



The Simultaneous Vacancy of the Definitive Regent and Vice Regent Positions in Muara Enim and Ogan Komering Ulu.

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ARTICLE INFO	ABSTRACT
<p>Keywords: Regional Head, Law, Appointment Process.</p> <p>How to cite: Dedeng, Alip d Pratama, dan Hatta Azzuhri. (2023). The Simultaneous Vacancy of The Definitive Regent and Vice Regent Positions in Muara Enim and Ogan Komering Ulu. <i>Veterans Law Review</i>. 6 Special Issues 104-129.</p> <p>Received: 2023-05-16 Revised: 2023-05-23 Accepted: 2023-05-29</p>	<p>The condition of a vacancy in the Head of the Region position in a problem that occurred in Muara Enim and Ogan Komering Ulu becomes a unique issue in filling the position because the vacancy happened simultaneously in both the Regent and Vice Regent positions. Currently, in Muara Enim, the position is filled by an Acting Regent (Plt) who was appointed by the Regional People's Representative Council (DPRD) after the Vice Regent's election. However, there is currently a legal challenge in the State Administrative Court (PTUN) regarding the DPRD's appointment decision. For Ogan Komering Ulu Regency, the elected Regent and Vice Regent from the 2020 local elections, Kuryana Azis, passed away shortly after being inaugurated as Regent. Meanwhile, the Vice Regent, who had previously been a corruption defendant, was unable to perform his duties one day after the inauguration. Currently, the Governor has appointed the Head of the Department as the Acting Regent. However, Article 65 paragraphs (5) and (6) of the Local Government Law state that the Secretary of the Region (Sekda) should be the one to carry out the duties as the Acting Regent. "This research aims to provide an answer on the appointment process of the Regent and Vice Regent positions that are vacant simultaneously. This is because the Local Government Law and the Regional Head Election Law only regulate the vacancy of one position, either the Regent or Vice Regent. The method used in this research is a juridical-normative approach, with a combination of legislation analysis, case studies, and comparative approaches. The results of this research show that the appointment of a Substitute Regional Head follows the provisions of Law No. 23 of 2014, Law No. 10 of 2016, and Government Regulation No. 12 of 2018. The position of the Regional Head, Acting Regional Head, Acting Regent, Interim Regent, and Acting Officer is regulated under Law No. 23 of 2014, Law No. 30 of 2014, Law No. 10 of 2016, Government Regulation No. 49 of 2008, and Government Regulation No. 1 of 2018.</p>

1. Introduction

Article 18 paragraph (1) of the 1945 Constitution clearly states that "The Unitary State of the Republic of Indonesia is divided into Provinces and the Provinces are further divided into Regencies and Cities, each Province, Regency, and City has a

regional government, which is regulated by law". Provinces are led by a Governor as the Head of the Provincial Government, and Regencies/Cities are led by a Regent/Mayor as the Head of the Regency/City Government. This is as stipulated 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 Government are democratically elected".¹

Article 18 paragraph (2) and paragraph (5) of the 1945 Constitution state that Regional Governments have the authority to regulate and manage their own government affairs according to the principles of autonomy and delegated tasks and are given the widest possible autonomy.² In this regard, the local government or the regional executive institution is the government organizer in the region together with the DPRD and holds the highest administrative authority in the region. The local government consists of the head of the region and the deputy head of the region as the holders of the highest government in the region and as part of the State organizer. The local government is regulated in Article 18 of the 1945 Constitution of the Republic of Indonesia.³

The regulation in all laws concerning regional governance has placed a strategic role for regional heads, given that they are a significant component for the success of national development. Regional heads are figures or managers who determine the effectiveness of achieving the goals of regional government organizations. In other words, the direction and goals of regional government organizations are determined by the ability, competence, and capabilities of regional heads in carrying out administrative/managerial functions of leadership, guidance, and service, as well as other tasks that are the obligations and responsibilities of regional heads.⁴

Indeed, the role of the head of the region is crucial in its implementation. It cannot be denied that currently, as an autonomous region, the head of the region has a determining role in regional governance. The significant authority held by the head of the region will determine the development and welfare of the region based on the initiatives of each region. It can be said that the success of development and the improvement of people's welfare in the region will be

¹ Hanif Nurcholis. (2007). *Teori dan Praktik Pemerintahan dan Otonomi Daerah*. Jakarta: Grasindo. hal. 100.

² Penjelasan Undang-Undang Nomor 23 tahun 2014 tentang Pemerintahan Daerah

³ Jimly Asshiddiqie. (2009). *Pengantar Ilmu Hukum Tata Negara*. Jakarta: Rajawali Pers. hal. 323.

