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The Relevance of the Una Via Principle in the Enforcement of Election Criminal Law in Indonesia in Case Number 233/Pid.Sus/2024/PT Mam at the West Sulawesi High Court

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ABSTRACT

This research aims to determine the relevance of handling violations of the Election Law through the application of the Una Via Principle in the decision of the West Sulawesi High Court in case number 233/Pid.Sus/2024/PT.Mam, as well as to examine the relevance of the Una Via Principle in the enforcement of election criminal law in Indonesia. This research is normative legal research; therefore, the materials examined are library materials or secondary data obtained through literature study. The data that have been obtained are then analyzed qualitatively, so that the data are presented in a descriptive-prescriptive manner, and the method of drawing conclusions is carried out deductively. This research reaches two conclusions. First, in Decision Number 233/Pid.Sus/2024/PT Mam, the Una Via Principle is highly relevant to be applied because, although administrative sanctions are formally not criminal in nature, substantively they produce a second punitive effect (quasi punitive effect). This inconsistency directly undermines the principles of proportionality and legal certainty (Article 28D paragraph 1 of the 1945 Constitution). Through this reconstruction, election law enforcement is no longer sectoral in nature, but becomes an integrated system based on the Una Via Principle in order to guarantee legal certainty, justice, and the effectiveness of handling campaign violations. Second, the Una Via Principle is relevant because it is able to overcome the problem of fragmented authority, which has long been a major obstacle in election law enforcement. Through this principle, every campaign violation is processed within one coordinated handling pathway, thereby avoiding overlapping authority and accelerating case resolution, as well as preventing excessive punishment.

Keyword: Una Via Principle, Election Law, Election Criminal Offenses.

ABSTRAK

Penelitian ini bertujuan untuk mengetahui relevansi penanganan pelanggaran Undang-Undang Pemilu melalui penerapan Asas Una Via dalam Putusan Pengadilan Tinggi Sulawesi Barat Nomor 233/Pid.Sus/2024/PT.Mam, serta menganalisis relevansi Asas Una Via dalam penegakan hukum tindak pidana pemilu di Indonesia. Penelitian ini merupakan penelitian hukum normatif. Oleh karena itu, bahan yang diteliti adalah bahan pustaka atau data sekunder yang diperoleh melalui studi kepustakaan. Data yang telah diperoleh kemudian dianalisis secara kualitatif, disajikan secara deskriptif-preskriptif, dan penarikan kesimpulan dilakukan secara deduktif. Penelitian ini menghasilkan dua kesimpulan. Pertama, dalam Putusan Nomor 233/Pid.Sus/2024/PT.Mam, Asas Una Via sangat relevan untuk diterapkan karena meskipun sanksi administratif secara formal bukan merupakan sanksi pidana, secara substantif sanksi tersebut menghasilkan efek penghukuman kedua atau quasi punitive effect. Inkonsistensi ini secara langsung mencederai prinsip proporsionalitas dan kepastian hukum sebagaimana diatur dalam Pasal 28D ayat (1) UUD 1945. Melalui rekonstruksi tersebut, penegakan hukum pemilu tidak lagi bersifat sektoral, tetapi menjadi sistem yang terintegrasi berdasarkan Asas Una Via guna menjamin kepastian hukum, keadilan, dan efektivitas penanganan pelanggaran kampanye. Kedua, Asas Una Via memiliki relevansi karena mampu mengatasi persoalan fragmentasi



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kewenangan yang selama ini menjadi hambatan utama dalam penegakan hukum pemilu. Melalui asas ini, setiap pelanggaran kampanye diproses dalam satu alur penanganan yang terkoordinasi sehingga dapat menghindari tumpang tindih kewenangan, mempercepat penyelesaian perkara, serta mencegah terjadinya penghukuman berlebih atau excessive punishment.

Keyword: Asas Una Via, Undang-Undang Pemilu, Pidana Pemilu.

