

Action on Administrative Violations of General Elections by the General Elections Supervisory Body

Putu Eva Ditayani Antari¹, I Gede Druvananda Abhiseka², Michael Kennedy Robenson³, and I Gusti Ayu Eviani Yuliantari⁴.

^{1,2,3,4} Universitas Pendidikan Nasional, Bali, Indonesia.

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Corresponding Author:

Putu Eva Ditayani Antari.

E-mail: evaditayaniantari@undiknas.ac.id.

Abstract: Administrative and criminal violations frequently occur during general elections, despite the presence of institutions mandated to prevent and address such misconduct. These violations are not limited to election day but often arise earlier, particularly during the campaign period. The range of electoral offenses is broad, encompassing both criminal and administrative infractions. This study aims to analyze how the Election Supervisory Body responds to administrative violations in the electoral process. Using normative legal research, the study explores the regulatory framework governing these violations as outlined in Law Number 7 of 2017 on Elections. It also examines the procedures employed by the Election Supervisory Body in handling administrative violations, including those categorized as structured, systematic, and massive (TSM), in accordance with existing legal provisions. These mechanisms are designed to ensure that all administrative violations are addressed fairly and in line with applicable laws. Effective enforcement of these procedures supports the realization of transparent, impartial, and democratic elections.

1. Introduction

Democracy is a system where the government comes from the society, by the society, and returns to the society's goals. A democratic country, a government that involves all components, even the common people called the *marhaen* by President Soekarno are also involved in making decisions about state policies. This is also reflected in the process that a democratic country certainly respects the human rights of its citizens which are then manifested by holding a general election to elect leaders or representatives in the government who will run the government according to the will of the people, the goals and ideals they want to achieve and the hope that it will change their patterns and lives in the future.¹ As a political system, democracy has occupied the top stratum accepted by many countries because it is considered capable of regulating social and political relations involving individuals, society and the state.²

¹ Antari, Putu Eva Ditayani. "Implementasi Sistem Pemilu Mekanis Di Indonesia." *Jurnal Panorama Hukum* 3, no. 1 (2018): 87-104. <https://doi.org/10.21067/jph.v3i1.2359>.

² Heru Nugroho, "Demokrasi Dan Demokratisasi: Sebuah Kerangka Konseptual Untuk Memahami Dinamika Sosial-Politik Di Indonesia," *Jurnal Pemikiran Sosiologi* 1, no. 1 (2015): 1, <https://doi.org/10.22146/jps.v1i1.23419>.

The journey of the election system in Indonesia has experienced various shifts that are motivated by efforts to find the ideal form of democratic elections in the transition era. The election system in Indonesia so far has been an election system that is undertaken in 3 (three) stages, namely the legislative election (Pileg), the presidential election (Pilpres), and voters to the provincial and district/city regions (Pilkada).³

After Decision Number 55/PUU-XVII/2019 submitted by Perludem regarding simultaneous elections. In the Decision, the Constitutional Court provided 6 (six) simultaneous election models that were considered constitutional based on the 1945 Constitution, namely: (1) Simultaneous elections to elect members of the DPR, DPD, President and Vice President, and the election of members of the DPRD (5 boxes); (2) Simultaneous elections to elect members of the DPR, DPD, President and Vice President, Governor, Regent/Mayor (5 boxes); (3) Simultaneous elections to elect members of the DPR, DPD, President and Vice President, members of the DPRD, Governor, and Regent/Mayor (7 boxes); (4) National simultaneous elections to elect members of the DPR, DPD, President and Vice President (3 boxes), and some time after that local simultaneous general elections were held to elect members of the provincial DPRD, district/city DPRD, election of Governor, and Regent/Mayor (4 boxes); (5) Simultaneous national elections to elect members of the DPR, DPD, President and Vice President (3 boxes), and some time after that simultaneous provincial elections to elect members of the provincial DPRD, Governor (2 boxes), and then some time after that simultaneous district/city elections to elect district/city DPRD and elect Regent/Mayor (2 boxes); (6) Other options as long as they maintain the simultaneity of the general election to elect members of the DPR, DPD, and President and Vice President.⁴