⁴ J.Kaloh. (2009). *Kepemimpinan Kepala Daerah: Pola Kegiatan, kekuasaan dan Perilaku Kepala Daerah dalam Pelaksanaan Otonomi Daerah*. Jakarta: Sinar Grafika. hal. 4.

determined by the head of the region who leads it. Therefore, a qualified head of the region is needed. However, in carrying out their duties, the head of the region also needs to be assisted by the deputy head of the region⁵

The tasks as a regional leader can be carried out synergistically to achieve the goals of regional autonomy. However, problems that have emerged since the era of regional autonomy and the implementation of direct local elections (Pilkada) cannot be separated from various issues, with a major focus being on the many regional leaders who have been involved in legal issues, especially related to corruption (Tipikor) which surely becomes a problem for regional heads with various underlying factors. Operation "tangkap tangan" (caught red-handed) for example, continues to happen repeatedly to regional heads and it seems that this problem has no end in sight for them. There are many underlying factors causing this issue. However, this article will examine the aspect of filling the vacancy of regional head position, specifically looking at the issue of appointing replacement regional heads in the Muara Enim and Ogan Komering Ulu governments.

In this case, the Regent and Deputy Regent, as well as the Secretary of the region (Sekda), are the three important positions that have become a problem and need to be solved in order to restore the functioning of the government in Muara Enim Regency. Initially, Ahmad Yani and Juarsah were inaugurated as Regent and Deputy Regent of Muara Enim on September 18, 2018 for a term of office from 2018-2023 as the winners of the simultaneous regional elections in 2018. However, the Regent was implicated in a corruption case and was consequently suspended from office and sentenced. As a result, the Deputy Regent Juarsah took over the government and became the permanent Regent after serving as Acting Regent. About 1.5 months after serving as the acting regent following the previous regent's detention by the Corruption Eradication Commission (KPK), the current acting regent in Muara Enim also faced a similar fate. The vacancy of the local leader in Muara Enim was caused by the retirement of the Secretary of the Regional Government. Therefore, the Governor of South Sumatra appointed the provincial secretary as the temporary executor to carry out daily tasks as the Head of Government in accordance with the authority of the governor as stipulated in the Ministry of Home Affairs Regulation No. 33 of 2018 regarding the Implementation of Duties and Authority of the Governor as a Representative of the Central Government. Currently, Muara Enim has been filled by the Acting Regent, but the process is facing a lawsuit in the State Administrative Court (PTUN) against the decision of the Muara Enim Regional People's Representative

⁵ *Ibid.*,

Council (DPRD) that selected the Vice Regent and became the Acting Regent through the Minister of Home Affairs Decree, due to the remaining term of less than 18 months as stipulated in the Regional Head Election Law.

There was also a simultaneous vacancy in the position of regional head in Ogan Komering Ulu (OKU) Regency, after Kuryana Azis, who was appointed as the definitive regent following the 2020 Regional Head Election, passed away on March 8, 2021. He served as the definitive regent from February 26, 2021, to March 8, 2021. Meanwhile, the elected deputy regent from the 2020 Regional Head Election, Johan Anuar, was appointed as the definitive deputy regent but could not exercise his authority due to his status as a corruption suspect who was in custody until he was sentenced to 8 years in prison on May 4, 2021. As a result, there was an automatic vacancy in the position of regional head in OKU Regency, which was won by Kuryana Azis and Johan Anuar as the only candidates in the election.

This becomes interesting to find a solution through research because of the impact of the dynamics of the community waiting for a definitive Head of Region and the confusion of the supporting political parties to carry out the definitive pattern of filling positions due to the unique legal case where both the Regent and Deputy Regent simultaneously experienced a definitive vacancy. Generally, a vacancy occurs in one of the positions, either the Regent or the Deputy Regent, based on the Regional Election and Local Government Law, which clearly stipulates that if there is a vacancy in the Regent position, the Deputy Regent can be appointed as the definitive Regent, or if there is a vacancy in the Deputy Regent position, the supporting party can submit two candidates for the Deputy Regent position through the definitive Regent to the Regional People's Representative Council (DPRD). However, when a simultaneous vacancy occurs between the Regent and Deputy Regent, there are scattered regulations and legal principles that need to be considered to answer this problem. Therefore, this problem needs to be studied because a simultaneous vacancy of regional leaders can be said to be a new condition that has occurred in Muara Enim and Ogan Komering Ulu Regencies.

In addition, there is a Circular Letter (SE) from the Minister of Home Affairs (Mendagri) number 121/6636/SJ dated November 18, 2014 regarding the Filling of Governor/Vice Governor, Regent/Vice Regent, and Mayor/Vice Mayor positions which contains 3 (three) points. After examining the Mendagri SE, the researcher found that in point one, the filling of vacant regional head positions is returned to the provisions of Article 203 of the Government Regulation Substitute Law (Perpu) Number 1 of 2004. The provisions of Article 203 still regulate the

filling of regional head and deputy regional head positions separately. Point b of the Mendagri Circular Letter reiterates that the filling of vacant regional head positions still refers to the provisions of Article 203 of Perpu No. 1 of 2014.

