CONSTITUTIONAL COURT VERDICT ON "ERROR IN OBJECTO" LAWSUIT IN DISPUTE OVER REGIONAL ELECTION RESULTS

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Abstract: The settlement of cases resulting from the Regional Head Election (Pilkada) is still within the authority of the Constitutional Court. In deciding this case, the Constitutional Court made explicit regulations regarding the procedural law of the trial as outlined in the Constitutional Court Regulations. One of the problems that arise in the examination (trial) of disputes over the results of the regional elections is that the application submitted by the losing party (applicant) turns out to be the wrong object (error in objecto). This error usually occurs because the object being sued is not the final decision on the election results. This research is a normative juridical research that aims to examine the attitudes and decisions of the Constitutional Court regarding requests for disputes over Regional Head Elections (Pilkada) that are Error In Objecto. The result of this study is that the Plaintiff in making the application must clearly not be mistaken in determining the object. In the case/dispute over the results of the regional elections, the object of the lawsuit is the final decree of the General Elections Commission regarding the determination of the results of the election results and not others. Accuracy in making posita and petitum is very important because wrong posita and petitum will lead to the wrong and fatal determination of the object of the application. When this is the issue, the Constitutional Court will not accept the application because it is not authorized. An error in determining the object of this application in procedural law is termed error in objecto, so accuracy as an applicant, respondent, or related party is needed. The
recommendation given is that the plaintiff should be more careful in making applications and the revision of the application given by the Constitutional Court at the preliminary hearing, can be used by the applicant to correct his application so as not to incorrectly determine the object of the application/error in objecto.

**Keywords:** dispute of the election regional leader, Constitutional Court, Error In Objecto.

**Introduction**

The Constitutional Court (MK) holds absolute authority to examine and decide cases of Regional Head Elections, commonly referred to as "Pilkada". According to the study of Procedural Law, this authority is called "Absolute Competence". Since the beginning of the simultaneous regional elections in 2015, the Constitutional Court has been given direct authority by law as the institution authorized to examine and decide cases regarding disputes over Regional Head Elections (Pilkada). This can be traced through Law Number 1 of 2015 j.o Law Number 10 of 2016 concerning the Election of Governors, Regents and Mayors, all governing the implementation of simultaneous regional elections.

Article 157 number (3) of Law Number 10 of 2016 states "Cases of disputes over the determination of the final stage of election results are examined and tried by the Constitutional Court until the establishment of a special judicial institution". The goal is for the Constitutional Court to focus more on its other authorities, such as judicial review (henceforth referred to as PUU) cases. The discourse grew stronger until the House of Representatives of the Republic of Indonesia enacted Law No. 22 of 2014 regulating the mechanism for indirect regional elections through the DPRD. However, due to strong public pressure, President Susilo Bambang Yudhoyono (SBY) issued Government Regulation in Lieu of Law (henceforth referred to as PERPU) No. 1 of 2014 stating that Law No. 22 of 2014 was repealed and no longer valid, replaced by PERPU No. 1 of 2014.

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1 Article 157 point (3) Law Number 10 of 2016 concerning Governor, Regent, and Mayor Elections.
The above provisions indicate that the Constitutional Court has absolute competence to examine and decide disputes over Regional Head Elections (Pilkada). The law does not provide the slightest exception to this. So, the ratio legis of this provision is that there is no limit to the authority of the Constitutional Court to examine and decide cases, as far as disputes over the results of the Regional Head election (Pilkada) are concerned.

One of the problems that arise in the trial of disputes over the results of the Regional Head Election (Pilkada) is that the application submitted by the losing party (applicant) turns out to be the wrong object (error in objecto). This error usually occurs because the object being sued is not the final decision on the election results. This certainly has legal consequences that must be addressed by the Constitutional Court.