This decision can be seen as an alternative offer for the design of the election implementation time according to the Constitutional Court.⁵ Among these methods, the most ideal is the fourth option, namely to hold legislative elections and executive elections simultaneously at the national and local levels. This indicates that national elections will be held to elect members of the DPR, DPD and President and Vice President, while local elections will be held to elect members of the Provincial DPRD, members of the Regency/City DPRD, Governor and Deputy Governor, Regent and Deputy Regent and Mayor and Deputy Mayor.⁶

In this regard, even though Decision Number 55/PUU-XVII/2019 has been issued regarding ideal models regarding simultaneous elections, very classic problems always occur, such as allegations and findings of violations in elections at every level, both at the regional level and at the central or national level, one example of which is administrative violations. Therefore, the government wants to strengthen the institutions responsible for supervision and prevention in the election implementation process, based on Law Number 15 of 2011 concerning the Implementation of Elections, an institution was established that has the task and authority to supervise and prevent the implementation of general elections in Indonesia under the name of the Election Supervisory

³ Abdul Basid Fuadi et al., "Politik Hukum Pengaturan Keserentakan Pemilu," *Jurnal Konstitusi* 18, no. 3 (2021): 702–23. <https://doi.org/10.31078/JK18310>.

⁴ Gloria, Reyn, "Puadi Sampaikan Temuan Selama Pemilu 2024 Serta Jenis Pelanggarannya." *Badan Pengawas Pemilihan Umum*. Accessed June 25, 2025. <https://www.bawaslu.go.id/id/berita/puadi-sampaikan-temuan-selama-pemilu-2024-serta-jenis-pelanggarannya>.

⁵ Putu Eva Ditayani Antari, "Disparitas Pertimbangan Hakim Dalam Penjatuhan Pidana Bagi Kpps Dalam Tindak Pidana Pemilu," *Jurnal APutu Eva Ditayani Antari*. "Disparitas Pertimbangan Hakim Dalam Penjatuhan Pidana Bagi Kpps Dalam Tindak Pidana Pemilu." *Jurnal Analisis Hukum* 3, no. 2 (2020): 153–68.

⁶ Fuadi et al., "Politik Hukum Pengaturan Keserentakan Pemilu."

Body (hereinafter referred to as Bawaslu) which is also present at the regional level such as the Provincial Bawaslu, to the Regency or City Bawaslu.⁷

Referring to Article 1 paragraph 17 of Law 7 of 2017 concerning General Elections (hereinafter referred to as the Election Law), Bawaslu is an election organizing institution that oversees the implementation of elections throughout the territory of the Republic of Indonesia. Bawaslu is a permanent body, with a term of office of its members for 5 (five) years calculated from the oath or promise of office. Bawaslu is an ad hoc institution that was formed before the first stage of the election, namely at the initial stage when voter registration began and was disbanded after the candidates elected in the election had been inaugurated.⁸ The General Elections Supervisory Body is still less effective in resolving the handling of violations in the general election because there are still many violations that still occur during the general election and the sanctions given have no clear firmness and have not created a deterrent effect for those who commit violations.⁹

The presence of Bawaslu initially the duties and authorities of Bawaslu were only to supervise, collect evidence and report if there were indications of violations in the election process, in addition Bawaslu was only authorized to provide recommendations to the General Election Commission (KPU). Then the recommendation would be considered by the KPU as the election organizer, whether the recommendation could be implemented or not. This became an obstacle in taking action against election violations because it took longer and was considered less effective so that in 2017 a new policy emerged containing breakthroughs in strengthening Bawaslu's authority in enforcing election law.¹⁰

2. Method

This article was a normative legal research using the statutory approach (Statutory Approach), the concept approach (Conceptual Approach). The legal material search technique used the document study technique, and the analysis of the study uses qualitative legal descriptive analysis. Referring to the thoughts of Peter Mahmud Marzuki, normative research can be understood as a process to find answers to legal problems that occur by studying legal rules, legal principles, or even through related legal doctrines.¹¹

3. Main Bawaslu's Authority in Administrative Election Violations

Bawaslu is an institution that has a central role in supervising and handling administrative violations during the election process, starting from preparation, implementation, to determining the election results, and ensuring that the entire process takes place in accordance with legal provi-

⁷ Badru Zaman Muhammad. "Efektivitas Badan Pengawas Pemilu (BAWASLU) Dalam Penyelenggaraan Pemilihan Umum." *Khazanah Multidisiplin* 4, no. 2 (2023): 443–67. <https://journal.uinsgd.ac.id/index.php/kl>.