1. Introduction

General elections are a means of implementing the sovereignty of the people, which is constitutionally guaranteed in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. In a democratic state governed by the rule of law, elections are not only viewed as a mechanism for the transfer of power, but also as an instrument to realize the principles of democracy that are honest, fair, direct, general, free, and secret, as affirmed in Article 22E of the 1945 Constitution of the Republic of Indonesia. Therefore, every form of violation in the electoral process must be firmly addressed in order to maintain democratic integrity and the legitimacy of election results (Bawaslu RI, 2023). However, election law enforcement cannot merely be oriented toward punishment, but must also take into account the principles of justice, proportionality, and legal certainty (Mahardika, 2023).

In practice, election law enforcement in Indonesia shows a tendency toward the application of layered sanctions for the same act of violation (Mahardika, 2023). A perpetrator of an election violation may be subject to administrative sanctions by the General Election Supervisory Agency, then still be processed through the mechanism of election criminal offenses within the Integrated Law Enforcement Center, and in certain circumstances may also be subject to ethical sanctions as well as political consequences in the form of disqualification from candidacy (Sentra Penegakan Hukum Terpadu, 2024). This condition raises juridical issues regarding the reasonable limits of punishment and the relevance of the principle of justice in the election law enforcement system in Indonesia (Prasetyo, 2024).

Law Number 7 of 2017 concerning General Elections, as amended, provides distinct mechanisms for handling administrative violations, election criminal offenses, violations of the code of ethics, and electoral disputes. These mechanisms involve several institutions, including the General Election Supervisory Agency (Bawaslu), the Integrated Law Enforcement Center (Sentra Gakkumdu), the Police, the Prosecutor's Office, the General Elections Commission (KPU), the Election Organizer Ethics Council (DKPP), and the courts, in accordance with their respective authorities. Although this division of authority is intended to ensure specialized handling of electoral violations, in practice it may result in fragmented proceedings, differences in legal assessment, and overlaps between administrative and criminal enforcement (Prasetyo, 2024). The absence of clear parameters for determining when different sanctions may be imposed cumulatively on substantially the same conduct may create legal uncertainty and raise concerns regarding proportionality and the protection of citizens' electoral rights (Syahputra, 2024).

This condition demonstrates the need for a new paradigm in election law enforcement that is capable of integrating all mechanisms for handling violations effectively and cohesively. In this context, the Una Via Principle can be understood as a principle of unified handling (integrated enforcement principle) that places the entire process of election law enforcement within a single interconnected and non-fragmented system.

This issue is evident in election law enforcement practices involving money politics, campaigns conducted outside the prescribed schedule, and the misuse of state facilities (Bawaslu RI, 2024). In several cases, perpetrators who have received administrative sanctions or recommendations from Bawaslu are still processed through the election criminal law mechanism (Bawaslu RI, 2024). Such cumulative enforcement may also lead to cancellation or disqualification from candidacy, thereby affecting political rights and indicating an excessive emphasis on punishment rather than substantive justice (Mahardika, 2023).

One example can be found in the handling of money politics cases in regional head elections and legislative elections, in which perpetrators may not only be subjected to criminal sanctions under the provisions governing election criminal offenses but may also face administrative consequences in the form of cancellation or disqualification from candidacy (*Putusan Nomor 135/PHP.BUP-XIX/2021*, 2021). From a legal perspective, this situation raises a fundamental question as to whether the cumulative imposition of sanctions for

substantially the same conduct can be justified based on the principles of justice and proportionality (Putra, 2024). Although administrative and criminal sanctions formally belong to different legal regimes, their cumulative application to an identical object of violation may result in excessive punishment and legal uncertainty (Putra, 2024).