Point 3 of the Mendagri SE concerns the simultaneous vacancy of the Head of Regional Government, whereby the regulation and mechanism of local government administration is based on Law No. 32 of 2014 concerning Regional Government. Point 3 of the Mendagri Circular regulates the administration of government, which has piqued the interest of the writer to contribute legally to addressing the issue. The formulated problem to be discussed is:

1. How is the mechanism for filling the vacant positions of Regional Head in Muara Enim and Ogan Komering Ulu based on the provisions of Law Number 23 of 2014 concerning Regional Government, Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government, and Government Regulation Number 12 of 2008 concerning Guidelines for the Preparation of Rules of Procedure for the Regional House of Representatives at the Province, Regency, and City levels?
2. What is the legal position of a definitive Regional Head, Acting Regent (Plt), Acting Daily Regional Head (Plh), Temporary Regional Head Officer (Pjs), and Acting Regional Head (Pj) based on the prevailing laws and regulations?

2. Methods

This is a legal research of normative juridical type. The approach used is a legislative approach, literature study approach, and case study approach. The legislative approach involves examining all legislation related to the legal issues being studied. The literature study approach involves reviewing books, journals, and newspapers. The case study approach involves examining the background and development of the legal issues being studied, specifically the simultaneous vacancies of definitive positions in Muara Enim and Ogan Komering Ulu.

3. Results & Analysis

3.1 The filling of vacant positions of Regional Head in Muara Enim and Ogan Komering Ulu

In the Indonesian constitutional system, there are two reasons why a definitive regional head official is unable to perform their routine duties, namely due to "temporary impediment" and "permanent impediment". Temporary impediment means that the definitive regional head official is temporarily unable to perform their duties and will resume their duties until the end of their term. On the other hand, permanent impediment means that the definitive regional head official has been dismissed or resigned and will not resume their duties.⁶

The implementation of regional governance is regulated in Law No. 23 of 2014 on Regional Governance. The head of the region, in this case the Regent and Vice Regent in their official positions, and as entrusted by the law, carries out the task of leading the implementation of regional governance affairs based on the provisions of laws and regulations and policies established together with the Regional People's Representative Council (DPRD). The head of the region maintains public order and security within the region, and in terms of relations with the DPRD, the head of the region works together with the DPRD as partners in formulating the Regional Long-Term Development Plan (RPJPD), formulating and establishing Regional Regulations (Perda) together with the DPRD, representing the region in and outside of court or appointing legal counsel in accordance with the provisions of laws and regulations, and carrying out other tasks based on the provisions of laws and regulations.

The main duties of the Head of the Region (Kepala Daerah) are changed when reading the provision in Article 65 paragraph (1) letter "f", which previously stated "The Head of the Region has the duty to propose the appointment of the Deputy

⁶ Firdaus A dan Fabian R. (2019). *Penjabat Kepala Daerah*, Ed.1.Cet.1. Yogyakarta: Penerbit Thafa Media. Hal. 129.

Head of the Region" in accordance with Law No. 23 of 2014 concerning Regional Government. After the second amendment to the Regional Government Law became Law No. 9 of 2019 concerning the Second Amendment to Law No. 23 of 2014 concerning Regional Government, this provision was deleted and abolished. In other words, the formulation of letter "f" was removed so that the Head of the Region no longer has the duty to propose the appointment of the Deputy Head of the Region in the second amendment to the Regional Government Law.

This has implications for the mechanism of proposing the appointment of Deputy Heads of Region, which was previously proposed through the Regent and after the second amendment to the Pemda Law is no longer the task of the Head of Region. This is in line with Government Regulation No. 23 of 2018 concerning Guidelines for the Preparation of Rules of Procedure for Provincial, Regency, and City DPRD. In this regulation, it can be read that the tasks and authorities of the Provincial and Regency/City DPRD in the event of a vacancy in the position of Head of Region are to select the Head of Region and Deputy Head of Region or Deputy Head of Region in the event of a vacancy to continue the remaining term of more than 18 (eighteen) months.

The formulation of the provisions of the second amendment of the Regional Government Law and Government Regulation No. 12 of 2018 on Guidelines for the Preparation of Provincial, Regency, and City DPRD Rules of Procedure reinforces the authority for filling the position of Regional Head and Deputy Regional Head in the event of a vacancy for more than 18 (eighteen) months. This domain now falls within the realm of the DPRD, both at the provincial and regency/city levels. This is reinforced by Article 24 of Government Regulation No. 12 of 2018, which regulates the Procedures for the Election of Regional Heads.