⁸ Romario Christian Falco Kuntag, Toar Neman Palilingan, and Dicky J. Paseki. "Upaya Pengawas Bawaslu (Badan Pengawas Pemilihan Umum) Dalam Memberantas Politik Uang (Money Politic) Di Kota Manado." *Lex Administratum* 11, no. 3 (May 15, 2023). <https://ejournal.unsrat.ac.id/v3/index.php/administratum/article/view/48090>.

⁹ Hermana, M. Arafat, Muslim Chaniago, and Dewi Lestari. 2021. The Effectiveness of the General Elections Supervisory Body in Handling Violations in the 2019 General Elections According to Law Number 7 of 2017 concerning General Elections (Bawaslu Case Study of Bengkulu Province). *Jurnal Hukum Sehasen* 7: 47–56–47–56.

¹⁰ Op cit. Badru Zaman Muhammad. "Efektivitas Badan Pengawas Pemilu (BAWASLU) Dalam Penyelenggaraan Pemilihan Umum."

¹¹ Mukti Fajar Nur Dewata and Yulianto Achmad, *Dualisme Penelitian Hukum Normatif Dan Penelitian Hukum Empiris* (Yogyakarta: Pustaka Pelajar, 2010).

sions.¹² The election itself is one of the main pillars of democracy that allows citizens to participate in choosing their representatives in legislative and executive institutions. This process is strictly limited so that it runs fairly, honestly, and free from violations. This institution is not only tasked with supervising, but also handling administrative violations and taking preventive measures against potential election violations.

The existence of Bawaslu is regulated in the Election Law. This law is the main basis that regulates the structure, duties, and authorities of Bawaslu, including in handling administrative election violations. Bawaslu has a hierarchical structure from the national level to the regional level. First, Central Bawaslu (Bawaslu RI) that has authority to supervises the implementation of elections nationally and coordinates with Bawaslu at the provincial and district/city levels with the authority to determine election supervision policies and handle national administrative violations. Second, the Provincial Bawaslu with the authority to supervises the implementation of elections at the provincial level and coordinates with district/city Bawaslu with the authority to receive reports of administrative violations at the provincial or regional level, and provide recommendations for sanctions to parties who violate regulations. Last, the Regency/City Bawaslu that supervises the implementation of elections at the district/city level and coordinates with sub-district Bawaslu or sub-district Panwaslu. Each level has duties and authorities according to their respective areas of coverage, but overall they work in a supervised supervision system to ensure smooth elections starting from setting policies, receiving reports, examining, assessing, and taking action on any alleged violations reported by the public or found in their supervision. Bawaslu as an election organizing institution that has an important role in overseeing the election implementation process in Indonesia. Bawaslu is responsible for ensuring that elections run democratically, honestly, and fairly in accordance with democratic principles. The article 95 of the Election Law also outlines Bawaslu's authority to oversee every stage of the election.

The authorities held by Bawaslu according Syarifuddin etc. include:¹³ a. receive and follow up on reports related to alleged violations of the implementation of laws and regulations governing the Election; b. examine, review, and decide on violations of Election administration; c. examine, review, and decide on violations of money politics; d. receive, examine, mediate or adjudicate, and decide on the resolution of Election process disputes; f. recommend to the relevant agencies regarding the results of supervision of the neutrality of ASN, the neutrality of TNI members, and the neutrality of members of the Indonesian National Police; g. temporarily take over the duties, authorities, and obligations of the Provincial Bawaslu and the Regency/City Bawaslu in a hierarchical manner if the Provincial Bawaslu and the Regency/City Bawaslu are temporarily prevented from performing their duties due to being subject to sanctions or other consequences in accordance with the provisions of laws and regulations; h. request the necessary information from the relevant parties in order to prevent and take action against administrative violations, violations of the code of ethics, alleged Election crimes, and Election process disputes; i. correct decisions and recommendations of the Provincial Bawaslu and the Regency/City Bawaslu if there are things

¹² Sutarno. "Penanganan Pelanggaran Administratif Pemilu Dalam Tahapan Verifikasi Administrasi Partai Politik Calon Peserta Pemilu Sebagai Upaya Menjaga Kualitas Dan Integritas Pemilu Tahun 2024." *Jurnal Keadilan Pemilu* 3, no. 2 (December 1, 2022): 81-92. <https://doi.org/10.55108/JKP.V3I2.386>.

