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# Clarification of Candidacy Requirements for Former Convicts in Regional Head Elections (A Study of Constitutional Court Decision Number 32/PUU-XXIII/2025)

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***Abstract.*** *The regulation of candidacy requirements for former convicts in regional head elections continues to evolve through the interpretations of the Constitutional Court. These developments are important to examine because the requirements are directly related to the exercise of citizens' political rights and legal certainty in the administration of regional head elections. This study aims to analyze the clarification of candidacy requirements for former convicts following Constitutional Court Decision Number 32/PUU-XXIII/2025. This study employs normative legal research using a statutory approach. The data consist of secondary data comprising primary legal materials, secondary legal materials, and non-legal materials. Data collection is conducted through library research. The findings indicate that Constitutional Court Decision Number 32/PUU-XXIII/2025 clarifies that former convicts who committed criminal offenses punishable by imprisonment for five years or more must complete their sentences and undergo a five-year waiting period. Meanwhile, former convicts who committed criminal offenses punishable by imprisonment for less than five years must complete their sentences but are not required to undergo the waiting period. Both categories remain obligated to publicly disclose their former-convict status in accordance with the Court's ruling and to report that status to the relevant General Elections Commission (KPU) or Independent Elections Commission (KIP) whenever they participate in an election. This clarification establishes a distinction in candidacy requirements based on the maximum prison sentence prescribed for the offense.*

***Keywords:*** *Convicts; Former; Requirements; Regional; Head.*

## 1. Introduction

Indonesia is a democratic country that places supreme power in state administration in the hands of the Indonesian people. In a democratic system, state power is exercised by representatives of the people who are directly elected through general elections.(Sitabuana, 2011, p. 7)In the implementation of regional government, the principle of democracy is reflected in the implementation of Regional Head Elections (Pilkada) as regulated in Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), which



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states that Governors, Regents and Mayors as heads of provincial, district and city regional governments are elected democratically.(1945 Constitution of the Republic of Indonesia, Article 18 paragraph (4))These provisions show that democracy in regional elections is not only related to the implementation of voting, but also includes the implementation of elections that uphold honesty, justice, transparency, and legal certainty through the application of clear and consistent regulations.

The right to be elected is a form of political right of citizens which provides an opportunity for a person to participate in the management of government by nominating themselves in general elections.(Mufthi, 2017, p. 73)These rights relate to citizens' opportunities to be involved in the democratic and governmental processes as referred to in Article 28D paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945).(1945 Constitution of the Republic of Indonesia, Article 28D paragraph (3))However, the implementation of citizen rights is not absolute.(Ikhwanudin et al., 2026, p. 48)As regulated in Article 27J paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that in exercising their rights and freedoms, every person is obliged to submit to the restrictions established by law with the sole aim of guaranteeing recognition and respect for the rights and freedoms of others and to fulfill just demands in accordance with moral considerations, religious values, security and public order in a democratic society.(1945 Constitution of the Republic of Indonesia, Article 28J paragraph (2))This article can be interpreted to mean that restrictions on community rights can be implemented and justified as long as their implementation is based on the law, provided that they have a clear objective and still respect the principles of proportionality and legal certainty.(Fariz, 2020, p. 319)

In the context of the regional elections, these limitations are reflected in the requirements that must be met by someone, especially former convicts, to be able to run for regional head. The regulations regarding these requirements are contained in several provisions that apply in Indonesia, such as in Article 7 paragraph (2) letter g of Law Number 10 of 2016 concerning the Second Amendment to Law Number 10 of 2015, which states that they have never been convicted based on a court decision that has obtained permanent legal force or for former convicts, they have openly and honestly stated to the public that they are former convicts.(Law No. 10 of 2016, Article 7 paragraph (2) letter g)From these provisions, it can be said that the candidate is an Indonesian citizen and has never committed any dishonorable acts and complies with the legal provisions in force in Indonesia.(Heo and Hutabarat, 2021, p. 3867)Meanwhile, in Article 14 paragraph (2) letter f of the General Election Commission Regulation Number 8 of 2024 concerning the Nomination of Governor and Deputy Governor, Regent and Deputy Regent, and Mayor and Deputy Mayor, namely:(PKPU No. 8 of 2024, Article 14 paragraph (2) letter f)

1. Former convicts must have passed a 5 (five) year gap period after the former convict has completed serving his prison sentence based on a court decision that has obtained permanent legal force.

