

## The Legal Imperative of Bawaslu's Oversight in Enforcing Verdict Compliance

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### Abstract

Election is a democratic means to elect leaders and representatives of the people, where Bawaslu has a strategic role as an election supervisory institution. Bawaslu is tasked with ensuring that each stage of the election is in accordance with laws and regulations, with the legal basis listed in Law No. 7 of 2017. As a quasi-judicial institution, Bawaslu has the authority to issue decisions that are final and binding. However, in practice, the implementation of follow-up to Bawaslu decisions often faces challenges, such as disobedience or suboptimal implementation by the KPU and related parties. This study aims to examine the urgency of legal certainty in supervising the implementation of Bawaslu decisions and to determine the ideal model of supervision to fulfill the principle of legal certainty. The method used is normative juridical with a legislative approach, with primary and secondary data sources. The results of the study show that there is a legal vacuum that hinders the optimal implementation of the decision. Therefore, this study emphasizes the urgency of an integrated supervision model with strict evaluation and sanction mechanisms, which can increase compliance with Bawaslu decisions and ensure the implementation of elections in accordance with legal provisions.

## 1. Introduction

As an implementation of the idea of people's sovereignty, the running of the democratic system must ensure that the people have full involvement in the process of planning, regulating, implementing, and participating in supervising and providing assessments related to the implementation of power functions.<sup>1</sup> Based on the 1945 Constitution of the Republic of Indonesia or called the 1945 Constitution of the Republic of Indonesia, sovereignty is in the hands of the people or it can be interpreted if the people have sovereignty, rights, and obligations in determining the choice of leaders who will later carry out government duties as well as take care of and serve the Indonesian people through the next General Election called elections.

Political parties as an important point in elections are needed as a bridge between the government and the people as a form of the work of democracy because without political parties, the implementation of democracy is impossible.<sup>2</sup> At this time, elections have a crucial position because elections are the most important mechanism in the implementation of representative democracy to elect people's representatives. Elections can also serve as indicators of a democratic country. In the perspective of Schumpeterian in Haryanto<sup>3</sup>,

<sup>1</sup> Jimly Asshidiqie, "Membangun Konstitusionalitas Indonesia," *Jurnal Konstitusi* 13 (2016).

<sup>2</sup> Jimly Asshidiqie.

<sup>3</sup> Haryanto, *Klanisasi Demokrasi Politik Klan Qahhar Mudzakkar Di Sulawesi Selatan* (Yogyakarta: Penerbit Polgov, 2014).

democracy is a "political method" that masters theories related to democracy, so in this case elections are part of the success of a country's democracy. In this perspective, it is clear that Schumpeterian explained that if the state wants to achieve the success of democracy through elections, the existence of modern political institutions, political participation, and power restrictions during the election process are the most important parts.<sup>4</sup>

Elections themselves in Article 22 E of the 1945 Constitution of the Republic of Indonesia or called the 1945 Constitution of the Republic of Indonesia are held every 5 (five) years and are held directly, publicly, freely, secretly, honestly, and fairly.<sup>5</sup> The purpose of the election is to elect the President and Vice President who are considered by the public to be able to carry out the function of government power and to elect the people's representatives, including members of the House of Representatives, members of the Provincial House of Representatives, and members of the Regency/City Regional House of Representatives. As a form of people's sovereignty, elections are present as a tool in fulfilling democratic constitutional rights for all Indonesian people.<sup>6</sup> According to Yusup Kurnia in Firda A<sup>7</sup>, elections are part of an effort to realize "direct democracy" which is carried out by capturing the participation of the people in the process of determining public policies as well as efforts to implement the party's political aspirations into state policies. There are organizing institutions that help in the success of the election consisting of the General Election Commission (KPU) as the technical organizer, the Election Supervisory Agency (Bawaslu) as an institution in the supervision and enforcement of administrative violations and disputes over the election process, and the Election Organizer Honorary Council (DKPP) which has the authority to adjudicate violations related to violations that lead to the code of ethics of election organizers, the three election organizers have a position which is national, independent and independent.