¹³ Syarifudin Syarifudin, Wandu Wandu, and Jamri Jamri. "Analisis Peran Dan Kewenangan Badan Pengawas Pemilihan Umum Dalam Penyelesaian Dugaan Pelanggaran Administratif." *Selodang Mayang* 10, no. 2 (2024): 95-101.

that conflict with the provisions of laws and regulations; j. form the Provincial Bawaslu, Regency/City Bawaslu, and Overseas Panwaslu; k. appoint, foster, and dismiss members of the Provincial Bawaslu, members of the Regency/City Bawaslu, and members of Overseas Panwaslu; and l. examine other authorities in accordance with the provisions of laws and regulations; m. Bawaslu as a supervisory institution has administrative authority and also semi-judicial authority, especially in handling administrative election violations.

Administrative authority includes authority related to supervision and administrative arrangements in the implementation of elections as regulated in Article 93 of the Election Law. This authority gives Bawaslu the following authority: 1) Conduct supervision in the election stages from beginning to end to ensure compliance with applicable regulations; 2) Conduct prevention and coaching by providing direction and education to election participants, organizers, and the public so that they understand and comply with election rules; 3) Provide administrative recommendations to the KPU for violations found; 4) Bawaslu can take administrative action against violations that are considered not too serious, for example violations of campaign provisions. This action can be in the form of a written warning or reprimand to election participants or related parties.

Semi-judicial authority relates to the function of adjudication or resolution of legal disputes as regulated in Article 93 of the Election Law. In this capacity, Bawaslu acts like a judicial institution, although it is not entirely judicial. Although Bawaslu is not a judicial institution, in certain cases, Bawaslu is given authority that resembles a legal process to assess and decide on more serious violations in accordance with Article 142 paragraph (1). Following are some aspects of Bawaslu's semi-judicial authority, including: 1) Bawaslu has the authority to settle disputes among election participants or between election participants and organizers. In this scenario, Bawaslu facilitates mediation and, if necessary, makes a binding decision; 2) For more significant or recurring administrative infractions, Bawaslu might suggest tougher sanctions, such as disqualification of election participants or revocation of election results in specific areas;

If Bawaslu discovers or receives a report of an administrative violation, it can initiate an investigation. Following that, depending on the severity of the offense, it may issue recommendations or impose administrative consequences. If serious infractions are proven, these consequences typically include written warnings, candidacy cancellation, or the repetition of particular stages of the electoral process. All of these efforts are intended to preserve the integrity of the election and ensure that it is conducted fairly and by democratic norms.

Bawaslu has the authority to take action against administrative election irregularities by conducting inspections, studies, and making decisions. The administrative election infractions and their sanctions are as follows: 1) Article 461 paragraph (3) of the Election Law states that if an administrative infraction is discovered, Bawaslu may give a written warning to election participants determined to have violated election laws. This warning is a minor sanction that tries to warn so that the infraction does not occur again; 2) Article 462 paragraph (4) of the Election Law states that if an administrative infraction is discovered during a certain election stage (for example, campaigning or vote counting), Bawaslu may recommend that the stage be redone. This repetition of the election stage is normally carried out if the violation is deemed substantial enough that the election results do not legally reflect the will of the people; 3) Article 285 of the Election Law states that Bawaslu can provide recommendations to the KPU to cancel the nomination of an election participant if it is proven that the candidate has violated significant administrative provisions, such as not fulfilling the administrative requirements stipulated by law or committing administrative

fraud.; 4) According to Article 286 of the Election Law, if an administrative violation is demonstrated to have an impact on vote acquisition at a specific level, Bawaslu may suggest to the KPU that the vote acquisition of the candidate or political party that committed the violation be reduced or canceled. This is a serious sanction, which can directly affect the election outcomes; 5) Article 498 of the Election Law states that Bawaslu can provide recommendations to the KPU to cancel the campaign schedule for election participants who commit administrative violations during the campaign period. This cancellation can be in the form of a ban on campaigning on a certain day or for the entire remaining campaign period, depending on the severity of the violation committed; 6) According to Article 521 of the Election Law, civil servants (PNS) who engage in campaign activities that contravene election norms may face administrative sanctions from Bawaslu, such as reprimands and recommendations for dismissal from public office.

