



Legal Policy on the Replacement of Interim Members of the Asahan Regency Regional Representative Council

M. Irfan Islami Rambe¹, Dessy Zulfianti Sinaga²

^{1,2} Fakultas Hukum Universitas Asahan

Abstract

Received: 28 April 2026
Revised: 1 Mei 2026
Accepted: 4 Mei 2026

Indonesia implements representative democracy, which separates the legislative body into central and regional levels, namely the MPR, DPR, and DPRD. In their role as representatives of the people, council members must be prepared for political demands, both from the parties that nominated them and from the communities they represent. In practice, legislative elections are held through political parties as official participants in general elections. This shows that the existence of a legislative member in a representative institution is not only the result of the people's choice, but also a form of political mandate given by the political party that supports them. Research methods are systematic guidelines used by researchers to collect, analyze, and interpret data in order to answer legal issues that arise. Empirical legal research observes the law in its implementation in society. The results of the study show that the PAW mechanism in Asahan Regency involves good coordination between the DPRD, the Asahan Regency KPU, and political parties. The stages of the PAW procedure are carried out through a process of identifying the reasons for the dismissal of DPRD members, the submission of PAW proposals by political parties, verification of the requirements by the DPRD, technical verification of replacement candidates by the Asahan Regency KPU, and the appointment and inauguration of replacement candidates in a DPRD plenary meeting. Each stage has a clear timeline and requirements in accordance with the provisions of the legislation. The mechanism for determining replacement candidates follows the principle of the next highest number of votes from the same political party in the same electoral district. The most common obstacle is the incompleteness of PAW data and documents that do not meet the requirements set out in the legislation. Administrative obstacles include incomplete required documents and document formats that do not comply with applicable regulations. Timeline and deadline issues become obstacles when there are delays in one of the stages of the process. Human resource constraints, communication and socialization, as well as technological and information system aspects also influence the effectiveness of PAW implementation.

Keywords: PAW, Political Parties, Asahan DPRD, Asahan KPUD

(*) Corresponding Author: m.irfanislamirambe.sh@gmail.com

How to Cite: Rambe, M. I. I., & Sinaga, D. Z. (2026). Legal Policy on the Replacement of Interim Members of the Asahan Regency Regional Representative Council. *Jurnal Ilmiah Wahana Pendidikan*, 12(5.D), 149-158. Retrieved from <https://jurnal.peneliti.net/index.php/JIWP/article/view/13190>.

INTRODUCTION

Indonesia implements representative democracy that separates legislative institutions into central and regional levels, namely the MPR, DPR, and DPRD. In their role as representatives of the people, council members must be prepared for political demands, both those from their supporting parties and the communities they represent. However, in practice, DPR members are often more bound to the

interests of political parties than to the aspirations of the electorate (Eren Arif Budiman, 2023). To establish a representative government, the existence of political parties is a condition that cannot be ignored because they are the backbone of the representative system (Muammar Kadafi Siregar, Azmi Fendri, Hengki Andora. 2024).

The main characteristics of a democratic country include general elections, a mechanism for regular regeneration or replacement of national leadership, an independent judicial system, a strong legislative body that represents the sovereignty of the people, respect for human rights, and a constitution that ensures all of these principles function properly (Nurhalim, Icha Cahyaning Fitri, 2024). In practice, legislative members are elected through political parties as official participants in general elections. This shows that the presence of a legislative member in a representative body is not only the result of the people's choice, but also a manifestation of the political mandate given by the political party that nominated them (Muhamad Azriel Hafidz, Ferry Edwar, 2023).

In political reality, members of the House of Representatives not only act as representatives of the people, but also as representatives of the political parties that support them. The Interim Replacement Mechanism is a form of political party control over the continuity of its members' positions in the legislature. However, the PAW process in various parties often appears to be closed and lacks transparency in providing information to the public about the procedures for replacing members (Anik Tri Haryani, Retno Iswati, 2022). The PAW mechanism is often used as a strategic tool by political parties to monitor and maintain the performance of their representatives in the legislature. With this authority, political parties can ensure that their cadres continue to behave in accordance with the rules and do not deviate from established principles (Jon Samuel Sonbay, I Gusti Bagus Suryawan, I Nyoman Sutama, 2021). Regulations regarding Interim Replacement (PAW) are stipulated in Article 9 of General Election Commission Regulation (PKPU) No. 6 of 2017 in conjunction with PKPU No. 6 of 2019 concerning Interim Replacement of Members of the DPR, DPD, Provincial DPRD, and Regency/City DPRD, which states that DPRD members who resign during their term shall be replaced by the interim replacement candidate who obtained the next highest number of valid votes in the ranking list of votes obtained by the political party and electoral district.

The constitutional provisions regarding PAW are contained in Article 22B of the 1945 Constitution, which provides the basis for the dismissal of members of the DPR in accordance with the provisions of the law. Therefore, PAW can be applied to council members who meet the grounds for dismissal. This provision is further elaborated in Law No. 17 of 2014, while the implementation procedures are further regulated by KPU Regulation No. 6 of 2017 (Rudianto, Purwanto, 2020). The position of a member of the House of Representatives is not entirely independent, but is influenced by the political party structure that forms the basis of their candidacy. Any inconsistency between the attitudes or decisions of a member of the House of Representatives and party policy may trigger the application of the PAW mechanism, namely the dismissal of a member before the end of their term of office. In this way, the party's control over its members is

maintained in the process of government and political representation (Achmad Gunawan, 2019).