Based on Article 1 number 7 of Law No. 7 of 2017, Bawaslu is tasked with supervising the entire process of holding elections in Indonesia. In carrying out these duties, Bawaslu is required to maintain independence, which means that the existence of Bawaslu is independent and free from various other parties or related to the implementation of its duties and authorities in the entire election process.<sup>8</sup> The existence of Bawaslu in the implementation of elections is a form of checks and balances or a control tool in the implementation of governance. In this case, it can be interpreted that Bawaslu is a balance to the KPU as the

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<sup>4</sup> Haryanto.

<sup>5</sup> Lusin Tammu and Zulkifli Aspan, "DOKTRINA : Journal of Law" 6, no. 2 (2023): 118-39, <https://doi.org/10.31289/doktrina.v6i2.10023>.

<sup>6</sup> Firda Arifatuzzahrah, Irham Bashori Hasba, "Legal Certainty Of The Decision Of The Honorary Council Of Election Organizers On Violations Of The Code Of Ethics Of Election Organizers", *Usm Law Review* Vol 7.1 (2024), 70-83. <https://doi.org/10.26623/Julr.V7i1.7997>

<sup>7</sup> Yusup Kurnia, *Keadilan Dalam Penegakan Pelanggaran Etika Penyelenggara Pemilu*, Jurnal Keadilan Pemilu, Vol. 2, 2020. Hlm. <https://doi.org/10.55108/jkp.V1i2.175>

<sup>8</sup> Az Zahra, Zain Auralia, And Hanni Ambarasti, "Kekuatan Eksekutorial Putusan Badan Pengawas Pemilu Dalam Penyelesaian Pelanggaran Administrasi Pemilu" 1, No. 2 (2022): 81-99, <https://doi.org/10.59066/Jmi.V1i2.102>. <https://doi.org/10.59066/Jmi.V1i2.102>

technical organizer of the election.<sup>9</sup> The duties, authorities, and obligations of Bawaslu have developed not only in supervision but also in prevention, supervision, and enforcement where these changes are in line with various changes in regulations related to elections. The duties and authority of Bawaslu itself, in addition to being regulated in Law No. 7 of 2017, are strengthened again in the Bawaslu Regulation, or called Perbawaslu as in Article 465 of Law No. 7 of 2017. According to Robert A. Carp, as quoted by Syafrijal Mughni Madda<sup>10</sup>, the establishment of the judiciary aims to strengthen democracy and protect human rights, especially in vulnerable political situations. Political constituencies and close competition in the implementation of elections can trigger election administrative violations, election violations/crimes, disputes over the election process, disputes over election results, and ethical violations of election organizers.<sup>11</sup> In the electoral system in Indonesia itself, each law enforcement for violations and disputes in the election process will be handled by the institution depending on the type of violator. Regarding the decision of the Bawaslu decision which is final and binding, which means that the decision is mandatory to be held as stipulated in Article 462 of Law No. 7 of 2017, emphasizing that the decision must be implemented in accordance with the order of the law. The meaning of the word "mandatory" in this article shows the imperative nature, namely the order that must be obeyed by the intended party as stipulated in the provision.<sup>12</sup> The KPU's compliance as an *addressat* is to follow up on the Bawaslu decision through the KPU Decree and report to the Bawaslu through a Minutes and/or Decree or (SK) within 3 (three) days after the Bawaslu decision is read. If it is found that there is a delay and/or non-follow-up of the Bawaslu decision, Bawaslu needs to evaluate the results of its supervision. Supervision itself is all efforts to carry out preventive measures, in this case, prevention by using supervisory duties by all election supervisors or by involving election participants, namely the public, and using the media as a means of publication and supervision of forms of action on violations and disputes of the election process in order to ensure that starting from the preparation process to the implementation of the election in accordance with existing regulations.

According to Jimly Asshidiqie<sup>13</sup>, every country certainly has a legislative apparatus, so that supervision of every act or behavior of government institutions and citizens can be effective so that later the goals of the state can be pursued at a level of success. Bawaslu Regulation Number 5 of 2022 concerning Supervision of the Implementation of General Elections (hereinafter referred to as Perbawaslu No. 5 of 2022) only regulates election supervision and supervision procedures through coordination and control. The urgency of this form of supervision is becoming even clearer considering the Bawaslu decision regarding

<sup>9</sup> Okvita Sekar Fadhilah, "The Role Of The General Election Supervisory Body ( Bawaslu ) In Overcoming And Acting On General Election Violations : A Review Of Law And Practice" 06, No. 1 (2024): 53–64.