Any administrative violations mentioned above will be handled by Bawaslu in accordance with the provisions of applicable regulations, including administrative sanctions such as warnings and/or written reprimands for minor violations that can be corrected, warnings, or recommendations for permission to participate in elections. If the breach is deemed serious or recurrent, Bawaslu may cancel or postpone the election participation status. Furthermore, if there are severe violations, Bawaslu has the authority to suspend campaign activity.

As a result, it is critical to guarantee that actions are done in compliance with applicable legal procedures and that any infractions are settled properly. Thus, Bawaslu's authority to guarantee justice, transparency, and integrity in elections, as well as to deal with administrative infractions, is critical to ensuring that the democratic process adheres to essential democratic ideals such as accountability, openness, and equality. Furthermore, Bawaslu must continue to strengthen its professionalism, independence, and ability to deal with a variety of challenges while doing its duties.

The concept of handling election administrative violations by structured, systematic, massive which is in line with the framework of the judicial system in Indonesia, namely through a special election judiciary that administers justice with an ad hoc panel of judges for handling structured, systematic, massive violations of election administration in Indonesia. Keywords: Reconstruction, Election Administration, Judicial System.¹⁴

4. Mechanism for Handling Administrative Violations by Bawaslu

The enforcement of election regulations is critical to ensuring the democratic process's integrity. Bawaslu plays an essential part in the administrative infraction enforcement process, which seeks to guarantee that each stage of the election follows applicable legislation.¹⁵ Bawaslu handles administrative election violations, and its decisions take the form of administrative improvements to procedures or mechanisms by laws and regulations, written warnings, exclusion from certain stages of election implementation, or other administrative sanctions under election law.

Bawaslu's administrative infraction enforcement procedure is designed to ensure that all stages of the election follow applicable legislation. Bawaslu is critical to the election's integrity

¹⁴ Kurnia, Kamal Fahmi, Muhamad Rusjana, and Dery Hendryan. 2024. Reconstruction of Structured, Systematic and Massive Election Administration Violations in the Framework of The Judicial System. *Jurnal Hukum Malahayati* 5: 21-32.

¹⁵ Carto Carto, Adnan Murya, and Muh. Aripin Nurmantoro. "Analisis Penegakan Hukum Pemilu Dan Pemilihan (Study Penanganan Pelanggaran Di Bawaslu Kabupaten Indramayu)." *Yustitia* 8, no. 1 (April 30, 2022): 97-106. <https://doi.org/10.31943/YUSTITIA.V8I1.153>.

since he oversees the reporting, verification, inquiry, examination, and decision-making processes. Bawaslu, as the organization in charge of regulating election administration and implementation, must be autonomous and capable of conducting a fair and effective election process. Otherwise, the public will distrust the election results. Furthermore, election institutions, including law enforcement such as the police and the prosecutor's office, must be evaluated to ensure that these components are adequately monitored and that effective measures are taken to prevent problems and fraud.

The method for resolving administrative election breaches must be transparently reviewed by Bawaslu, Provincial Bawaslu, and Regency/City Bawaslu. Administrative election infractions are technical or procedural violations that include noncompliance with administrative election rules. Meanwhile, TSM administrative election infractions are administrative violations that are carried out in an organized manner ("structured"), well-planned ("systematically"), and have a considerable impact on the election outcomes ("massive"). TSM violations are more serious since they are purposeful and involve multiple parties or resources attempting to influence election results.¹⁶