Therefore, the *Una Via* principle becomes relevant to be examined as a conceptual basis for assessing the reasonable limits of election law enforcement (Prakasa, 2024). The *Una Via* principle essentially requires that one act should not be subjected to excessive layered punishment when the substance of the fault and the purpose of the punishment are, in essence, the same. This principle is related to the *ne bis in idem* principle, the principle of proportionality, and the principle of due process of law, which require a balance between the interests of law enforcement and the protection of individual rights. In modern law enforcement, punishment is not only measured by formal legality, but also by the extent to which such punishment fulfills a sense of justice and legal utility (Erwin, 2023).

Etymologically, the term *Una Via* comes from the word *una*, which means one, and *via*, which means path or mechanism. In the context of law enforcement, the *Una Via* Principle can be constructed as a principle of a single integrated enforcement pathway (single integrated enforcement principle), which places all stages of handling a violation within one interconnected, coordinated, and non-fragmented system.

This principle arises from criticism of the sectoral law enforcement model, which separates the functions of supervision, investigation, prosecution, and sanctioning into different institutions without substantive integration. As a result, differences in legal interpretation, duplication of processes, and even failures in law enforcement often arise due to weak coordination among institutions. In the context of election criminal offenses, the *Una Via* Principle requires that every alleged campaign violation not be viewed separately as an administrative, ethical, or criminal matter, but rather as a single legal event that must be handled through an integrated mechanism (Maskur et al., 2025).

The philosophical foundation of the *Una Via* Principle can be examined through the three basic values of law according to Gustav Radbruch, namely, first, Legal Certainty, in which election law enforcement must provide clarity regarding the procedures, authority, and legal consequences of every campaign violation. The integration of case handling enables the creation of better legal certainty compared to a fragmented system. Second, justice, namely that election law enforcement must provide clarity regarding the procedures, authority, and legal consequences of every campaign violation. The integration of case handling enables the creation of better legal certainty compared to a fragmented system. Third, utility, namely that slow law enforcement often loses its relevance because the election stages have already been completed. Therefore, the *Una Via* Principle is directed toward creating a system that is fast, effective, and provides real benefits for the integrity of elections (Firmansyah et al., 2025).

In case number 233/PID.SUS/2024/PT MAM, at the West Sulawesi High Court, a member of the Regional House of Representatives of Pasangkayu Regency was sentenced to 36 months (3 years) of imprisonment and a fine of Rp. 200 million rupiah by the West Sulawesi High Court for being proven to have distributed money (money politics) to residents during the regional election campaign period. Paris was sentenced to 3 years of imprisonment and a fine of Rp 200 million. “Sentencing the defendant, therefore, to imprisonment for 36 months,” stated the ruling of the panel of judges.

This study is important to assess whether the cumulative application of administrative and criminal sanctions in election law enforcement is consistent with substantive justice and to formulate a more proportionate and integrated enforcement model.

Based on the foregoing background, this study focuses on two main legal issues. First, it examines the relevance of the *Una Via* Principle in the enforcement of election criminal law in Decision Number 233/Pid.Sus/2024/PT Mam of the West Sulawesi High Court, particularly in relation to the application of criminal and administrative sanctions arising from the same electoral violation. Second, it analyzes the relevance of the *Una Via* Principle within the broader system of election criminal law enforcement in Indonesia as an effort to prevent overlapping sanctions and to realize legal certainty, proportionality, and substantive justice. These two issues will be further examined in the Results and Discussion section.

2. Method

This research is normative legal research; therefore, the materials examined consist of library materials or secondary data obtained through a literature study. The legal materials used in this research include laws and regulations, court decisions, and other legal documents related to election law enforcement in Indonesia. Decision Number 233/Pid.Sus/2024/PT Mam of the West Sulawesi High Court serves as the primary court decision analyzed in this research, while Decision Number 135/PHP.BUP-XIX/2021 and other relevant decisions are used as supporting legal materials. The collected legal materials are analyzed qualitatively and presented in a descriptive-prescriptive manner, while conclusions are drawn deductively (Soekanto & Mamudji, 2021). The analysis focuses on the application of administrative and criminal sanctions to election violations that may result in layered punishment for substantially the same conduct.