<sup>10</sup> Syafrijal Mughni Madda, "Problematika Pengawasan Tindak Lanjut Putusan Bawaslu Dan Dkpp Dalam Penegakan Hukum Pemilu The Problems Of Supervision Of Follow-Up On Bawaslu Decisions And Dkpp Decisions In The Election Law Enforcement System" 19 (2022), <https://doi.org/10.31078/Jk1948>. <https://doi.org/10.31078/Jk1948>

<sup>11</sup> Madda.

<sup>12</sup> Madda.

<sup>13</sup> Jimly Asshidiqie, "Building Indonesia's Constitution," *Constitutional Journal* Vol. 13 (2016).

violations and election disputes that are not properly followed up during the implementation process by the KPU. It can be seen that this situation shows that there are shortcomings in the election law enforcement system that must be overcome immediately and question how legal certainty is. In fact, legal certainty can be interpreted as certainty of law because there is a concrete force in the law. If there is no improvement, there is a risk that the number of violations in the presidential election will increase and the image of Indonesia's democracy will deteriorate. Indonesia as a country of law makes the rule of law a strong foundation in ensuring that the power of a government institution is limited by law and to ensure that every action taken by a government institution is in accordance with and obeys the rules that are still in force.<sup>14</sup> For example, supervision between election organizing institutions to enforce checks and balances. Bawaslu can still be considered to not have adequate authority in supervising the implementation of follow-up on its decision. This can create a legal vacuum that has the potential to create problems and uncertainty in law enforcement.

From the introduction written by the author regarding "The Legal Imperative Of Bawaslu's Oversight In Enforcing Verdict Compliance". Examining how the urgency of this form of supervision becomes increasingly clear considering that Bawaslu's decisions regarding election violations and disputes are not properly followed up during the implementation process by the KPU. It can be seen that this situation shows that there are deficiencies in the electoral law enforcement system that must be addressed immediately and question how legal certainty is. Legal certainty can be interpreted as the certainty of the law due to the concrete strength of the law.<sup>15</sup> If there is no improvement, there is a risk that the number of future election violations will increase and the image of Indonesian democracy will deteriorate. From the results of this study, the author focuses more on the urgency of supervising the follow-up of Bawaslu's decision and analyzing the ideal model of Bawaslu's supervision of the follow-up to its decision. Perbawaslu 5 Year 2022 has not regulated how Bawaslu's authority in terms of enforcement or coercion against defiance in the form of delayed or not followed up by Bawaslu's decision by the KPU so that it can disrupt legal certainty.<sup>16</sup> This section describes research that is interrelated with the author's research in order to add references for researchers. The following are related scientific works, among others: In Madda's research<sup>17</sup> in his research entitled "Problematics of Supervision of Follow-up to Bawaslu and DKPP Decisions in Election Law Enforcement" using qualitative research which is descriptive-analytical with normative juridical and empirical juridical or legal sociology approach methods. The research has similarities in highlighting Bawaslu's role in overseeing the implementation of elections and the importance of clear law enforcement. Bawaslu's role in supervision and how Bawaslu's final and binding decision must be implemented by the KPU

<sup>14</sup> M.Si. Dr. H. Amiruddin, S.H. Et Al., *Hukum Tata Negara Dan Pengawasan Terhadap Kekuasaan Eksekutif* (Medan: Pt Media Penerbit Indonesia, 2024). P. 18

<sup>15</sup> Jamaluddin, "The Settlement Of Election Disputes By Bawaslu Reviewed From The Indonesian Justice System," 2022, 521–31.

<sup>16</sup> Budi Purwanto, Dina Puji Wahyuni, and Ahmad Rafiq Jatihusodo, "Unmasking Electoral Turmoil : The General Election Supervisory Agency ' s Battle Against Disputes in Indonesia ' s Democracy Introduction," *Indonesian State Law Review* 6 (2023), <https://doi.org/https://doi.org/10.15294/islrev.v6i1.68228>.