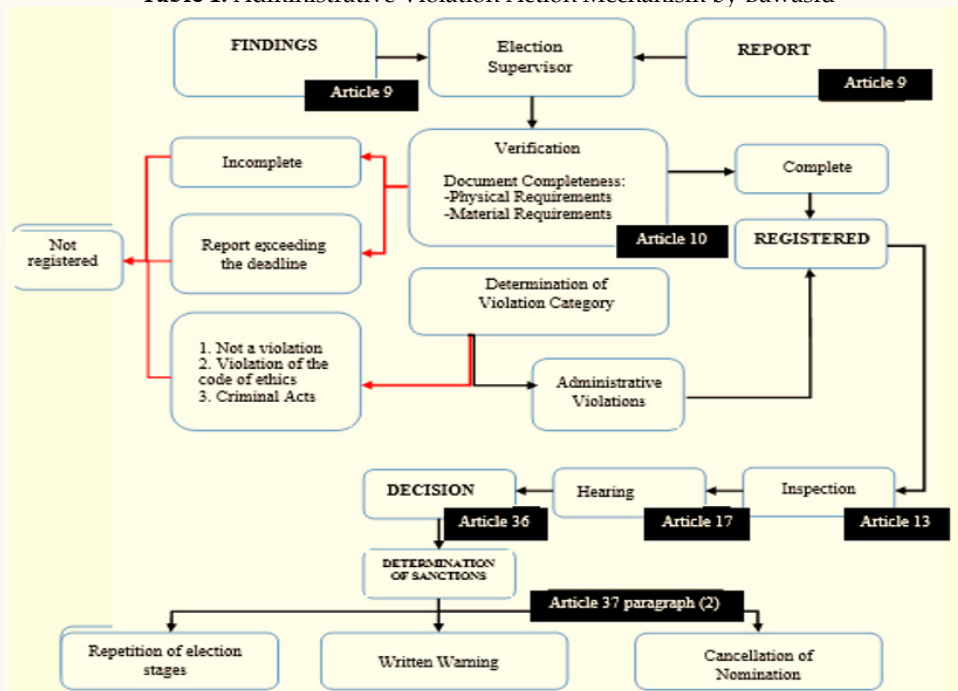
The resolution of Administrative Election Violations and Structured, Systematic, and Massive (TSM) Administrative Election Violations is carried out with the principle of being fast, impartial, and open. The resolution of these violations recognizes 2 (two) procedural laws of examination, namely the regular examination mechanism and the rapid examination.¹⁷ Regular examination is an examination process that uses established procedures to investigate alleged administrative election breaches. This examination is carried out if the administrative infraction is not deemed urgent or does not have a substantial direct impact on the course of the election, with the following stages:¹⁸ a. Examination stage; b. Collection of evidence and analysis; and c. Decision making. 2. Rapid examination is a specific process utilized by Bawaslu to deal with administrative infractions that require immediate resolution, particularly if the infringement has a direct impact on the current election stages. Rapid examination is carried out using an accelerated technique, allowing Bawaslu to conclude quickly. The Examination Panel conducts a rapid examination shortly after the violation occurs at the scene, taking into account feasibility and security, and resolves administrative election violations promptly. More complete information will be explained in the 2 (two) tables below regarding the procedures or mechanisms for taking action against Administrative Violations and Action against Structured, Systematic, and Massive (TSM) Violations by Bawaslu.

¹⁶ Absar Kartabrata. "Optimalisasi Kewenangan Badan Pengawas Pemilu (Bawaslu) Dalam Penegakan Pelanggaran Administrasi Secara Terstruktur, Sistematis Dan Massif Dalam Pemilihan Kepala Daerah (Pilkada)." *Jurnal Keadilan Pemilu* 1, no. 3 (2020): 1-18. <https://journal.bawaslu.go.id/index.php/JKP/article/view/158/105> .

¹⁷ Yulianto Yulianto. "Problematika Dan Tantangan Pemilu Dan Pemilihan Tahun 2024." *Jurnal Keadilan Pemilu* 2, no. 2 (2021): 60-75. https://perpustakaan.komnasperempuan.go.id/web/index.php?p=show_detail&id=6319 .