The second amendment to the Regional Government Law (UU Pemda) that removed the word "may" in accordance with the provisions of Article 63 paragraph (1) of the previous UU Pemda No. 23 of 2014, which formulated that "Regional heads as referred to in Article 59 paragraph (1) may be assisted by deputy regional heads". This provision created a loophole where if a deputy became a regional head due to a problem with the incumbent regional head, the deputy position would remain vacant until the end of the term. However, after the second amendment to UU Pemda, the word "may" was removed, making the position of deputy regional head a mandatory requirement for filling the position. This is in line with PP No. 12 of 2018, which emphasizes the appointment of both regional heads and deputy regional heads.

Both of these regulations have been strengthened previously through provisions in the second amendment of the Regional Government Law, namely the addition of paragraph (4) in Article 66 of Law No. 9 of 2015. The addition states that "the deputy head of the region must carry out duties together with the head of the region until the end of the term of office". This means that the second amendment to the Regional Government Law regarding the appointment of regional heads and deputy regional heads is a mandatory requirement that must be implemented and there is an urgent need to appoint regional heads and deputy regional heads. There is a reinforcement of the regulations regarding the pair of regional heads, in this case, the Regent and Deputy Regent, as seen in the amendment to article 88 of the Regional Government Law. If the positions of Regent and Deputy Regent are vacant, the Deputy Regent will perform the daily tasks until the Deputy Regent is inaugurated as the Regent. The same applies to Governor/Deputy Governor and Mayor/Deputy Mayor. The regulation for regional head pairs is evident with the

removal of the phrase "or until the appointment of a Regent acting as a substitute" in this provision. This means that regional heads are the result of a political process, differentiating from temporary officials, whether as an Acting Daily Regional Head (Plh) or a Acting Regent (Plt) performer, as an extension of the central government to carry out regional governance functions in case of urgent problems.

The changes to the regional autonomy law are also in line with the implementation of the rules of procedure of the Regional People's Representative Council (DPRD), as stipulated in Government Regulation No. 12 of 2018 on Guidelines for the Preparation of the Rules of Procedure for Provincial, District and City DPRDs. The authority given to the DPRD is to select the head and deputy head of the regional government in the event of a vacancy in the position to complete the remaining term of more than 18 (eighteen) months. This provision applies specifically to the condition where the current regional leader has a remaining term of 18 months or more to be fulfilled. This needs to be studied further for the conditions of filling the position of regional head in Muara Enim and Ogan Komering Ulu (OKU).

The DPRD also has the authority to propose the appointment and dismissal of the Bupati and Wakil Bupati to the Minister through the Governor as the representative of the central government to obtain confirmation of the appointment and dismissal. The same applies to Governors, Mayors and their deputies. This authority is a continuation of the previous provisions, meaning that the DPRD has the authority to carry out the process of appointing and dismissing heads of regions.

This provision is followed by the election of the head and deputy head of the region, which is held in a plenary session. The election results are determined by a decision of the DPRD and the procedures for the election of the head and deputy head of the region are regulated in the DPRD's rules of procedure. This mechanism has been fully regulated and implemented by the DPRD as an institution with the authority to process the technicalities of the election of regional heads in accordance with the prerequisites of the laws and regulations.

The provisions of the Local Government Law and the Guidelines for the DPRD's Rules of Procedure grant full authority to the DPRD in filling the vacancy of the Head of the Regional Government. Referring to the second amendment of the Local Government Law, the election of the Head of the Regional Government can even be directly carried out through the DPRD's plenary session. However, due to the interrelatedness with other laws and regulations governing the filling of the position of the Head of the Regional Government, especially in certain conditions, the understanding is also interpreted in relation to other relevant regulations.

In the Local Government Law (UU Pemda), it is determined that for the filling of positions related to regional heads who have been dismissed, it applies and refers to the Regional Head Election Law. Therefore, the provisions of the revised Local Government Law and the Regulation on the Guidelines for Regional Representatives Council (DPRD) Internal Rules cannot be directly applied to the filling of regional head positions under certain conditions. The interpretation of this article is left to the Regional Head Election Law, which stipulates that Political Parties or a coalition of Political Parties shall propose 2 (two) candidates for Deputy Governor, Deputy Regent, and Deputy Mayor to the DPRD through the Governor, Regent, and Mayor for selection through a DPRD plenary session.

Based on the provisions of the regulations related to the filling of the position of Regional Head, especially in the specific condition of Muara Enim's vacant position between the Regent, Deputy Regent, and Secretary of the Regional Government, as well as in Ogan Komering Ulu (OKU) that is vacant between the Regent and Deputy Regent. Currently, those positions are held by interim officials appointed by the Governor based on the Governor's authority. Looking at the timeline, Ahmad Yani-Juarsah were elected as the Head of Muara Enim in the regional election in September 2018 and Kuryana Azis-Johan Anuar were elected as the Head of OKU in the regional election in 2020.