3. Result and Discussion

3.1. The Relevance of the *Una Via* Principle in the Enforcement of Election Criminal Law in Decision Number 233/Pid.Sus/2024/PT Mam of the West Sulawesi High Court

Before examining the relevance of the *Una Via* Principle, it is necessary to briefly outline the case examined in this study. Decision Number 233/Pid.Sus/2024/PT Mam of the West Sulawesi High Court concerned an election criminal offense committed by a member of the Regional House of Representatives of Pasangkayu Regency. The defendant was found guilty of distributing money to members of the public during the regional election campaign period. The West Sulawesi High Court sentenced the defendant to 36 months of imprisonment and imposed a fine of Rp200 million. Following the criminal judgment, the defendant was also subjected to an administrative consequence in the form of removal as an elected member of the Regional House of Representatives by the General Elections Commission. The imposition of criminal punishment and an administrative consequence arising from the same conduct constitutes the central issue examined in assessing the relevance of the *Una Via* Principle.

The issue of layered punishment in election law indicates a tendency toward formalism in the law enforcement system in Indonesia. Law enforcement often places greater emphasis on the fulfillment of normative elements and formal legality than on considering the substance of justice in the punishment imposed. As a result, law is no longer understood as an instrument for protecting democracy, but tends to transform into a repressive mechanism that prioritizes punishment without taking into account the balance between legal certainty and justice.

Herdi Munte explains that the legal policy of enforcing election criminal offenses should be directed toward realizing dignified justice, not merely creating a repressive effect against perpetrators of violations. Law enforcement that places too much emphasis on punishment has the potential to ignore the values of substantive justice, which constitute the main objective of law in a democratic state (Munte, 2023).

The enforcement of election criminal law still faces several main problems. First, there is fragmentation of authority among Bawaslu, the Integrated Law Enforcement Center, the Police, the Prosecutor's Office, and the Court. This condition causes the case-handling process to become lengthy and has the potential to create differences in legal interpretation. Second, there are limitations in proving campaign violations, particularly those related to money politics and digital campaigns. Many cases cannot be continued due to the lack of evidence that meets the standard of criminal proof. Third, the case resolution process often exceeds the election stages, so court decisions no longer have a significant impact on the integrity of election results. Fourth, there is still no integration among criminal sanctions, administrative sanctions, and ethical sanctions, causing law enforcement to proceed partially.

Thus, the main problem in election law enforcement in Indonesia lies not only in the existence of legal norms, but also in how those norms are applied proportionally and fairly. When one violation can give rise to various forms of punishment simultaneously without clear limits, such a condition has the potential to undermine the principles of justice and legal certainty in a democratic state governed by the rule of law.

In case number 233/PID.SUS/2024/PT MAM, at the West Sulawesi High Court, a member of the Regional House of Representatives of Pasangkayu Regency was sentenced to 36 months (3 years) of imprisonment and a fine of Rp. 200 million rupiah by the West Sulawesi High Court for being proven to have distributed money (money politics) to residents during the regional election campaign period. Paris was sentenced to 3 years of

imprisonment and a fine of Rp 200 million. “Sentencing the defendant, therefore, to imprisonment for 36 months,” stated the ruling of the panel of judges. After that, Paris was also given an administrative sanction in the form of removal as an elected member of the Regional House of Representatives by the KPU. From this decision, the author concludes that the *Una Via* principle is highly relevant to be applied because, although the administrative sanction is formally not criminal in nature, substantively it produces a second punitive effect (quasi-punitive effect). This inconsistency directly undermines the principles of proportionality and legal certainty (Article 28D paragraph 1 of the 1945 Constitution). Through this reconstruction, election law enforcement is no longer sectoral in nature, but becomes an integrated system based on the *Una Via* Principle in order to guarantee legal certainty, justice, and the effectiveness of handling campaign violations.