2. Honestly or openly announce the background of his identity as a former convict


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3. Not a repeat offender

The evolution of regulations concerning the candidacy of former convicts is closely linked to the Constitutional Court's interpretation of the relevant provisions. Through Constitutional Court Decision Number 32/PUU-XXIII/2025, the requirements for the candidacy of former convicts have once again come under scrutiny, specifically regarding the distinction based on the severity of the potential sentence prescribed by law. The differentiation between criminal offenses punishable by imprisonment of five years or more and those punishable by less than five years is a critical aspect to examine in order to understand the clarification of candidacy requirements established in this ruling. An analysis of this decision is essential to determine how the Constitutional Court interprets the requirements for former convicts seeking office and how this interpretation aligns with existing legal norms.

Previous research has explored the General Elections Commission's (KPU) policy on establishing candidacy requirements for former convicts seeking local leadership positions, the legal rationale underlying these restrictions on political rights, and their application from the perspective of justice (Ramadhana et al., 2025, pp. 801–810). In contrast, this study focuses on the clarification of candidacy requirements for former convicts under Constitutional Court Decision Number 32/PUU-XXIII/2025-specifically the distinction between those who committed offenses punishable by five years or more of imprisonment and those who committed offenses punishable by less than five years. Consequently, the novelty of this research lies in its analysis of the clarified requirements for these two categories of former convicts, particularly concerning the application of a five-year "waiting period" and the mandatory public disclosure of one's status as a former convict following the issuance of this ruling. Based on the aforementioned points, this study aims to analyze the clarification of candidacy requirements for regional head elections concerning former convicts, following Constitutional Court Decision Number 32/PUU-XXIII/2025, with a focus on the differentiation of requirements based on the severity of the potential criminal penalty.

## 2. Research Methods

The research method employed in this study is the normative legal research method (Sugiyono, 2018), which treats legal norms as the primary object of inquiry. This research focuses on the analysis of provisions governing the requirements for former convicts, as well as the rulings of the Constitutional Court specifically, Constitutional Court Decision Number 32/PUU-XXIII/2025. The study utilizes a statute approach, which involves examining legislation and regulations relevant to the legal issues under consideration (Marzuki, 2019).

The data used in this research is secondary data, namely data obtained through library material studies or by reviewing literature related to the research.(Fajar Nur Dewata and Achmad, 2017)Legal research sources can be divided into three legal research sources, namely primary legal materials including the 1945 Constitution of the Republic of Indonesia, Law Number 10 of 2016, relevant General Election Commission Regulations, and Constitutional Court Decision Number 32/PUU-XXIII/2025, secondary legal materials including law books, law


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journals, and other literature related to research problems, and non-legal materials used in this study are the Big Indonesian Dictionary (KBBI). Data collection techniques used in this study were carried out through literature studies.

## 3. Results and Discussion

### 3.1. Regulation of Requirements for Regional Head Candidacy for Former Convicts

The regulations regarding the requirements for regional head candidacy for former convicts are part of the legal regulations that determine whether or not someone is worthy of becoming a regional head through elections.(Helmi Chandra SY, 2022, p. 38)This provision relates to the rights of citizens to have equal opportunities in government affairs, as guaranteed in Article 28D paragraph (3) of the 1945 Constitution of the Republic of Indonesia. However, the right to be elected does not mean that anyone can advance as a candidate without fulfilling the requirements stipulated by statutory regulations. In the implementation of regional head elections, limitations or requirements to become a candidate are needed to determine whether someone is worthy of being nominated and to ensure that the political rights of the community are carried out in accordance with applicable legal regulations. Therefore, in determining the rules regarding former convicts, it is necessary to consider two important aspects, namely the protection of citizens' political rights and the requirements that must be met so that someone can run as a candidate for regional head.