Reviewing the provisions of the law on the appointment of regional heads in this condition, the regulation can be enforced after the regional head who is involved in the legal issue has received an incraht legal decision. This is related to the process of justice and fairness. If the incraht decision is made because the positions of the regent and deputy regent are vacant, the ideal appointment is to appoint a regent and deputy regent pair through the selection process in the Regional People's Representative Council (DPRD). The supporting political party proposes two pairs of regional head candidates to be selected in the DPRD plenary session. If the supporting political party does not have seats in the DPRD during the appointment period, a political party with at least 20 percent of the total seats in the DPRD can nominate a candidate to be selected in the DPRD. Alternatively, the appointment mechanism can refer to the Guidelines for the Code of Conduct of the Provincial, Regency, and City DPRDs.

3.2 The legal position of the Definitive Regional Head, Acting Regional Head, Daily Acting Regional Head, Temporary Acting Regional Head, and Acting Regional Head based on legal regulations.

This has been regulated in Article 1 of Law Number 23 of 2014 concerning Regional Governments which states, "The regional government is the head of the region as an element of the regional government organizer who leads the implementation of regional government affairs that are the authority of the autonomous region." The head of the region is the government in the region related to the authority it has in managing and organizing its household in accordance with regional autonomy related to the division of power in the administration of government in the region which includes the governor (head of the provincial region), regent/mayor (head of the district region), or mayor (head of the city region).⁷

As stipulated in Article 59 of Law No. 23 of 2014 concerning Regional Government, paragraph (1) states that "Each region is led by a regional head called the head of the region". Paragraph (2) states that the head of the regional government for a province is called a Governor, for a district is called a Regent, and for a city is called a Mayor. And in Article 63, paragraph (1), the Regional Head may be assisted by a Deputy Regional Head. (2) Deputy Regional Head for the province is called Deputy Governor, for the district is called Deputy Regent, and for the city is called Deputy Mayor.⁸

A definitive regional head is a regional head who is elected through a democratic process, namely through the general election of regional heads (pemilukada), which includes the election of governors and deputy governors, regents and deputy regents, as well as mayors and deputy mayors. The

⁷Dian Bakti Setiawan. (2011). *Pemberhentian Kepala Daerah; Mekanisme Pemberhentiannya Menurut Sistem Pemerintahan di Indonesia*. Jakarta: Raja Grafindo Persada. Hal 51.

⁸ Indonesia, *Undang-Undang Pemerintahan Daerah*, UU No. 23 Tahun 2014, LN NO. 244 Tahun 2014, TLN No. 5587, Ps. 59

definitive regional head is elected through a democratic process, namely the general election of regional heads. The law that regulates the authority of regional heads is Law Number 23 of 2014 concerning Regional Governance. Article 65 of Law Number 23 of 2014 concerning Regional Governance states:⁹

- a. Propose a draft regional regulation (Perda);
- b. Enact the Perda that has been approved jointly with the Regional People's Representative Council (DPRD);
- c. Enact regional regulations (Perkada) and decisions;
- d. Take necessary actions in urgent situations that are urgently needed by the region and/or the community;
- e. Carry out other authorities in accordance with the provisions of laws and regulations.

The Acting Regional Head is appointed when the definitive Regional Head is temporarily absent, as regulated in Law No. 23 of 2014 concerning Regional Government. The Acting Regional Head is held by the Vice Governor, Vice Regent, or Vice Mayor if the Governor, Regent, or Mayor is temporarily absent in a certain region. The legal basis for the Acting Regional Head refers to the provisions of Article 65 and 66 of Law No. 23 of 2014 concerning Regional Government

The position, authority, and appointment of acting regional heads cannot be separated from the overall concept of government. A system within a country will only function if the subsystems are integrated, supportive, and not conflicting. In this regard, it is important to establish the basis for organizing

⁹ Indonesia, *Undang-Undang Pemerintahan Daerah*, UU No. 23 Tahun 2014, LN NO. 244 Tahun 2014, TLN No. 5587, Ps. 65.

the relationships of authority and institutions between the central government and regional governments.¹⁰

The temporary absence or incapacity of a head of regional government can disrupt the administration of the region. In the Indonesian state system, the mechanism for appointing temporary replacement public officials has been established to carry out the duties and responsibilities of officials who are unable to perform their duties, such as the definitive head of a government agency. The appointment of acting officials, temporary officials, and temporary heads of regional governments is carried out when the definitive head of the region is temporarily or permanently unable to perform their duties. The positions of acting officials, temporary officials, and temporary heads of regional governments are the result of an administrative process. Temporary officials certainly have a different position and authority than definitive officials. Even though a temporary head of regional government is temporary, in principle, they are a substitute for the head of the region, thus giving them the same authority as the authority inherent in the definitive head of the region.¹¹

A head of a region who is unable to carry out their duties and obligations can disrupt the administration of regional government. Therefore, to maintain the stability of the administration of regional government, the Law Number 23 of 2014 concerning Regional Government and its amendments regulate the mechanism of appointing an acting officer for the head of a region who will carry out the routine tasks of the definitive officer for a temporary period. In

¹⁰ Suryo Sakti Hadiwijoyo. (2011). *Gubernur Kedudukan, Peran dan Kewenangannya*. Yogyakarta: Graha Ilmu. Hal 196.