Several studies on "error in objecto" but in civil cases have been conducted, including first, an article written by Ni Kadek Lila Arsa Sariasih and I Wayan Eka Artajaya which discusses the case of disputes over land rights belonging to Badung temple. The panel of judges rejected the case because there was no compatibility between the object of the dispute and the submitted documents, so the judges used the consideration of error in objecto. Second, the article written by Heppy Indah Hapsari discusses the judge's decision that cannot execute land (non-executable) because the land has nothing to do with the case (error in objecto). Third, articles written by Putri Ayu and Asri Wijayanti discuss the error in persona lawsuit at the Industrial Relations Court (PHI) Gresik for making claims against the wrong person, rendering the lawsuit unacceptable (Niet Ontvankelijk Verklaard).

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The novelty of this study lies in the application for error in objecto in the case of disputes over the results of regional elections in the Constitutional Court.

This paper aims to examine and review the attitude and decision of the Constitutional Court regarding requests for disputes in Regional Head Elections (Pilkada) categorized as "Error In Objecto". This paper is expected to provide a theoretical and empirical picture for students, lecturers as well as practitioners, and observers, regarding the attitude of the Constitutional Court in examining and deciding disputes over Regional Head Elections, especially in the context of "Error In Objecto" requests. So, it can be used as a reference in the submission of future applications, as well as being a "role model" for solving applications for the Constitutional Court.

This article is normative juridical research conducted by examining primary and secondary legal materials or library materials and focusing on studying the application of rules or norms in positive law. This research employed a normative-juridical method and a conceptual approach. The secondary data were sourced from written regulations and literature materials, consisting of: first, Primary material consisting of several Constitutional Court decisions relating to disputes over the results of regional elections that were decided by error in objecto; second, secondary legal material that serves as an explanation of primary legal material, such as, among others, research results, previous legal works; and the third tertiary legal material that serves as a guide and explanation to primary and secondary legal materials, such as books, dictionaries, and encyclopedias.

The technical analysis of legal materials is a step related to the processing of legal materials collected to answer legal issues

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7 Soerjono Soekanto, Pengantar Penelitian Hukum, (Jakarta: Universitas Indonesia, 1986), 52.
that have been formulated. In normative legal research, the processing of legal materials is essentially an activity to systematize written legal materials. In the analysis of legal materials, the activities carried out are to select articles in laws and regulations regarding dispute resolution of election results that contain legal rules, then make these articles or legal rules systematic before they are connected with the problems that the author raises to produce certain classifications. Following this stage, the Constitutional Court’s decision regarding the dispute over the results of the regional elections that are error in objecto is then analyzed and related to regulations relevant to this study.

**Authority of the Constitutional Court in Resolving Disputes over Election Results**

The term authority is usually associated with power. In Kamus Besar Bahasa Indonesia (henceforth referred to as KBBI), the term *kekuasaan* (authority or power) is the right to do something or command others to do or not to do something to achieve a goal, while *kewenangan* (competence or jurisdiction of court) according to KBBI is the authority (power) to decide something.8 The Constitutional Court was established through the third amendment of the 1945 Constitution, which is authorized to adjudicate at the first and last instance whose decisions are final and binding and mentions the following points in Article 24 C of the 1945 Constitution j.o Article 10 paragraph (1) of Law Number 24 of 2003 j.o Law Number 8 of 2011 j.o Law Number 7 of 2020 concerning the Constitutional Court:9

- Test the Law against the Basic Law.
- Decide disputes over the authority of state institutions whose authority is granted by the Basic Law.
- Terminate the dissolution of political parties.

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8 [Arti kata kewenangan menurut Kamus KBBI - Kamus Lengkap Online - KamusLengkap.ID](https://kamuslengkap.id/arti/kewenangan)

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d. Decide on disputes over election results.
e. Provide a ruling on the opinion of the House of Representatives that the President and/or Vice President is suspected of having violated the law in the form of treason against the State, corruption, bribery, other serious crimes, or reprehensible acts, and/or is no longer qualified as President and/or Vice President.

With the several powers of the Constitutional Court mentioned above, the development of the authority of the Constitutional Court related to general elections has occurred rapidly, and represents the development of the dynamics of the thoughts of policymakers and law framers, leaving broad and fundamental implications.  