3.2. The Relevance of the Una Via Principle in the Enforcement of Election Criminal Law in Indonesia

The application of administrative and criminal sanctions against election violations in Indonesia is carried out through different legal mechanisms. Administrative sanctions are applied to violations of the procedures, mechanisms, or administrative requirements governing the implementation of election stages. Pursuant to Articles 460 and 461 of Law Number 7 of 2017 concerning General Elections, Bawaslu, Provincial Bawaslu, and Regency/Municipal Bawaslu are authorized to receive, examine, assess, and decide cases of election administrative violations. The sanctions may include administrative correction, written warnings, exclusion from certain election stages, and other administrative sanctions provided by law. Meanwhile, criminal sanctions are applied when an act fulfills the elements of an election criminal offense. The case is handled through the Integrated Law Enforcement Center (Sentra Gakkumdu), which involves Bawaslu, the Police, and the Prosecutor’s Office, before being examined and decided by the court. Criminal sanctions may take the form of imprisonment and fines in accordance with the relevant criminal provisions of the Election Law. In practice, a single electoral act may satisfy both administrative and criminal qualifications, thereby allowing the two mechanisms to operate cumulatively and potentially resulting in layered punishment for substantially the same conduct (Lubis et al., 2023).

The *Una Via* principle is essentially a principle that emphasizes that one act should not be subjected to layered punishment if the substance of the fault and the purpose of the punishment are, in essence, the same. This principle has developed within the framework of protecting individual rights so that a person does not experience excessive punishment as a result of overlapping law enforcement mechanisms. Although the *Una Via* principle has not been explicitly regulated in the Indonesian legal system, the substance of this principle is closely related to the principles of *ne bis in idem*, due process of law, and proportionality in modern law (Sugianto & Tokuyama, 2025).

The *Una Via* principle can be understood as a principle of unified legal handling that places the entire law enforcement process within an integrated system. In the context of elections, this principle requires substantive coordination among supervisory institutions, investigators, public prosecutors, and election organizers (Arifin et al., 2025). Doctrinally, the *Una Via* Principle functions as an *ex ante* choice-of-enforcement mechanism, requiring the competent authority to determine whether a violation should be addressed through the criminal pathway or through an administrative pathway that has punitive characteristics. This principle differs from *ne bis in idem*, which generally operates *ex post* after a final decision has been rendered and prevents a person from being tried or punished again for the same factual conduct. Therefore, *Una Via* does not merely prohibit repeated punishment, but also requires coordination and selection of the appropriate enforcement pathway from the initial stage of handling a violation. Its application requires an assessment of whether the proceedings concern the same material facts, whether the administrative sanction is substantively punitive, and whether the cumulative burden imposed on the offender remains proportionate (Naibaho et al., 2021).

The application of the *Una Via* Principle is relevant because it is able to address the issue of fragmented authority, which has long been a major obstacle in election law enforcement. Through this principle, every campaign violation is processed within a coordinated handling pathway, thereby avoiding overlapping authority and accelerating case resolution. In addition, the *Una Via* Principle also enables the integration of administrative proof and criminal proof, thereby increasing the effectiveness of law enforcement against campaign violations (Susanto et al., 2023).

In the context of election law enforcement, the *Una Via* principle becomes relevant because the practice of imposing administrative and criminal sanctions simultaneously for the same act has the potential to create

excessive punishment. Theoretically, the cumulative application of administrative and criminal sanctions is indeed possible because both belong to different legal regimes (Fathurrahim et al., 2025). However, the application of these two sanctions must still take into account the objectives of law, proportionality, and the impact of punishment on individual rights.

The principle of *ne bis in idem* in criminal law basically prohibits a person from being tried or punished twice for the same case. Although administrative and criminal sanctions formally constitute different legal regimes, the application of both to an identical object of violation still raises issues regarding the reasonable limits of punishment in a democratic state governed by the rule of law. Therefore, the *Una Via* principle can be understood as an expansion of the idea of protection against excessive punishment in the context of modern law enforcement (Naibaho et al., 2021).