¹¹ E. Utrecht. (1997). *Pengantar Hukum Administrasi Negara Indonesia*, cetakan ke empat. Jakarta. Hal 29.

the administration of regional government, if a condition arises that causes the head and deputy head of the region to be simultaneously "temporarily unable" to carry out routine tasks of the government, then the secretary of the region can be appointed as the Acting Daily Regional Head (Plh) of the head of the region.¹²

The Secretary of the Region is appointed as the acting officer of the head of the region and is tasked with carrying out the daily tasks of the head of the region that are not related to the strategic policy-making in financial, institutional, personnel, licensing aspects, and other strategic policies. The appointment of the acting officer has been regulated in the Legislation, namely Law Number 23 of 2014 concerning Regional Government. The article is regulated in Article 65 Paragraph (5) and Paragraph (6). The article states:

- (5) If the head of the region is undergoing detention or temporary absence and there is no deputy head of the region, the secretary of the region shall carry out the daily tasks of the head of the region.
- (6) If the head of the region and the deputy head of the region are undergoing detention or temporary absence, the secretary of the region shall carry out the daily tasks of the head of the region.

In the explanation of Article 65 paragraph (6) of Law Number 23 of 2014 on Regional Government, it is further explained that "carrying out the daily tasks of the regional head" in this provision refers to routine government tasks that are not related to the making of strategic policies in financial, institutional, personnel, licensing aspects, and other strategic policies.

¹² Indonesia, *Undang-Undang Pemerintahan Daerah*, UU No, 23 Tahun 2014, LN NO. 244 Tahun 2014, TLN No. 5587, Ps. 60.

Furthermore, Article 65 Paragraph (7) of Law Number 23 of 2014 concerning Regional Government states: "Further provisions regarding the implementation of tasks and authority of the regional head by the deputy regional head and the implementation of the daily tasks of the regional head by the secretary of the regional government as referred to in paragraphs (4) to (6) shall be regulated in government regulations." However, to date, no government regulation has been issued as a derivative of the law.

In addition to Law Number 23 of 2014 on Regional Government, the appointment of an Acting Daily Regional Head (Plh) is also regulated in a Government Regulation (PP), namely Article 131 paragraph (4) of Government Regulation Number 49 of 2008 concerning the Election, Confirmation of Appointment, and Dismissal of Regional Heads and Deputy Regional Heads. The article states that "in the event of a vacancy in the position of regional head and deputy regional head as referred to in paragraph (3), the secretary of the regional government shall carry out the daily tasks of the regional head until the president appoints an acting regional head.

That's correct. In discussions related to "temporary officials," it will always be related to the term "official" itself. Official means a person who holds a position or rank. So, a person who holds a position is called an official, while a person who only serves in that position temporarily is called an "acting official".¹³

According to Article 1 Number 6 of the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 1 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 74 of 2016 concerning Official Leave Outside State

¹³ A'an Efendi dan Freddy Poernomo. (2017). *Hukum Administrasi*. Jakarta: Sinar Grafika. Hal 99.

Responsibilities for Governors and Vice Governors, Regents and Deputy Regents, and Mayors and Deputy Mayors (hereinafter referred to as Regulation of the Minister of Home Affairs Number 1 of 2018), the definition of an acting regional head (Pjs) is a high-ranking official or sub-high-ranking official appointed by the Minister to carry out the duties of a governor and vice governor, regent and deputy regent, mayor and deputy mayor because the governor and vice governor, regent and deputy regent, mayor and deputy mayor are on official leave for campaigning outside state responsibilities.

According to Article 4 paragraph (1) of Minister of Home Affairs Regulation Number 1 of 2018, the appointment of a temporary acting official (Pjs) does not involve an inauguration ceremony and oath-taking, but only through a decree issued by the Minister of Home Affairs. The provision states: "Pjs is appointed by the Minister through a Decree of the Minister of Home Affairs without an inauguration ceremony and oath-taking.

"This provision states that during the period when governors, deputy governors, regents, deputy regents, mayors, and deputy mayors are taking leave outside of state responsibilities as referred to in Article 3, interim governors, interim regents, and interim mayors shall be appointed until the end of the Campaign Period".