Article 22 E paragraphs (1) and (2) of the 1945 Constitution states "General elections are held directly, generally, freely, secretly, honestly, and fairly every five years to elect members of the DPR, DPD, President and Vice President, and DPRD". Meanwhile, the rules regarding regional elections (Pilkada) are regulated in Chapter VI concerning Regional Government. Article 18 paragraph (4) of the 1945 Constitution states that: "The Governor, Regent, and Mayor respectively as heads of provincial, regency, and municipal local governments are democratically elected". Because Article 18 paragraph (4) of the 1945 Constitution concerning regional elections is under the Chapter on Regional Government, the regulation of regional elections in its implementation is contained in laws included in the regional government regime. Regional elections as part of the local government regime, in its elaboration by Law No. 22 of 1999, have been carried out in a process of indirect elections by the people, but carried out by the DPRD. Such elections also qualify and categorize democratic elections.

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When Law No. 22 of 1999 was replaced by Law No. 32 of 2004 and amended again by Law No. 12 of 2008 and the issuance of Law No. 22 of 2007 concerning Election Administration, Chapter 1 Article 1 of Law No. 22 of 2007 implies that Pilkada is an election to elect Regional Heads and Deputy Regional Heads directly in the Unitary State of the Republic of Indonesia. This change in the provisions regarding regional elections is not only carried out directly by the people but also has implications for regional elections that were previously included in the local government regime determined to be part of the electoral regime. That is, this shift also caused the authority to decide disputes over the results of regional elections (PHPKada) previously handled by the Supreme Court to be transferred to the Constitutional Court, as mandated by the Law on October 29, 2008. Prof. Dr. Moh. Mahfud MD approved it by signing the minutes of the transfer of authority to terminate PHPKada through a memorandum of understanding between the Supreme Court and the Constitutional Court.

Further regulations on the authority of the Constitutional Court in deciding PHPKada are explicitly regulated in Article 157 paragraph (3) of Law o.. 8 of 2015 concerning the election of governors, regents and mayors which read “Cases of disputes over the determination of election results are examined and tried by the Constitutional Court until a special judicial body is established”.

In exercising its authority to adjudicate PHPKada, the Constitutional Court makes procedural guidelines by issuing

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12 Article 1 point 4 of Law Number 22 of 2007 concerning General Elections (the State Gazette of the Republic of Indonesia of 2007 Number 59, Addendum to State Gazette of the Republic of Indonesia Number 4721) “The general election to elect a Regional Head and a Vice Regional Head is a direct general election in the Unitary State of the Republic of Indonesia according to Pancasila and the 1945 Constitution of the Republic of Indonesia”.


Constitutional Court Regulations (henceforth referred to as PMK). In its development, every Constitutional Court Regional Election event always makes new procedural guidelines, which can be seen from the change of PMK Number 15 of 2008, PMK Number 1 of 2015, PMK No 5 of 2017 and PMK Number 6 of 2020 concerning procedures in cases of disputes over the results of the governor, regent, and mayor elections, governing the parties and the object of the dispute; Petitioner's Lawsuit, the respondent's answer, and related parties' statements; case examination; and Constitutional Court rulings.

Regional Head Elections in a Democratic Perspective

In November 2024, the Regional Head Elections will be held simultaneously nationwide throughout Indonesia.\(^{15}\) If there is a regional head whose term of office has ended before the simultaneous elections are held, the regional head official will be appointed from an intermediate-high position until a new regional head is inaugurated.\(^{16}\) The Regulation on the Election of Governors, Regents, and Mayors (henceforth referred to as Pilkada) is contained in Article 18 paragraph (4) of the 1945 Constitution which states that the Governor, Regent, and Mayor respectively as the Head of the Provincial, Regency, and City Local Governments are democratically elected. Democracy comes from Greek, demos and kratein/kratos. Demos means people and kratein means government. So, democracy is the government by the people. According to Abraham Lincon, former 16th President of the United States, democracy is the government of the people, by the people, and for the people. So, the priority in a democratic government is the people.\(^{17}\) In terms of the distribution of people's

\[^{15}\text{Nurlaili Rahmawati dan Sigit Nurhadi Nugraha, Penyelesaian Perselisihan Hasil Pemilihan Umum Serentak dalam Perspektif Keadilan, (Al Wasath, Volume 4, No. 1, 2023), 58.}\]