The basis for the regulation of these requirements is contained in Article 7 paragraph (2) letter g of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law which states that never as a former convict based on a court decision that has obtained permanent legal force or for former convicts have openly and honestly stated to the public that the person concerned is a former convict. This provision regulates the requirements that must be met by gubernatorial candidates, vice-gubernatorial candidates, regent candidates, vice-regent candidates, mayoral candidates, and vice-mayoral candidates who have the status of former convicts. In understanding these regulations, it cannot be understood only through the sentence alone, because the Constitutional Court has given meaning to these provisions through several judicial review decisions (PUU). Therefore, understanding the candidacy requirements for former convicts requires paying attention to developments in constitutional interpretation related to Article 7 paragraph (2) letter g of Law Number 10 of 2016.

One of the important developments in the regulation of the requirements for regional head candidacy for former convicts is the Constitutional Court Decision Number 71/PUU-XIV/2016. In this decision, the Court provides an interpretation of Article 7 paragraph (2) letter g of Law Number 10 of 2016. This interpretation limits the types of criminal acts considered relevant to the candidacy requirements to criminal acts that are punishable by imprisonment of five years or more, by excluding criminal acts of negligence and political crimes in a special sense. In addition, the Constitutional Court also continues to provide space for former convicts to participate in the candidacy for regional head if they have openly and honestly announced to


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the public that they are former convicts. Thus, decision number 71/PUU-XIV/2016 regulates limitations related to criminal threats and determines provisions regarding the disclosure of the status of former convicts in the requirements for regional head candidacy.(Constitutional Court of the Republic of Indonesia, 2016, Subparagraph [3.9], pp. 169–204)

The next development is seen in the Constitutional Court Decision Number 56/PUU-XVII/2019. Through this decision, the Court gave a new meaning to Article 7 paragraph (2) letter g of Law Number 10 of 2016 by formulating three parts of the candidacy requirements for former convicts. First, the provisions regarding criminal acts that are threatened with imprisonment of five years or more, with the exception of criminal acts of negligence and political crimes in a special sense. Second, the requirement for former convicts to have passed a five-year grace period after completing their prison sentence based on a court decision that has permanent legal force and honestly or openly announce their background as former convicts. Third, the requirement not to be repeat offenders.(Constitutional Court of the Republic of Indonesia, 2019, pp. 64–66)

However, this ruling shows that the threat of imprisonment of five years or more is still used as a criterion in determining candidacy requirements. The formulation in the ruling does not differentiate in detail regarding the requirements for former convicts whose crimes are punishable by imprisonment of less than five years. This difference in criminal penalties is important to note because each category of the length of a criminal sentence has different characteristics and levels of seriousness. Therefore, the application of candidacy requirements must take into account the categories of the length of the criminal sentence stipulated in the legislation, so that the requirements imposed on former convicts can be analyzed according to the scope of the governing norms. The interpretation of Decision Number 56/PUU-XVII/2019 is further regulated technically through General Elections Commission Regulation Number 8 of 2024 concerning the Nomination of Governors and Deputy Governors, Regents and Deputy Regents, and Mayors and Deputy Mayors. Article 14 paragraph (2) letter f regulates several conditions, such as status as a convict, threat of imprisonment of five years or more, exceptions for certain criminal acts, honest and open announcement of the status of a former convict, and the condition that it is not a repeat crime.

This development has again become a concern when there is a request for a judicial review of Article 7 paragraph (2) letter g of Law Number 10 of 2016 which was submitted and has been decided through Decision Number 54/PUU-XXII/2024. In its decision, the Constitutional Court rejected the applicant's request which argued that the five-year cooling-off period be excluded for former convicts whose political rights were not revoked by court decisions, even though the crime committed by the former convict is punishable by imprisonment of five years or more. In this case, the Constitutional Court remains firm in its stance following Decision Number 56/PUU_XVII/2019 and emphasizes that the five-year cooling-off period is based on the criminal threat from the proven act, namely the threat of imprisonment of five years or more, not whether or not there is an additional penalty in the form of revocation of political


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rights by the court.(Constitutional Court of the Republic of Indonesia, 2024, Subparagraph [3.11.1], pp. 50–59)

Based on these developments, the regulation of regional head candidacy requirements for former convicts prior to Decision Number 32/PUU-XXIII/2025 can be understood through three main stages. First, Decision Number 71/PUU-XIV/2016 emphasized the transparency of the status of former convicts as part of the exercise of political rights and the public's right to obtain information about candidates. Second, Decision Number 56/PUU-XVII/2019 introduced the requirement of a five-year cooling-off period and maintained the obligation to announce status and the requirement of not being a repeat offender in the formulation of norms interpreted by the Court. Third, Decision Number 54/PUU-XXII/2024 maintained the application of a five-year cooling-off period for former convicts who committed crimes punishable by imprisonment for five years or more.