Mairiko Alexander Kotu explains that the *ne bis in idem* principle is a form of protection for legal certainty and individual rights so that a person is not continuously burdened by the process of punishment for the same case. This principle shows that the modern legal system is not only oriented toward punishment, but also toward the protection of human rights and the principle of justice (Kotu, 2016).

The simultaneous application of administrative and criminal sanctions in election law can basically be justified if the two forms of sanctions have substantially different legal orientations. Administrative sanctions are generally directed toward maintaining administrative order in the organization of elections and restoring disrupted democratic processes, while criminal sanctions aim to provide a deterrent effect and protect broader legal interests (Dinata & Akbar, 2022). However, such differences in orientation do not automatically eliminate the potential for injustice if both sanctions are applied excessively to the same substance of violation. Such a condition shows that the election law enforcement system in Indonesia still tends to place punishment as its main orientation rather than the achievement of substantive justice. In fact, law enforcement in a democratic state is not only intended to punish perpetrators of violations, but also to ensure that punishment is carried out proportionally and does not exceed reasonable limits (Arjunah et al., 2026).

Modern law separates criminal sanctions (*ultimum remedium*, retributive) and administrative sanctions (*primum remedium*, corrective) (Keiler, 2025). However, the proliferation of administrative criminal law blurs this dichotomy, creating overlapping jurisdictions. The fundamental consequence is the pathology of *duplicatio poenae* (double sanctions) over *idem factum* (the same material facts). This problem is rooted in the restrictive interpretation of the *ne bis in idem* principle. Formalistically, this principle is interpreted as being limited only to the prohibition of double prosecution within the criminal regime (*intra-regime*). As a result, a *rechtsvacuum* (legal vacuum) is created: administrative sanctions, regardless of their punitive substance, do not prevent criminal proceedings based on identical facts, and vice versa.

The classical interpretive error lies in focusing on *idem delictum* (similarity of offense/forum), rather than protection against *idem factum* (the same act). This allows the state, as a single entity, to impose sanctions twice through different apparatuses (judicial and administrative). Although administrative sanctions are formally not criminal in nature, substantively they produce a second punitive effect (quasi punitive effect). This inconsistency directly undermines the principles of proportionality and legal certainty (Article 28D paragraph 1 of the 1945 Constitution).

To overcome this ambiguity and prevent subjective interpretation (*interpretatio subjective*), it is important to make a clear conceptual differentiation between “pure administrative sanctions” and “punitive administrative sanctions” (containing a criminal element). These criteria examine when a sanction, regardless of its formal label, has a substantively “criminal” nature through three fundamental parameters (Faisal et al., 2024). The assessment begins by examining the legal classification of the violation under national law. Next, and more crucially, is an analysis of the fundamental nature of the violation, namely whether the purpose of the sanction is punitive and preventive, or purely corrective. Finally, the assessment considers the severity of the sanction that may be imposed.

A precise case example is the Dismissal Without Honor (*Pemberhentian Tidak Dengan Hormat/PTDH*) of a Civil Servant (*Aparatur Sipil Negara/ASN*) following an *inkracht* criminal conviction for corruption, which is not a second punishment for *idem factum* (the same act). PTDH is a purely administrative civil-service measure that has an independent administrative ratio, namely the loss of the subjective requirement to hold

public office. Its basic nature is corrective (maintaining the dignity of the bureaucracy), not substantively punitive. Conversely, the pathology of *duplicatio poenae* manifests extremely in election law (vide Article 285 of Law 7/2017), where an *inkracht* criminal judgment imperatively activates the administrative sanction of candidate cancellation. In this construction, the administrative sanction loses its corrective ratio. The constitutional right to be elected does not automatically disappear due to a minor crime or an attempted offense. The cancellation sanction transforms into a disguised punishment that is purely punitive in nature, a form of “political death penalty.” Due to its extreme severity, this sanction must substantively be categorized as criminal.