Through this provision, it can be seen that the appointed interim official (Pjs) of the regional head will serve until the end of the campaign leave for the regional head election. The interim official for the provincial head is called the interim official (Pjs) governor. Meanwhile, the interim official for the regency head is called the interim official (Pjs) regent, and the interim official for the city head is called the interim official (Pjs) mayor.

According to Article 4 paragraphs (2) and (3) of the Ministry of Home Affairs Regulation Number 1 of 2018 on Amendments to the Ministry of Home Affairs Regulation Number 74 of 2016 concerning Leave Outside State Responsibilities for Governors and Vice Governors, Regents and Vice Regents, and Mayors and Deputy Mayors, there are several provisions as follows:¹⁴

- (2) The Temporary Governor referred to in paragraph (1) is a high-ranking official at the central or provincial government level.
- (3) The Temporary Regent/Mayor referred to in paragraph (1) is a lower-ranking official in the Provincial Government or Ministry of Home Affairs.

The temporary governor (Pjs) is appointed by the Minister of Home Affairs. Meanwhile, the temporary regent/mayor (Pjs) is appointed by the Minister of Home Affairs upon the proposal of the governor. However, in the event of carrying out national strategic interests, the temporary regent/mayor (Pjs) can be directly appointed by the Minister of Home Affairs without going through the proposal of the governor.¹⁵

The duties and authorities of the Temporary Governor (Pjs), Temporary Regent (Pjs Bupati), and Temporary Mayor (Pjs Walikota) are listed in Article 9 Paragraph (1) of the Minister of Home Affairs Regulation of the Republic of Indonesia Number 1 Year 2018 Regarding Changes to the Minister of Home Affairs Regulation of the Republic of Indonesia Number 74 Year 2016 Regarding Leave Outside State Responsibility for Governors and Deputy

¹⁴ Indonesia, *Peraturan Menteri Dalam Negeri Cuti Di Luar Tanggungan Negara Bagi Gubernur dan Wakil Gubernur, Bupati dan Wakil Bupati, Walikota dan Wakil Walikota*, Permendagri No. 1 Tahun 2018 BN NO 120 Tahun 2018, Ps. 4

¹⁵ Indonesia, *Peraturan Menteri Dalam Negeri Cuti Di Luar Tanggungan Negara Bagi Gubernur dan Wakil Gubernur, Bupati dan Wakil Bupati, Walikota dan Wakil Walikota*, Permendagri No. 1 Tahun 2018 BN NO 120 Tahun 2018, Ps. 5

Governors, Regents and Deputy Regents, and Mayors and Deputy Mayors.

These duties and authorities include::

- a) Leading the implementation of government affairs that are the authority of the region based on the provisions of laws and regulations and policies jointly established with the Regional Representative Council;
- b) Maintaining public order and security;
- c) Facilitating the holding of definitive elections for governors and vice governors, regents and vice regents, mayors and deputy mayors, and ensuring the neutrality of civil servants;
- d) Conducting discussions on draft Regional Regulations and able to sign Regional Regulations after obtaining written approval from the Minister of Home Affairs; and
- e) Appointing officials based on the provisions of laws and regulations after obtaining written approval from the Minister of Home Affairs

In carrying out their tasks and authority, the temporary acting regional leaders are responsible and obligated to report on the implementation of their tasks to the Minister. This indicates that the temporary acting regional leaders receive a mandate of authority from the Minister of Home Affairs, so that their accountability remains with the Minister of Home Affairs.

The position of the interim governor, regent/mayor ends when the governor and deputy governor, regent and deputy regent, as well as mayor and deputy mayor, finish their leave outside the state's responsibilities, the appointment of the governor's daily executor, the appointment of the regent's daily executor, and the appointment of the mayor's daily executor, and the

appointment of the interim governor, regent, and mayor are inaugurated. Ahead of the 2024 simultaneous general elections, there are a number of definitive regional heads whose terms have expired in 2022 and 2023. There are at least 272 regional heads consisting of 24 governors and 248 regents/mayors.

That being said, a temporary governor or temporary regent/mayor must be appointed immediately to fill the vacancy. Referring to Article 201 paragraphs (10) and (11) of Law Number 10 of 2016 concerning Regional Head Elections, a vacancy in the position of governor will be filled by a temporary governor who comes from a high-level leadership position until the definitive governor is inaugurated. Meanwhile, to fill the vacancy of regent/mayor position, a temporary regent/mayor is appointed from a medium-level leadership position until the definitive regent/mayor is inaugurated.