<sup>17</sup> Madda.

within three days. As for the differences, there are explanations related to the practical challenges faced by Bawaslu, especially related to the enforcement of decisions that are not properly implemented by the KPU, which creates a legal vacuum and uncertainty in law enforcement. Novembri Yusuf Simanjuntak's research<sup>18</sup> on Monitoring in the Election Implementation Process has a similar focus in this study regarding the role of supervision of the elections, but the approach is different. Where the approach in this study focuses on the empirical aspects of monitoring, this study is more directed to the normative aspects regulated in legislation, such as Law No. 7 Year 2017 and Perbawaslu. Simanjuntak focuses more on monitoring in the process of organizing elections, it can be seen that he examines more deeply the monitoring mechanisms carried out by related institutions, such as Bawaslu, KPU, and DKPP, in overseeing and controlling the implementation of elections and emphasizes a thorough analysis of the monitoring process, as well as the challenges faced by supervisory institutions in carrying out their duties. In addition, Simanjuntak also explores the practical obstacles faced in carrying out election monitoring in the field, which may involve difficulties in sanctioning violations and resolving disputes that arise during or after an election. Yusrizal's research<sup>19</sup> "The Urgency of Bawaslu's Decision in Resolving General Election Process Disputes" also raises the same issue, namely the importance of Bawaslu's decision in ensuring the holding of elections that are fair and free from fraud. However, Syaputra's research focuses more on analyzing the direct effect of Bawaslu's decision in resolving election disputes and the application of law to administrative violations and the election process. Meanwhile, this study highlights the legal imperative and challenges faced in ensuring that each Bawaslu decision is implemented by the KPU, as well as broader supervision of the implementation of the decision in order to maintain the validity and legal certainty of the election. Both have similarities in examining the effectiveness of Bawaslu's supervision, but this study adds a perspective on the legal vacuum that arises if there is no further enforcement of the decisions that have been issued.

## 2. Methods

This study uses normative legal methods by relying on primary and secondary legal sources through literature studies. Primary legal sources include laws and regulations, decisions (*beschikking*), and rulings from authorized institutions. Meanwhile, secondary legal sources include books, journal articles, papers, and tertiary legal materials such as information from the internet. This research also applies a statute approach to explore information related to the issues discussed.

## 3. Results and Discussion

### 3.1. The Urgency of Legal Certainty in Supervising the Implementation of Bawaslu Decisions

<sup>18</sup> Novembri Yusuf Simanjuntak, "Pemantauan Dalam Proses Penyelenggaraan Pemilu" 3, No. 3 (2017): 305–458, [https://doi.org/10.24054/doi.org/Issn2443-2539.3\(3\).](https://doi.org/10.24054/doi.org/Issn2443-2539.3(3).)

<sup>19</sup> Muhammad Yusrizal And Adi Syaputra, "Urgensi Putusan Bawaslu Dalam Penyelesaian Sengketa Proses Pemilihan Umum," *Hukum Tata Negara & Hukum Administrasi Negara* 1 No 1 (2022): 52, <https://ejournal.grondwet.id/index.php/gr/article/view/5>.



The implementation of elections cannot be separated from irregularities or violations of election rules that will create election disputes. Topo Santoso in Trianingsih<sup>20</sup> argued that disputes in the implementation of elections in Indonesia generally arise from violations of election administration or dissatisfaction with decisions taken by election organizers. Based on Article 94 of Law No. 7 of 2017, Bawaslu can provide preventive measures for election violations and election disputes. Bawaslu itself can also take action on violations and decide disputes over the election process. Election administrative violations stem from findings or reports of violations during elections. Reports on alleged election administrative violations and election violations must have the signature of the Reporter or his or her attorney which is given in the form of 7 (seven) copies containing 1 (one) original duplicate sheet and 6 (six) copies of soft files or digital formats which are also accompanied by valid supporting evidence at least 2 (two).<sup>21</sup>

Article 461 paragraph (1) of Law No. 7 of 2017 states that, "Bawaslu, Provincial Bawaslu, Regency/City Bawaslu receive, inspect, review, and decide on election administrative violations". The authority of Bawaslu as a supervisory institution by monitoring all stages of the election. In supervising the election process, Bawaslu will directly supervise all stages of the election, starting from the candidate registration stage, the implementation of each candidate's campaign, the voting process which is the core process of the election, to the peak of the election process, namely the announcement of election results. The supervision is of course carried out to ensure that every stage of the election is carried out to maintain the validity of the election.<sup>22</sup>