The consequence of this is the insufficiency of the classical *ne bis in idem* doctrine in restraining the duplication of sanctions across regimes. Thus, this fragmented system creates an acute judicial dilemma in two chambers of justice. Criminal judges face a paradox. When applying the principle of proportionality, for example by imposing a light sentence, the criminal judge is *de facto* aware that such a proportional decision will become a legal predicate instrument for activating a second sanction that is extremely disproportionate outside their jurisdiction. A decision considered just instead produces a greater injustice. Meanwhile, administrative court judges are confronted with a clash of legalistic formalities. When a legal subject challenges the administrative decree of cancellation, administrative court judges are often locked into a review of procedural formality: Is the KPU decree based on an *inkracht* criminal judgment? If so, the decree tends to be considered valid under positive law (Article 285) (Amanta & Al Hurni, 2025).

This phenomenon is clearly manifested in electoral law. As an illustration, a candidate who commits a minor violation is sentenced to probation by a Criminal Judge, a proportional verdict. However, ironically, this measured decision is mechanistically used by election organizers as a deterministic basis to disqualify the candidate (Lubis et al., 2023). This administrative sanction, a “political death penalty,” is extremely disproportionate compared to the initial criminal sentence. When the legality of this disqualification is reviewed in the Administrative Court, the court tends to be locked into a formal review: the existence of an *inkracht* criminal judgment is considered sufficient to validate the administrative decision, without examining proportionality or the General Principles of Good Governance (AUPB). The implication is that although the District Court judge and the Administrative Court judge act within their respective formal corridors, the collective output of this system is institutionalized substantive injustice. The limitations of classical *ne bis in idem* demand the evolution of legal thought toward the *una via* principle (*electa una via non datur recursus ad alteram*): “when one path has been chosen, no other path may be taken.” The *una via* principle is a logical expansion of *ne bis in idem* in the modern context, shifting the focus from *idem delictum* (similarity of offense) to *idem factum* (similarity of facts) (Winarto & Barthos, 2025).

The fundamental principle is that the state, as a single entity, must choose its path (*via*) in responding to one factual act. If the punitive administrative path (based on the Engel Criteria) is chosen, the criminal path is closed. Conversely, if the criminal path is chosen, additional administrative sanctions that are punitive in nature (rather than status-related consequences) may not be imposed. To operationalize the *una via* principle effectively across sectors, its application must be combined with the principle of *lex specialis derogat legi generali*. Sectoral legislation (*lex specialis*), such as the Election Law or the Environmental Law, must be harmonized with the general *una via* principle through clear delegative norms. These norms must grant discretionary authority to sectoral regulators as gatekeepers to definitively determine the choice of law enforcement pathway at the initial stage (Nadzirin et al., 2025).

This idea is not a juridical utopia. The Indonesian legal system has progressively adopted it. The most recent precedent is Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (UU P2SK). Article 100A of the UU P2SK explicitly grants the Financial Services Authority (OJK) discretionary authority to choose either the criminal pathway or the administrative sanctions pathway. This is a legal choice (choice of *via*) consciously designed to end double sanctions (Rahmadanti, 2025).

In Indonesia, the clearest positive-law formulation of the *Una Via* Principle can be found in Article 100A of Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector. Under this provision, the Financial Services Authority is authorized to determine whether an alleged violation should proceed to criminal investigation or be resolved through administrative sanctions or other written measures. This mechanism places the choice of enforcement pathway at the initial stage and is intended to prevent the same conduct from being processed separately through punitive administrative and criminal mechanisms

(Martitah et al., 2023). The principle has also entered constitutional judicial discourse in Decision Number 59/PUU-XXI/2023 of the Constitutional Court, in which the design of law enforcement authority in the financial services sector, including the relationship between administrative handling, investigation, and institutional coordination, was examined. Nevertheless, its application in Indonesian judicial proceedings remains sectoral and has not yet been expressly incorporated into election law. Consequently, election judges currently lack an explicit statutory basis to terminate or limit a second punitive process arising from substantially the same electoral conduct.

