DOCTORS IN MEDICAL TREATMENT. JOURNAL OF JUDICIAN ACT, 4(1), 1-22.
- Amini, DA (2019). Legal Protection Against Traditional Cultural Expressions To Realize Creative Economy Development In Review of Law Number 28 of 2014 concerning Copyright in conjunction with Law Number 5 of 2017 concerning Cultural Advancement. Faculty of Law, Pasundan University.
- Anshori, A. (2019). Medan City Public Opinion on the 2019 Presidential and Legislative Simultaneous Election. Journal of Interaction: Journal of Communication Studies, 3(2), 142-156.
- ANTHONI, M., Pettanasse, S., & Nashriana, N. (2019). REFORM ARTICLE 109 KUHAP CONCERNING TERMINATION OF INVESTIGATIONS AS PART OF THE RECONSTRUCTION EFFORT OF INDONESIAN CRIMINAL LAW. Sriwijaya University.
- AYUDA, F. (nd). The study of the Constitutional Court Decision Number 20/PUUXVII/2019 regarding the protection of

citizens' voting rights in general elections. FACULTY OF LAW.

- Bambang, S. (2021). ELECTION CRIMINAL ACTION AT INTEGRATED LAW ENFORCEMENT CENTER OF THE GENERAL ELECTION SUPERVISORY AGENCY. 17 August 1945 University, Surabaya.
- Bayo, LN, Santoso, P., & Samadhi, WP (2018). Local regimes in Indonesia: redefining our democracy. Indonesian Torch Library Foundation.
- DING, A. (nd). The KPU's Responsibility for the Implementation of Citizens' Suffrage in the Election of Members of the Regional People's Legislative Assembly Based on Law no. 8 of 2012 concerning General Elections for Members of the People's Representative Council, Regional Representative Council, and People's Representative Council. Nestor's Journal of Master of Laws, 1(1), 209770.
- Dyah, AY (2019). Analysis of the reporting frame for the case of Ratna Sarumpaet's hoax spread in the online media of Kompas and Republika for the period of October 2018. UIN Sunan Ampel Surabaya.
- Febriandi, RM (2021). INVESTIGATION OF ELECTION CRIMINAL ACTIONS DURING THE 2019 ELECTION CAMPAIGN BY SOLOK CITY POLICE SATRESKRIM INVESTIGATORS. UNES Journal of Swara Justisia, 4(4), 357–364.
- Hudia, L., Arie, M., & Bariun, LO (2021). BAWASLU'S AUTHORITY IN HANDLING ELECTION VIOLATIONS BY STATE CIVIL APPARENTS. SYATTAR, 2(1), 1–17.
- Muhammad, SIP (nd). THE ROLE OF THE DKPP's ETHICAL INSTITUTIONAL IN REALIZING A DEMOCRATIC ELECTION.
- Pratama, RA, & Wahyudhi, D. (2020). The Problems of Settlement of Money Politic Crime Cases in General Elections. PAMPAS: Journal Of Criminal, 1(2), 152–175.
- Sihombing, ENAM, Harahap, M., & Syahrir, Y. (2021). The Development of the Legislative Election System in Indonesia Before and After the Amendment to the 1945 Constitution. UMSU.
- Tornado, USA (2018). Intervention of Pretrial Judges in Investigations by the Prosecutor's Office (Pretrial Decision Study Number: 19/Pra. Per/2016/Pn. Sby). Intervention of Pretrial Judges in Investigations by the Prosecutor's Office (Pretrial Decision Study Number: 19/Pra. Per/2016/Pn. Sby).
- Yuliawati, N. (2021). THE EFFECTIVENESS OF HANDLING ELECTION CRIMINAL ACTIONS BY GAKUMDU BASED ON LAW NUMBER 7 OF 2017 CONCERNING GENERAL ELECTIONS. Literacy, 3(1).