Within the authority of Bawaslu who can decide disputes over the election process, Bawaslu will consider evidence during the examination hearing. The Bawaslu decision reflects the value of justice and provides legal certainty for the parties so that Bawaslu can impose sanctions on the party who commits the violation. But in its implementation, there is still disobedience to the Bawaslu decision that has been postponed or even not followed up by the KPU which can be questioned about the legal certainty. The authority of Bawaslu as an institution that has *constitutional importance* in law enforcement is mandated in Article 93 Letter B of Law No. 7 of 2017. Bawaslu, as a quasi-judicial institution, plays an important role in resolving various problems that arise during the election process through final and binding decisions that contain legal certainty.<sup>23</sup> Therefore, the nature of Bawaslu's decision in handling administrative violations has broad implications for the implementation of elections.

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<sup>20</sup> Anna Triningsih, Meyrinda Rahmawaty H, And Alia Harumdani W, "Komparasi Mekanisme Penyelesaian Sengketa Pemilu Di Beberapa Negara Penganut Paham Demokrasi Konstitusional," 2022. [Http://Dx.Doi.Org/10.31078/Jk936](http://Dx.Doi.Org/10.31078/Jk936)

<sup>21</sup> Zahra, Auralia, And Ambarasti,

<sup>22</sup> Fadhilah, "The Role Of The General Election Supervisory Body ( Bawaslu ) In Overcoming And Acting On General Election Violations : A Review Of Law And Practice [ Peran Badan Pengawas Pemilihan Umum ( Bawaslu ) Dalam Mengatasi Dan Menindak Pelanggaran Pemilihan Umum : Tinjauan Hukum Dan Praktik ]."

<sup>23</sup> Ruslan Husen, "The Existence Of Bawaslu In Dispute Resolution In The Election Process, Tadulako University, No. 1 (2022).

According to Lawrence M. Friedman<sup>24</sup>, the success of law enforcement is influenced by 3 (three) supporting components consisting of legal substance, legal structure, and legal culture. Referring to Friedman's opinion in Muhammad Yusrizal<sup>25</sup>, Bawaslu's position is in the position of a legal structure in the general election. The position of Bawaslu in the legal structure in Indonesia, although with a different scope, can still be said that the enforcement of election laws by Bawaslu still has a function similar to other legal structures such as the Police, the Prosecutor's Office, and the Supreme Court. As part of the law enforcement agency, the right decision-making by Bawaslu is urgently needed in the process of adjudicating the dispute being examined. Bawaslu is required to be able to process the data and evidence obtained during the trial until the verdict is handed down based on the principles of responsibility, professionalism, and justice. Based on the theory in the judicial power in deciding disputes, the most important is the conclusion that is based on the facts that have been revealed during the trial process and does not deviate from the existing legal rules.<sup>26</sup>

Article 462 of Law No. 7 of 2017 states that the KPU is required to follow up on the decision issued by Bawaslu with the deadline given is 3 (three) working days after the date the decision is read to take action in accordance with applicable regulations. The word "mandatory" in Indonesian itself has the meaning of "must be done and must not be abandoned" so it has sanctions if it is not done. The sanction itself in the article refers to election organizers who postpone or do not follow up on Bawaslu's decision in the form of ethical sanctions.

The KPU which has an obligation to follow up on Bawaslu's decision can be considered a form of appointment of integrity and professionalism because the KPU and Bawaslu are a unit in the election as election organizers.<sup>27</sup> The 3 (three) day deadline for the KPU to follow up on the Bawaslu decision is an effort to ensure legal certainty. Legal certainty itself is the main component in the formation of legal rules which is the basis for the creation of certainty of a legal rule. Without legal certainty, a person or an institution will not understand what to do until finally there is uncertainty which makes violence (chaos) caused by the absence of legal certainty. That legal certainty refers to how the enforcement of laws that are not vague clear and consistent or even if influenced by subjective circumstances wherever the implementation of the law will not be able to be influenced.<sup>28</sup> Perbawaslu 5 of 2022 has not regulated how Bawaslu's authority in terms of enforcement or coercion against disobedience in the form of postponement or non-follow-up of Bawaslu's decision by the KPU, in which