In addition to the termination of regional heads and deputy regional heads who reach the end of their term in 2022 and 2023, the appointment of interim regional heads is carried out because the definitive regional head is unable to perform their duties. This permanent incapacity means that the definitive officer will not return to their position for various reasons. Article 86 paragraphs (2) and (3) of Law Number 23 of 2014 concerning Regional Governance stipulate that if the governor is temporarily removed from office and there is no deputy governor, the President appoints an interim governor on the proposal of the Minister. Meanwhile, if the regent/mayor is temporarily removed from office and there is no deputy regent/deputy mayor, the Minister appoints an interim regent/mayor on the proposal of the governor as a representative of the central government.

The provision of Article 86 paragraph (5) of Law Number 23 of 2014 concerning Regional Government regulates the substitute officials who will carry out the duties of the head and deputy head of the regional government who are dismissed due to an absolute obstacle. The provisions are as follows:¹⁶

“If the regional head and deputy regional head are temporarily dismissed as referred to in Article 83 paragraph (1), the President shall appoint an acting governor upon the proposal of the Minister, and the Minister shall appoint an acting regent/mayor upon the proposal of the governor as the representative of the Central Government until there is a court decision that has obtained legal force.”

Article 201, paragraph (9), (10), and (11) of Law No. 10 of 2016 on Regional Head Elections also regulates the appointment of interim officials (Pj) for regional heads. The content of the article is as follows:¹⁷

(9) To fill vacancies in the positions of Governor and Vice Governor, Regent and Vice Regent, Mayor and Vice Mayor whose terms end in 2022 as referred to in paragraph (3) and those whose terms end in 2023 as referred to in paragraph (5), Interim Governor, Interim Regent, and Interim Mayor are appointed until the election of Governor and Vice Governor, Regent and Vice Regent, and Mayor and Vice Mayor through simultaneous national elections in 2024.

¹⁶ Indonesia, Undang-Undang Pemerintahan Daerah, UU No. 23 Tahun 2014, LN NO. 244 Tahun 2014, TLN No, 5587, Ps. 86

¹⁷ Indonesia, *Undang-Undang Pemilihan Kepala Daerah*, UU No. 10 Tahun 2016, LN NO. 130 Tahun 2016, TLN NO. 5898, Ps 201

(10) To fill vacancies in the position of Governor, an Interim Governor is appointed from the position of middle-ranking officials until the Governor is inaugurated in accordance with the provisions of legislation.

(11) To fill vacancies in the positions of Regent/Mayor, an Interim Regent/Mayor is appointed from the position of first-level officials until the Regent and Mayor are inaugurated in accordance with the provisions of legislation.

"The position and authority of the interim regional heads are then stipulated in Article 1 Number 1 of the Presidential Regulation of the Republic of Indonesia Number 16 of 2016 concerning Procedures for the Inauguration of Governors and Vice Governors, Regents and Deputy Regents, Mayors and Deputy Mayors. The provision reads as follows:¹⁸ *"The acting Governor, acting Regent, and acting Mayor are officials appointed by the President for the acting Governor and officials appointed by the Minister for the acting Regent and acting Mayor to carry out the duties, authorities, and obligations of the Governor, Regent, and Mayor for a certain period of time."*

Looking at the provisions, it appears that the authority of the interim regional heads is not only limited to "filling vacant positions", but is broader, because they also "carry out the duties, authorities, and obligations of the governor, regent, and mayor" even if only for a certain period of time.

4. Conclusion

The appointment of regional heads refers to Law Number 23 of 2014 concerning Regional Government, Law Number 9 of 2015 concerning the Second Amendment

¹⁸ Pasal 1 Angka 1 Peraturan Presiden Republik Indonesia Nomor 16 Tahun 2016 tentang Tata Cara Pelantikan Gubernur dan Wakil Gubernur, Bupati dan Wakil Bupati, Walikota dan Wakil Walikota.

to Law Number 23 of 2014 concerning Regional Government, and Government Regulation Number 12 of 2008 concerning Guidelines for the Preparation of Rules of Procedure for the Provincial, Regency, and City Regional Representatives Councils. For the vacancy of regional heads in Muara Enim and Ogan Komering Ulu (OKU) due to legal issues, the appointment of regional heads can be done through a simultaneous election of a Regent and Vice Regent by the Regional Representative Council (DPRD) after the non-active status of the current Regent has been revoked.

The appointment of a definitive regional head is regulated in Article 59 paragraph (10) and (2), Article 63 paragraph (1) of Law Number 23 of 2004. Acting Regional Head is regulated in Article 23 of Law Number 23 of 2004, Acting Official is regulated in Law Number 23 of 2014 concerning Regional Government and Government Regulation Number 49 of 2008, Temporary Appointee is regulated in Minister of Home Affairs Regulation Number 1 of 2018 concerning Leave Outside State Responsibilities, and Appointee is regulated in Law Number 23 of 2014 concerning Regional Government and Law Number 10 of 2016 concerning Regional Head Elections.

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