From this series of regulations, it can be seen that the three Constitutional Court Decisions have stipulated a number of basic requirements for former convicts who wish to run for regional head. However, the formulation in effect at that time did not specify in detail the requirement for a five-year prison term and the requirement to announce their ex-convict status for former convicts based on the category of five years or more and less than five years of imprisonment. Therefore, the development of these regulations serves as the basis for analyzing how the Court subsequently confirmed and detailed the candidacy requirements for former convicts in Decision 32/PUU-XXIII/2025, which is the focus of this research.

### 3.2. Affirmation of Requirements for Regional Head Candidacy for Former Convicts in Constitutional Court Decision Number 32/PUU-XXIII/2025

The development of the regulations on the requirements for candidacy of regional heads for former convicts in Article 7 paragraph (2) letter g of Law Number 10 of 2016 reached an important stage through the Constitutional Court Decision Number 32/PUU-XXIII/2025. The decision was a petition filed by the applicant Petrus Ricolombu Omba, who felt that his constitutional rights were violated due to the application of the requirements for candidacy for former convicts. This occurred after he was declared ineligible and disqualified as a candidate for Regent of Boven Digoel in the 2024 Pilkada. In his petition, the applicant questioned how clear the application of the requirements for former convicts was, especially when the crime proven to have been committed was only punishable by imprisonment of less than five years.(Constitutional Court of the Republic of Indonesia, 2025, p. 54)In its ruling, the Constitutional Court granted the applicant's request in part and provided a new interpretation of the provisions.

The affirmation in Constitutional Court Decision Number 32/PUU-XXIII/2025 relates to the interpretation of the requirements for regional head candidacy for former convicts, which were previously regulated through Decision Number 56/PUU-XVII/2019. Decision Number 56/PUU_XVII/2019 contains requirements regarding a five-year grace period after completing a sentence, the obligation to announce the status of former convicts honestly and openly, and


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the provision of not being repeat offenders. However, the application of these requirements to former convicts who commit crimes with a sentence of less than five years raises issues regarding the scope of norms that must be met. Through Decision Number 32/PUU-XXIII/2025, the Court emphasized the differences in requirements based on the category of the threat of imprisonment of five years or more and the threat of imprisonment of less than five years. This difference primarily affects the application of the five-year grace period, which is then formulated in more detail in the constitutional interpretation of Article 7 paragraph (2) letter g of Law Number 10 of 2016.

This affirmation is contained in the decision of the Court Number 32/PUU-XXIII/2025 which provides an interpretation of Article 7 paragraph (2) letter g of Law Number 10 of 2016. The formulation of the norm as interpreted by the Court is as follows:(Constitutional Court of the Republic of Indonesia, 2025, pp. 79–81)

For former convicts, except convicts who committed criminal negligence and political crimes in the sense of an act which is declared a criminal act in positive law only because the perpetrator has political views which differ from the regime in power, must follow the following provisions:

1. Former convicts who are sentenced for committing a crime with a prison sentence of 5 (five) years or more must have completed/completed serving their sentence, whether a prison sentence, conditional sentence, and/or probationary sentence, and a period of 5 (five) years must have passed since the former convict completed/completed serving the sentence in question.

2. Former convicts who were convicted for committing a crime with a prison sentence of less than 5 (five) years must have completed/completed serving their sentence, whether a prison sentence, conditional sentence, and/or probation, but it is not necessary for a period of 5 (five) years after the former convict has completed/completed serving his sentence.

3. honestly and openly announce his background as a former convict to the public through the mass media, and in the next general election there is no need to repeat the announcement as long as the electoral area/district is the same, except if the electoral area/district and/or level in the next election is different, then the announcement through the mass media must be repeated.