\[^{16}\text{Nurlaili Rahmawati, Penanganan Perselisihan Hasil Pilkada Kota Serang oleh Mahkamah Konstitusi, (Ahkam, Volume 6, Nomor 2, November 2018), 318.}\]

\[^{17}\text{Rahmat A dan M Halimi, Penuntun Belajar Tata Negara, (Bandung: Ganeca Exact Bandung, 1996), 73.}\]
will, there are 3 (three) types of democracy, namely direct democracy, indirect democracy (representative democracy), and representative democracy with a referendum system.

a. Direct democracy

Direct democracy is a democratic system that involves all people directly in discussing or determining a state affair. In ancient Greece, direct democracy was practiced in the city-state of Athens. Back then, in Ancient Greece, the population was small, and the people were directly involved in discussing the problems of the State in a joint meeting. The advantage of direct democracy is that all people can express their aspirations and views directly; the government will know firsthand the aspirations and problems that are actually faced by the people. However, when practiced in modern times, direct democracy has several disadvantages. It is difficult to find a place that can accommodate all people in discussing a business; not all people understand the problems of the State that are getting more complex, and deliberation will not be effective. This will certainly hamper good decision-making.

b. Indirect Democracy (Representative Democracy)

Representative democracy is a democratic system to channel people’s will. People elect their representatives to sit in the DPR or parliament. Reflecting on the weakness of the application of direct democracy in modern countries, the concept of indirect democracy / representative democracy, also called modern democracy, emerges
because modern countries generally use representative democracy. However, in practice, each country uses different types of representative democracy.

c. **Representative democracy with a referendum system**

   In this democracy, people elect their representatives to sit in parliament, but the parliament is controlled by popular influence under a referendum system. The purpose of the referendum is a vote to know the will of the people directly. A representative democracy with a referendum system is used in the Swiss states called Cantons.

   Regional elections in this context are to maintain or fight for power. Therefore, starting from the nomination stage to the recapitulation of the election results are always marked by disputes at every stage. Legal problems in elections generally involve electoral crimes, violations of election administration, disputes over state administration, and disputes over election results. As a mechanism for implementing democracy as well as an important instrument in the development of political order in a democratic country, regional elections are likened to a "battleground" of contestants (political participants in regional elections) fighting for sympathy and support from the people (voters). As a result, there is a tendency for contestants to take advantage of the slightest opportunity to commit fraud/offense in order to gain great support from voters. Moreover, errors in counting votes from local elections (both vote inflation and vote reduction) carried out by the General Elections Commission (KPU) are also vulnerable. Therefore, the involvement of the judiciary to

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18 Nurlaili Rahmawati, *Penanganan Perselisihan Hasil Pilkada Kota Serang oleh Mahkamah Konstitusi*, (Ahkam, Volume 6, Nomor 2, November 2018), 319-320
handle disputes about PHPKada is necessary in order to maintain the high democratic "level" of an election held.  

Legal Rules for Examination of Disputes over Regional Election Results

The procedural process arrangements in PHPKada have been rigidly regulated to make it easier for the disputing parties to prove in court. The biggest convenience is the provision of teleconference or video conference (vicon) facilities. This facility is very useful for examining cases with parties who want to hear their testimony who are outside the island or far from the capital. The Central Information Commission (KIP) believes that the success of the Constitutional Court in holding remote hearings through video conference facilities (vicon) needs to be appreciated, this is an effort to open access for justice seekers throughout Indonesia. It represents the openness of judicial institutions that should be followed by other public institutions.

In order to provide legal certainty in the democratic process, the Constitutional Court made regulations containing technical procedural law material that consists of stages, activities, and schedules for handling PHPKada cases. The Constitutional Court Regulation (PMK) also regulates the parties who attend the trial of disputes over election results, including applicants, respondents, and other related parties.

The plaintiffs are:
1. Candidate pair for Governor and Vice Governor;
2. Candidate pair for Regent and Vice Regent;
3. Candidate pair for Mayor and Vice Walokota;

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4. Election monitors who are registered and obtain accreditation certificates from the Provincial/District/City KPU/KIP, in the event that there is only one pair of candidates.