<sup>24</sup> Teddy Lesmana, Sh, "The Thoughts Of Lawrence Meir Friedman; The Legal System In The Perspective Of Social Sciences," Nusa Putra University, 2021, <https://Nusaputra.Ac.Id/Article/Pokok-Pokok-Pikiran-Lawrence-Meir-Friedman-Sistem-Hukum-Dalam-Perspektif-Ilmu-Sosial/>.

<sup>25</sup> Yusrizal Adi Syaputra, Muhammad. 2022. "Urgensi Putusan Bawaslu Dalam Penyelesaian Sengketa Proses Pemilihan Umum". *Grondwet* 1 (1). <https://Ejournal.Grondwet.Id/Index.Php/Gr/Article/View/5>. Hlm. 43

<sup>26</sup> Yusrizal And Syaputra, "Urgensi Putusan Bawaslu Dalam Penyelesaian Sengketa Proses Pemilihan Umum."

<sup>27</sup> Rian Adhivira Prabowo Muhlisina, Luqman Hakim, "Pertautan Yang Legal Dan Yang Etis : Pemaknaan Regulasi Kpu Dan Bawaslu Dalam Putusan Dkpp" *Jurnal Tata Kelola Pemilu Indonesia* 4 No. 1 (2022): 121-41, <https://doi.org/10.46874/tkp.v4i1.546>.

<sup>28</sup> Mario Julyano Et Al., "Konstruksi Penalaran Positivisme Hukum" *Jurnal Crepido*, Vol. 01 (2019): Hlm. 15. <https://doi.org/10.14710/crepido.1.1.13-22>

case Bawaslu only has the right to report to the DKPP if the KPU has committed an ethical violation.<sup>29</sup> The existence of a legal vacuum related to how the Bawaslu must take action or how the Bawaslu acts in monitoring or supervising the implementation of the decision causes the urgency of the formation of a Bawaslu Regulation which is made specifically related to supervision so that every Bawaslu decision remains standard as regulated in the Law.

### 3.2. Model of Supervision of Bawaslu Decisions on Follow-up Decisions to Meet Legal Certainty

According to Suyamto, as quoted by Angger Sigit<sup>30</sup>, supervision is an effort or act to find out and assess the actual reality of responsibility in the implementation of duties whether it is in accordance with what it should be. The purpose of supervision itself in a narrow sense is the suitability of whether the tasks carried out are appropriate with the predetermined benchmarks. The purpose of supervision is to ensure that the implementation of tasks is in accordance with the standards or benchmarks that have been determined. Supervision is also a tool to compare "*Das Sollen*" (what should happen according to plan) and "*Das Sein*" (reality or implementation that occurs), so that it can be known whether there are irregularities or inconsistencies that need to be corrected.

In the implementation of elections, supervision is carried out in all processes from planning, and preparation during implementation to evaluation. All of which are an important and inseparable part of achieving fairness in elections<sup>31</sup>. Santoso as cited by Simanjuntak<sup>32</sup> that election monitoring should involve a wide range of parties, including community leaders, cultural figures, artists, artists, and the mass media. This is because the tasks of monitoring and supervising elections have the same great responsibility, namely to ensure that elections take place honestly and fairly. The supervisors who have been appointed by Bawaslu will certainly be given legal protection and security-related protection from the Indonesian Government in the process of monitoring and collecting information during the follow-up process to Bawaslu's decision.<sup>33</sup>

Supervision itself is divided into two types based on how it is implemented. First, is direct supervision, which is supervision carried out with the direct presence of a supervisor at the place where the activity takes place. This allows supervisors to see the situation on the ground directly and immediately deal with any issues that arise. Second, indirect supervision, is supervision that is carried out without the need to be physically present, but only through reports, documents, or other data collected to monitor the implementation of tasks.<sup>34</sup> From a legal perspective itself, supervision has the meaning of a process in observing whether an activity has been carried out in accordance with the rules. Bawaslu in Indonesia comes with

<sup>29</sup> Mada.