4. honestly and openly declare/convey his/her background as a former convict to the KPU/KIP according to his/her level every time he/she takes part in a general election through the candidacy application

5. not as a repeat offender

Based on this formulation, the first discernible assertion relates to the difference in the five-year cooling-off period requirements based on the criminal penalty. For former convicts who committed crimes punishable by five years or more in prison, the Constitutional Court requires


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that they have completed all of their sentences and have served a five-year cooling-off period following the completion of those sentences. Conversely, for former convicts who committed crimes punishable by less than five years in prison, their obligation is to complete their sentences without having to serve a five-year cooling-off period. Therefore, the criterion used to determine the validity of the cooling-off period is not solely the length of the sentence actually imposed by the judge, but rather the specific punishment imposed for the crime committed. This difference makes it clear that the five-year cooling-off period does not apply uniformly to all former convicts, but is specifically related to crimes punishable by five years or more in prison.

The next affirmation relates to the requirement to announce the status of former convicts to the public. The Constitutional Court's ruling affirms that the obligation to honestly and openly announce their former convict status to the public applies to former convicts participating in the candidacy, whether they have committed a crime punishable by five years or more or those punishable by less than five years. The absence of any distinction in this requirement is inseparable from the interests of voters in obtaining relevant information regarding the background of regional head candidates. The availability of such information becomes one of the considerations for voters in making a conscious and informed choice. The Constitutional Court also affirms that the obligation to announce the status of former convicts need not be repeated in the next election if the candidate wishes to run again in the following term, provided that the electoral district remains the same as the previous term. However, if the electoral district is different, an honest and open announcement to the public regarding their former convict status must be made again. This regulation provides clarity regarding when and where the announcement obligation must be implemented for candidates who are former convicts.

The Constitutional Court also emphasized the obligation of former convicts to honestly and openly declare or convey their background to the General Elections Commission (KPU) and the Election Commission (KIP) according to their respective levels each time they participate in an election through a candidacy application. This provision must be distinguished from the obligation to announce the status of former convicts to the public. The announcement is intended to inform the public of the candidate's status, while submission through a candidacy application is an obligation that candidates must fulfill to election organizers. Therefore, although candidates are not required to re-announce their background in subsequent elections under conditions determined by the Court, they must still submit this information to the KPU or KIP each time they participate in an election.

Decision Number 32/PUU-XXIII/2025 also maintains the requirement that former convicts not be repeat offenders, as formulated in its ruling. This requirement remains included in the norms resulting from the Constitutional Court's ruling, alongside provisions regarding criminal settlements, the cooling-off period, and the obligation to announce and convey the status of former convicts. Therefore, the distinction based on the potential penalty cannot be interpreted as eliminating all candidacy requirements for former convicts who committed


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crimes with a penalty of less than five years. This distinction specifically regulates the application of the five-year cooling-off period, while other requirements must be understood based on the formulation of the norms established by the Court.

## 4. Conclusion

Constitutional Court Decision Number 32/PUU-XXIII/2025 has emphasized the requirements for regional head candidacy for former convicts through different provisions based on the criminal penalties imposed for the crimes committed. Former convicts sentenced to five years or more must complete their sentences and wait for a five-year grace period after their sentence is completed. Meanwhile, former convicts sentenced to less than five years are not required to serve this grace period. This difference demonstrates that the provisions regarding the requirements for becoming a candidate cannot be applied uniformly solely based on a person's status as a former convict, but must take into account the category of criminal penalties as interpreted by the Constitutional Court. In addition to the difference in grace period, the decision also emphasizes the requirement to honestly and openly announce the status of former convicts to the public and the obligation to convey this status to the General Elections Commission (KPU/KIP) through the nomination application each time a candidate participates in an election. Announcements to the public in subsequent elections do not need to be repeated if the region or electoral district remains the same, while changes in the region or electoral district and/or election level require repeated announcements. Thus, it is hoped that the Constitutional Court Decision Number 32/PUU-XXIII/2025 can serve as a guideline for election organizers in implementing the requirements for regional head candidacy for former convicts, so as to minimize the potential for multiple interpretations in the implementation of these requirements in the next regional head elections.

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