The Related Parties are:
1. Candidate pair for Governor and Vice Governor, Regent and Vice Regent, and Mayor and Vice Mayor who have a direct interest in the lawsuit filed by the plaintiff. Usually related parties are election participants who are determined as winners by the commission election of Province/District/City.
2. The Election Supervisory Board (Bawaslu) to be questioned by the Constitutional Court.

The respondent is the General Elections Commission (KPU) / Independent Election Commission (KIP) Province / Kabupaten / City. In the case of disputes over the results of the Regional Head Election (PHPKada), although the origin of the dispute is in certain constituencies, the results of the initial calculation are carried out by the Voting Committee (PPS) which is then recapitulated to the District Election Committee (PPK) and continued to the General Elections Commission (KPU) level district, the General Elections Commission (KPU) level Provincial. The object of the dispute is the determination of the results of the general election issued by the KPU organizing regional elections. In a Regent Election of Tulungagung Regency, for example, the organizer of the regional election is the General Elections Commission (KPU) Regency Tulungagung. If there is dissatisfaction with one of the pairs of regional head candidates for the determination of election results, then the object of the dispute

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is the determination of election results issued by the General Elections Commission (KPU) Regency of Tulungagung.

Disputes over election results are caused by the determination of election results by the KPU, which is considered detrimental to election participants due to differences in the way or number of vote counting results carried out by election organizers and election participants. When referring to the articles governing disputes over election results in Law Number 24 of 2003 concerning the Constitutional Court, in simple terms, disputes over election results can be interpreted as an objection (petition) submitted by election participants who feel that they have lost their seats due to the election organizer’s decision on determining election results.\(^\text{23}\) Meanwhile, in Law Number 10 of 2008, the definition of dispute over election results is explained through two premise provisions, namely Article 258 paragraph (1) which reads: Dispute over election results is between the KPU and election participants regarding the determination of national election results; and paragraph (2) which reads: Disputes over the determination of national election results as referred to in paragraph (1) are related to the determination of votes that may affect the acquisition of seats participating in elections.

Furthermore, Constitutional Court Regulation No. 6 of 2020 in Article 2 states that the object in the case of disputes over election results is the respondent’s decision regarding the determination of significant election results and can affect the determination of elected candidates.\(^\text{24}\) The stages of resolving cases based on Article 6 paragraph 1 of PMK Number 6 of 2020 concerning procedures in cases of disputes over the results of the governor, regent, and mayor elections are as follows:

a. Applying the petitioner’s lawsuit.

\(^{23}\) See Article 74 to 79 of Law Number 24 of 2003 concerning Constitutional Court

\(^{24}\) Article 2 of the Regulation of Constitutional Court Number 6 of 2020 concerning the Procedures of Dispute Resolution of Governor, Regent, and Mayor Elections.
b. Completing and amending the plaintiff’s claim.

c. Examining the completeness and improving the applicant’s claim.

d. Issuing the results of the completeness of examination and improvement of the applicant’s claim.

e. Recording of the applicant’s claim in e-brpk.

f. Submitting a copy of the lawsuit to the respondent (KPU) and bawaslu.

g. Submitting an application as a related party.

h. Issuing a notice of hearing to the parties.

i. Preliminary examination.

j. Examination of hearings and Judges’ Consultative Meeting (RPH).


Another convenience in holding proceedings in the Constitutional Court is that lawsuits can be filed offline and online to allow plaintiffs outside the island or far from the capital Jakarta to easily file a lawsuit without bothering with travel time and transportation costs because the period for registering a lawsuit for the dispute over the results of the regional elections is 3 working days from the time the respondent (KPU) announces the determination of the election results. The plaintiff should wisely use the time to compile a lawsuit and collect a list of evidence.

The Constitutional Court made systematic guidelines for the preparation of lawsuits as outlined in the Constitutional Court Regulations, this aims at uniformity of format and legal certainty.