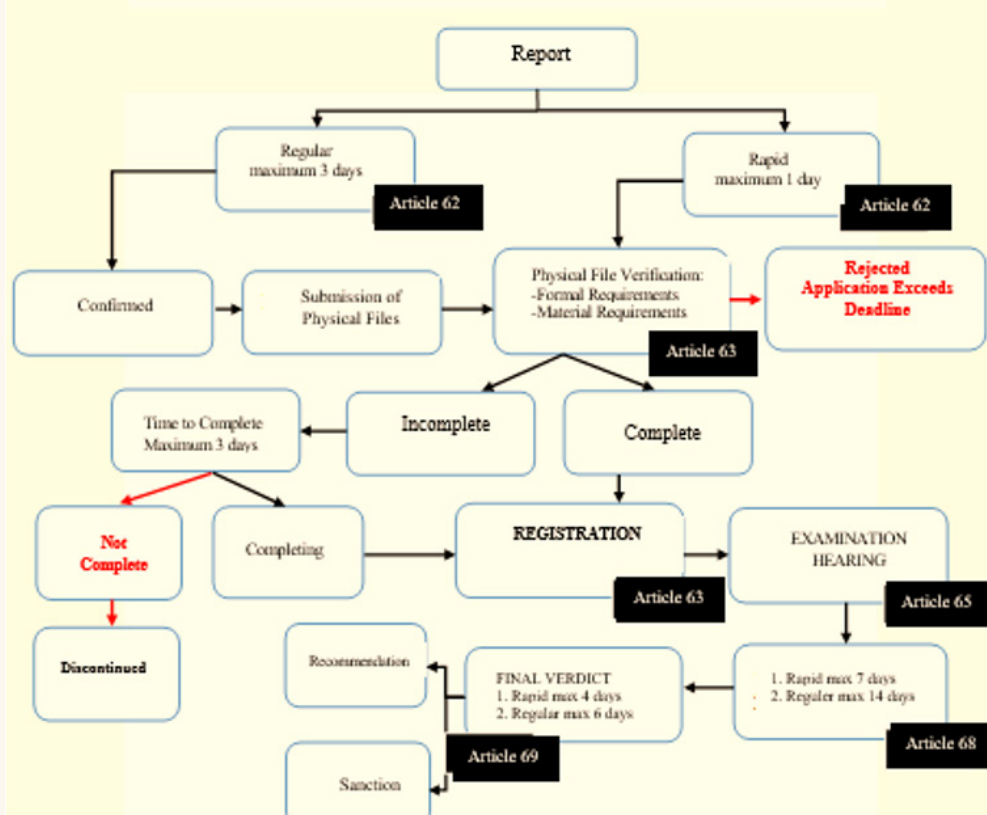
¹⁸ Wiwin Wiwin and Muhammad Andri Alvian. "Eksistensi Bawaslu Dalam Penanganan Pelanggaran Pemilu Pasca Penetapan Hasil Perolehan Suara Secara Nasional." *Jurnal Sultan: Riset Hukum Tata Negara* 1, no. 1 (2022): 21-26. https://ejournal.iainpare.ac.id/index.php/sultan_htn/article/view/3179/1074 .

Table 1. Administrative Violation Action Mechanism by Bawaslu



Source: Regulation of the General Election Supervisory Body Number 8 of 2022 concerning the Settlement of Administrative Violations of the General Election.

Table 2. Mechanism for Resolving Structured, Systematic, and Massive (TSM) Administrative Violations



Source: Regulation of the General Election Supervisory Body Number 8 of 2022 concerning the Settlement of Administrative Violations of the General Election

Thus, the mechanism for dealing with administrative election breaches, as established and implemented by Bawaslu, demonstrates a sincere attempt to protect election integrity and fairness. The procedure of investigating administrative breaches is open and involves relevant parties such as the reporter, the reported party, and witnesses. According to academics, this ensures that decisions made can be accounted for and reduces the possibility of abuse of authority. Fast and unbiased treatment illustrates Bawaslu's dedication to resolving each issue effectively without wasting time or favoring one party over another. This is critical to ensuring the election process remains stable. Handling administrative infractions that are Structured, Systematic, and Massive (TSM) provides additional security for the integrity of election results. With a robust mechanism, more sophisticated TSM violations can be taken seriously.

5. Conclusion

Bawaslu, as an institution responsible for taking action against administrative election violations, has the task, authority, and obligation to take action against administrative election violations to ensure the conduct of honest, fair, and democratic elections. The mechanism for taking action against administrative violations in the implementation of elections by Bawaslu is carried out by resolving Administrative Election Violations in a Structured, Systematic, and Massive (TSM) manner, including the stages of receiving reports, verification, investigation, examination, and decision-making, which are carried out transparently, quickly, and impartially. This process attempts to ensure that every administrative infringement is handled properly and in accordance with existing regulations. With correct implementation, this system helps to create honest, fair, and democratic elections.

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