<sup>30</sup> S.H Angger Sigit Pramukti, S.H. Dan Meylani Chahyaningsih, "Pengawasan Hukum Terhadap Aparatur Negara" (Yogyakarta: Pustaka Yustisia, 2016), [https://books.google.co.id/books?id=Mrvieaaaqbaj&pg=Pa1&source=Gbs\\_Toc\\_R&cad=1#V=OnePage&Q&F=False](https://books.google.co.id/books?id=Mrvieaaaqbaj&pg=Pa1&source=Gbs_Toc_R&cad=1#V=OnePage&Q&F=False).

<sup>31</sup> Novembri Yusuf Simanjuntak, "Pemantauan Dalam Proses Penyelenggaraan Pemilu" Jurnal Bawaslu 3, No. 3 (2017): 305-458. Issn 2443-2539, 3(3), 305- 321

<sup>32</sup> Simanjuntak.

<sup>33</sup> Simanjuntak.

<sup>34</sup> Angger Sigit Pramukti, S.H. Dan Meylani Chahyaningsih, "Pengawasan Hukum Terhadap Aparatur Negara."



the task of supervising the entire process of holding elections as well as deciding violations and disputes in the election process.<sup>35</sup> Regarding the duties and authority of Bawaslu regarding supervision, it can be found in Perbawaslu No. 5 of 2022 in Articles 5 to 8 which directs how to supervise the scope of the stages of implementing the election. Article 10 of Perbawaslu No. 5 of 2022 provides more explanation regarding supervisory procedures through coordination and control, which in its implementation is still based on Perbawaslu which more specifically regulates the form or pattern in the relationship and procedures of election supervisors. Meanwhile, regarding how Bawaslu makes coercive efforts or enforcement efforts against its decisions that are postponed or even not followed up, the KPU is still not contained in the Perbawaslu, but Bawaslu is only authorized to report as a form of ethical violation.

Regarding Bawaslu supervision, it will be in the form of supervision that is carried out directly (direct control) by going into the field to supervise all stages of the election as well as indirect supervision or (indirect control) obtained from the form of reports.<sup>36</sup> The method of supervision that is carried out directly is with the presence of direct personnel from Bawaslu who carry out monitoring both in the field and on a modern basis by utilizing technology with the initial rarity of compiling a monitoring letter after 3 (three) working days after the Bawaslu decision is issued. It is known that the KPU is following up on the Bawaslu decision by issuing a KPU Decision which is submitted through a letter. However, with decisions that have been postponed or not followed up, Bawaslu does not have a standard related to the Standard Operation Service (SOP) regarding the supervision of its decisions, which makes the existence of legal loopholes that can be used as a reason for law enforcement in the purpose of seeking justice.

#### 4. Conclusions

The importance of legal certainty in monitoring Bawaslu's decisions in the implementation of elections is very clear, especially in relation to the follow-up of decisions issued. Bawaslu has the authority to take action against violations and resolve election disputes, but in practice, there is still non-compliance with decisions that have been issued, both by the KPU and other related parties. This indicates a legal gap that affects legal certainty in the electoral process. Bawaslu is tasked with ensuring that the implementation of elections runs honestly and fairly, in accordance with applicable law. Supervision can be carried out directly (going to the field) or indirectly (through reports and data). However, there are still shortcomings in terms of supervision procedures, especially related to the enforcement of decisions that have not been followed, which have not been regulated in detail in Perbawaslu, causing uncertainty in law enforcement. Therefore, Bawaslu needs to develop clearer regulations regarding supervision procedures and actions that can be taken if decisions are not implemented in accordance with applicable provisions. Thus, legal certainty in the implementation of elections can be guaranteed, and the integrity and professionalism of

<sup>35</sup> Andi Intan Purnamasari, "Redesigning The Handling Of Administrative Election Results Redesain Penanganan Pelanggaran Administratif Di Bawaslu Pasca Penetapan Hasil Pemilu," 2023, /Https://Doi.Org/10.57235/Aurelia.V2i2.755.

<sup>36</sup> Madda.

election organizers, especially the KPU, can be maintained. The establishment of more detailed and firm regulations will help create more transparent, accountable, and transparent elections.

## 5. Reference

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