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25 Article 7 paragraph 2 of the Regulation of Constitutional Court Number 6 of 2020 concerning the Procedures of Dispute Resolution in the Results of Governor, Regent, and Mayor Elections.
The results of the regional elections application must contain the following:  

a. Name and address of the Plaintiff and/or legal representative (If using a legal representative/advocate), email, Identity Number (NIK) by the Identity Card (KTP), and membership card number for advocates as legal representatives.

b. A clear description of:
   1. The authority of the Constitutional Court explaining the authority to examine, adjudicate, and decide disputes over the determination of electoral votes as objects of dispute;
   2. The position of the plaintiff containing an explanation as the candidate pairs for Governor and Vice Governor, Regent and Vice Regent, or Mayor and Vice Mayor or Election Monitor in the election of one candidate pair;
   3. The grace period for filing a lawsuit containing an explanation of the time for submitting an application to the Constitutional Court, which is no later than 3 (three) working days from the announcement of the determination of the election results by the Respondent (KPU) (according to article 7 paragraph 2 PMK Number 6 of 2020).
   4. The grounds of the lawsuit essentially containing an explanation of the error in the result of the vote count determined by the Respondent (KPU) and the correct result of the vote count according to the plaintiff;
   5. Petitum containing a request to cancel the determination of the election results determined by the Respondent (KPU).

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26 Article 8 Paragraph 3 of the Regulation of Constitutional Court Number 6 of 2020 concerning Procedures of Dispute Resolution in the Results of Governor, Regent, and Mayor Elections.
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and determine the correct vote count according to the Plaintiff.

In general, the trial of disputes over the results of local elections has 3 (three) stages:

a. Preliminary examination shall be carried out no earlier than 7 (seven) working days after the lawsuit is recorded in the Electronic Constitutional Case Registration Book (e-BRPK). The Registrar will summon the plaintiff, respondent (KPU), and related parties a maximum of 3 working days before the trial. If after being summoned the applicant or legal representative is not present at the preliminary examination without a valid reason notwithstanding the legal and proper summoning, the Application is declared void by the Constitutional Court.

b. Trial Examination is carried out after the preliminary examination. At this stage, there is a dismissal verdict. The Constitutional Court judge will issue a decision or decree pronounced in a plenary session open to the public, which will decide which cases proceed to the trial examination stage. Cases that proceed to the trial examination stage must be able to prove by showing evidence, witnesses, and experts’ statements.

c. Pronunciation of the Verdict, Disputes over the results of regional elections are decided by the Constitutional Court within a grace period of no longer than 45 (forty-five) working days since the application is recorded in the e-BRPK. The decision of the Constitutional Court can be in the form of a judgment or decree. The Constitutional Court judge issues a decree. If the Plaintiff withdraws the lawsuit, the Court is not authorized to adjudicate, or the plaintiff’s claim is declared
The interlocutory judgment contains an order for re-election, re-voting and/or recount, and the Constitutional Court may order the Respondent to directly determine the outcome.

There are several kinds of rulings for disputes over the results of regional elections, **first, the lawsuit cannot be accepted** if the Plaintiff and/or the lawsuit does not meet the formal requirements of the lawsuit; **second, the claim is rejected** if the claim meets the formal requirements and the subject matter of the claim is not grounded in law; or, **third, the claims are partially or fully granted** if the claim meets the formal requirements and the subject matter of the claim is well-founded in law either partially or fully.

**The Lawsuit is "Error In Objecto"**

The object of dispute (objectum litis) of the results of regional elections is the General Election Commission Decision regarding the determination of significant electoral results and can affect the determination of elected candidates. So, the object of the Petition in the dispute over the election results is the final decision of the regional KPU/KIP regarding the results of the votes for each candidate pair participating in the regional election.

Every lawsuit submitted to the constitutional court must meet the prescribed procedures and formalities. Accuracy and thoroughness in making the description of this lawsuit are highly necessary because a formal error against the object of the application will result in an unacceptable or **niet ontvankelijke verklaard**. Inadmissible rulings are usually caused by several things, namely: error in persona, **error in objecto, obscuur libel**

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27 Article 2 of the Regulation of Constitutional Court concerning Procedures of Dispute Resolution in the Results of Governor, Regent, and Mayor Elections.
lawsuit, *nebis in idem* lawsuit, lawsuit outside the authority (absolute jurisdiction).  