Comparative judicial practice demonstrates that the protection against duplicative enforcement is not determined solely by the formal classification of a sanction under national law. In *Engel and Others v. the Netherlands*, the European Court of Human Rights developed three criteria for determining whether a sanction is criminal in substance: the domestic classification of the violation, the nature of the violation, and the nature and severity of the sanction. These criteria are relevant to election law because an administrative measure, such as candidate disqualification, may formally be classified as administrative while producing a severe punitive effect. In *Sergey Zolotukhin v. Russia*, the Court further emphasized that the assessment of duplication should focus on identical facts or facts that are substantially the same, rather than merely on differences in the formal legal classification of the offenses (Zelger, 2023).

However, comparative jurisprudence does not always require an absolute separation between administrative and criminal proceedings. In *A and B v. Norway*, the European Court of Human Rights held that parallel administrative and criminal proceedings may be permissible when they pursue complementary purposes and are sufficiently closely connected in substance and in time, so that they form part of a coherent and integrated response (Turmo, 2021). A similar approach was adopted by the Court of Justice of the European Union in *Menci*, which allowed dual proceedings only where they are based on clear rules, pursue complementary objectives, are properly coordinated, and do not impose an excessive overall burden. Conversely, in *Garlsson Real Estate*, the Court found that further punitive administrative proceedings could not be justified where a final criminal conviction had already punished the same conduct sufficiently. These decisions show that the judicial application of *Una Via* should not be understood as an automatic prohibition of every combination of sanctions, but as a requirement of integration, necessity, coordination, and overall proportionality (Clifford, 2018).

Applied to Indonesian election law, these comparative standards indicate that the simultaneous use of criminal and administrative mechanisms should first be assessed based on the sameness of the material facts and the substantive nature of each sanction. Where an administrative measure is purely corrective, such as correcting election procedures or restoring the legality of an election stage, its application alongside criminal punishment may remain justified. However, where the administrative sanction has a deterrent and punitive purpose and imposes a severe consequence, such as permanent cancellation or disqualification from candidacy, the enforcement authorities and courts must assess whether the additional sanction is necessary, closely coordinated with the criminal proceedings, and proportionate to the violation (Syarifudin, 2026). In the absence of such safeguards, the cumulative enforcement may amount to duplicative punishment that is inconsistent with the *Una Via* Principle.

While awaiting a legislative solution, judges are expected not to be trapped as *rigid bouche de la loi*. Through the authority of *rechtsvinding*, District Court judges may explicitly include considerations regarding the disproportionality of double sanctions in the *ratio decidendi* of their decisions. More progressively, in reviewing administrative decrees, judges are encouraged not to stop merely at formal review. Judges must have the courage to examine the substance of such decrees against the General Principles of Good Governance (AUPB), particularly the principle of proportionality, apply the Engel Criteria to assess the punitive nature of the sanction, and review them against the values of Pancasila Justice as the highest legal norm, ensuring that the final outcome of the judicial system collectively produces substantive justice, rather than merely repressive formal legality.

4. Conclusion

The *Una Via* Principle is relevant to election criminal law enforcement because it provides a conceptual basis for preventing disproportionate layered sanctions arising from the same electoral conduct. In Decision Number 233/Pid.Sus/2024/PT Mam, the application of criminal punishment together with administrative consequences demonstrates the need for clearer limits and better coordination between criminal and administrative

enforcement mechanisms. Therefore, election law enforcement should be carried out through an integrated, proportionate, and justice-oriented system that protects legal certainty and citizens' political rights. Election law reform should clarify the distinction and relationship between administrative and criminal sanctions, strengthen coordination among Bawaslu, Sentra Gakkumdu, the Police, the Prosecutor's Office, the KPU, and the courts, and ensure that sanctions are imposed according to the nature and seriousness of the violation. The *Una Via* Principle may therefore serve as a basis for developing a more effective and substantively just election law enforcement system in Indonesia.

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