In relation to the error in objecto, the Constitutional Court in Decision Number 108-109 / PHPU. B-VII/2009, argues that: “The Court is not authorized to examine and adjudicate such a suit because the plaintiff’s claim relates to matters other than the determination of the votes of the General Election results on grounds based on Article 24C paragraph (1) of the 1945 Constitution and Article 10 paragraph (1) of the Constitutional Court Law in conjunction with Article 12 paragraph (1) of Law Number 4 of 2004 concerning Judicial Power and Article 201 paragraph (2) of Law Number 42 of 2008 concerning the General Election of President and Vice President in 2009 in conjunction with Article 4 of Constitutional Court Regulation Number 17 of 2009 concerning Procedural Guidelines in Disputes over the results of the 2009 Presidential and Vice Presidential elections.”

In this journal, we specifically discuss inadmissible claims due to error in objecto. Error in objecto is an error against the object of the lawsuit. In the context of filing a lawsuit disputing the results of the regional election, the object of the application is the final decree on the determination of the KPU, also commonly called the decree on the results of determining the winner of the election. The legal consequence of the error against the object of the lawsuit is that the claim is considered not meeting the formal requirements; therefore, the application is qualified to contain a formal defect, which results in the application being declared inadmissible (*niet-ontvankelijke verklaard*).  

An example of a lawsuit disputing the results of the regional elections that is an error in objecto, can be seen in the Constitutional Court Decision Number 34 / PHP. BUP-XIV/2016 in Berau Regency. The Plaintiff’s petitum is as follows:

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First, Accepting and granting the objection filed by the plaintiff for its entirety; second, declaring invalid and non-binding Minutes of Recapitulation of the Results of the Vote Count at the Regency level in the 2015 Berau Regent and Vice Regent elections Number 107/BA/KPU-BRU/XII/2015 dated December 16, 2015 and certificates of results and details of the counting of votes from each sub-district at the Regency Level in the 2015 Regent and Vice Regent Elections; third, declaring that the Berau City KPU of East Kalimantan Province conduct a Re-Election of the Regent and Vice Regent of Berau in 2015 at all polling stations in 13 (thirteen) sub-districts throughout Berau Regency no later than 2 (two) months after the decision of the Constitutional Court is determined; fourth, ordering the respondent (General Elections Commission) to correct the problematic and/or inaccurate Provisional Voter List (DPS) and Permanent Voter List (DPT) to be updated in accordance with applicable provisions prior to the re-voting; fifth, ordering the Respondent (General Election Commission) to disqualify candidate pair number 2 for having committed an offence; sixth, establishing the plaintiff as an elected candidate; or If the panel of judges thinks otherwise, asking for a fair verdict (ex-aequo et bono) can be done. From the petition mentioned above, the plaintiff filed for cancellation of the Minutes of Recapitulation of the Results of the Vote Count Number: 107/BA/KPU-BRU/XII/2015 dated December 16, 2015 instead of the Decree on the determination of the results of the vote count of the Berau Regency General Election Commission.

The demurrer from the respondent (General Elections Commission) implies that the Constitution Court is not authorized to investigate and decide the case simply because the object of the request made is the minutes of the recapitulation of voting results, not about the determination of the election results. The minutes document of the recapitulation of the results of the vote count is obviously different from the decree of recapitulation of the results of the vote count because the minutes of recapitulation of the results of the vote count do not determine/decide on the
acquisition of votes, but only as a basis for determination in the Decree on the Determination of the recapitulation of the results of the vote count. The dictum of the Constitutional Court that grants the exception of the respondent and related parties regarding the authority of the Court and the plaintiff’s lawsuit is inadmissible. Thus, it is clear that the Plaintiff has erred in determining the object of the suit. For this reason, the Constitutional Court stated that it did not accept the lawsuit from the plaintiff.

Another example of a lawsuit disputing the results of local elections in the case of an *error in objecto* is the Constitutional Court Decision Number 13 / PHP. KOT-XVI/2018 in Serang City, in which, first, the Plaintiff’s petitum accepted and granted the Plaintiff’s objection claim in its entirety; second, canceled the minutes of the recapitulation of the results of the vote count in the 2018 Serang Mayor and Deputy Mayor elections of the Serang City General Election Commission; third, ordered the Respondent (General Elections Commission) to carry out the re-election of the Mayor and Deputy Mayor of Serang in 2018; and fourth, ordered the Serang City Election Commission to implement this decision or if the panel of Judges thinks otherwise, asking for a fair verdict (ex aequo et bono) can be done. In the petition petitum mentioned above, the plaintiff did not mention canceling the Decree on the Determination of the Results of the Serang City KPU Vote Count.

Meanwhile, the exceptions by the Respondent (election commission) and related parties to the plaintiff’s claim are as follows:

“According to the Respondent, the Constitutional Court is not authorized to examine, adjudicate, and decide the dispute over the determination of the final stage of the results of the 2018 Serang Mayor and Deputy Mayor elections, which was filed by the plaintiff because the “object of the lawsuit” is not the object of the lawsuit for disputes over election results as referred to in Article 157 paragraph (3) of Law No. 10 of 2016 j.o Article 4 point c of Constitutional Court Regulation No. 5 of 2017. Article 157 (3) of Law No. 10 of 2016 reads:
Disputes over the determination of the final stage of the election results are examined and tried by the Constitutional Court until a special judicial body is established.

Article 4 (c) PMK No 5 of 2017
"The object in the case of the dispute over the election results is the Resp’ndent’s Decision (KPU) regarding the determination of the results of the election which affects: the election of the Plaintiff as referred to in Article 3 paragraph (1) letter (c)".

The Constitutional Court’s consideration of the above application is that the Petitioner postulates that the object of the application is the minutes of recapitulation of the results of the vote count in the Serang mayor and deputy mayor elections so that the Court assumes that it is not authorized to try the plaintiff because the resp’ndent’s exception (KPU) regarding the authority of the Constitutional Court regarding the Petitioner’s application is an error in objecto reasoned according to law”.

The dictum of the Constitutional Court, in the exception, first, accepted the respondent’s exception regarding the authority of the Constitutional Court; second, it states that the Constitutional Court is not authorized to adjudicate the plaintiff’s claim. In the subject matter of the lawsuit, it declares the plaintiff’s claim inadmissible.

Based on the above regulations, it is clear that the object of the lawsuit in this case should be the respondent’s final decision (KPU) regarding the determination of the election results. However, in the lawsuit, the plaintiff incorrectly determined the object of the lawsuit, namely the cancellation of the minutes of recapitulation of the results of the vote count. The minutes document of the recapitulation of the results of the vote count is obviously different from the decree of recapitulation of the results of the vote count because the minutes of the recapitulation of the results of the vote count do not determine/decide on the acquisition of votes, but they are only as a basis for determination in the Decree on the Determination of the recapitulation of the results of the vote count.
Conclusion
The plaintiff in stating posita and petitum correctly and clearly in the lawsuit is very important because this will be the basis of the judges in deciding whether the case is within their authority to settle. If the petitum is wrong, this will result in a decision "in error objecto" / wrong object of the lawsuit. In essence, what is proposed in the election results (posita) covers 2 (two) matters: a calculation error made by the General Election Commission and an explanation of the correct calculation results according to the plaintiff. The basis for the plaintiff's calculation must be based on evidence showing miscalculation by the General Election Commission. The object in the case of the dispute over the results of the regional head election as stated in Article 4 (c) of Constitutional Court Regulation No. 5 of 2017 juncto Article 2 of Constitutional Court Regulation No. 6 of 2020 is the Decision of the Respondent (General Election Commission) regarding the determination of the results of the election that affects the election of the plaintiff (the candidate pair who feels aggrieved by the results of the vote count). So, the petition should request the Constitutional Court to cancel the determination of the election results determined by the respondent (KPU/KIP) and determine the correct vote count according to the Plaintiff.

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