To ensure that PAW is implemented in a manner that respects the principle of popular representation, an additional requirement in the form of a referendum at the constituency level is necessary. With this mechanism, the public has the opportunity to assess and influence political parties' decisions to dismiss their members, thereby ensuring that the PAW process remains in line with the mandate of the people obtained through elections (Lian N, Ismail, Muhammad Farhan A, 2024).

Problems in the legal policy on Interim Replacement (PAW) of Members of the House of Representatives are evident as a phenomenon of conflict between interests, thus necessitating a restructuring of mechanisms that have been vulnerable to political intervention, overlapping regulations, and disregard for the voters' voices. Legal uncertainty in the PAW process has an impact on the legitimacy of people's representatives and undermines public trust in the legislative institution itself. Therefore, this research is necessary as a scientific effort to offer a formulation of norms and legal policy directions that are more fair, transparent, and guarantee the principle of people's sovereignty in the representative system. In addition, this research will also explore how the procedures and obstacles of PAW for Asahan DPRD members are in accordance with applicable regulations.

METHODS

Research methods can be understood as systematic and scientific efforts to collect data that have specific purposes and uses. Research methods serve as systematic guidelines used by researchers to collect, analyze, and interpret data in order to answer legal issues that arise. Empirical legal research observes the law in its implementation in society. (Nasution, 2024).

RESULTS & DISCUSSION

Procedures for the Replacement of Interim Members (PAW) of the Regional Representative Council (DPRD) of Asahan Regency

In the process of replacing council members between terms, legal certainty is needed to ensure justice for those who are entitled and deserving. Legal certainty is at the heart of the rule of law and good governance. Legal certainty is essential for a good and efficient system of government (M. Irfan Islami Rambe, Muhammad Salim Fauzi Lubis, 2021).

The replacement of members of the Asahan Regency DPRD is a constitutional mechanism regulated by national law to ensure the continuity of political representation at the regional level. The PAW procedure in Asahan Regency follows the provisions stipulated in Law No. 7/2017 on General Elections, which states that in the event that an elected candidate dies, resigns, no longer meets the requirements to be a DPRD member, or is proven guilty of committing an election crime such as money politics and document falsification through a final and binding court decision, then the replacement of that candidate can be carried out. The implementation of this provision in Asahan Regency demonstrates

compliance with the national legal framework, which aims to create continuity in the legislative, allocation, and assessment functions of the DPRD (Nurhalim, 2024).

The legal basis for PAW operations in Asahan Regency refers to PKPU No. 6 of 2017 concerning the Replacement of Members of the DPR, Provincial DPRD, and Regency/City DPRD during their term of office, as amended by PKPU No. 6 of 2019. This provision stipulates that the process of replacing DPRD members who resign during their term of office is carried out by selecting a replacement candidate from the Permanent Candidate List (DCT) of the same political party in the same electoral district with the next highest number of valid votes. This principle then became the objective basis for determining replacement candidates in Asahan Regency, while maintaining the integrity of the mandate given by voters in the previous general election (Mehmed Reza, Erli Salia, Ardiyan Saptawan, et.al, 2023).

The initial stages of the PAW procedure in Asahan Regency begin with the submission of proposals from political parties to the leadership of the Asahan Regency DPRD. Based on interviews with sources at the Asahan Regency DPRD Office, it was stated that “the official procedure for implementing PAW follows the provisions of applicable laws and regulations without any specific Standard Operating Procedures (SOPs) that differ from national provisions” (Hasil wawancara dengan Ratna Sari Dewi, 2025). The DPRD Secretariat plays a role in conducting administrative registration of PAW proposal letters and ensuring the completeness of documents before forwarding them to the Asahan Regency KPU for verification and determination (Hasil wawancara dengan Tengku Anita Aryani, 2025).

The role of the Asahan Regency KPU in the PAW process is considered very important by the DPRD. According to the source, the KPU has the function of determining PAW candidates, announcing PAW results, regulating the PAW process, and supervising the PAW process (Hasil wawancara dengan Ratna Sari Dewi, 2025). Coordination between the Regional People's Representative Council (DPRD) and the General Elections Commission (KPU) of Asahan Regency is carried out in accordance with the division of authority stipulated in the legislation, whereby the DPRD plays a role in internal administrative aspects while the KPU is responsible for technical verification and the determination of replacement candidates (E Andi Riatul Mutia Juliastuty Sudirman, Marthen Arie, Hamzah Halim, 2023). Institutional synergy between the Asahan Regency DPRD and the General Election Commission (KPU) in the PAW process was carried out in accordance with the principles of accountability and transparency in regional government administration.

The verification stages carried out by the Asahan Regency KPU include examining the documents of the replacement candidates, matching them with the final election candidate list (DCT), and ensuring that the replacement candidates meet the requirements to become members of the Regional Representative Council (DPRD). The verification process uses the Interim Replacement Management Information System (SIMPAW) developed by the KPU to accelerate and improve the accuracy of the PAW administrative process. SIMPAW plays a role in digitizing PAW administration, thereby reducing the potential for manual errors and increasing the efficiency of completion time. The implementation of SIMPAW in

Asahan Regency demonstrates the adaptation of information technology in the administration of elections at the regional level.

The mechanism for determining replacement candidates follows the principle of the next highest number of valid votes as stipulated in PKPU No. 6/2019. If the replacement candidate who obtains the next highest number of valid votes is unable to serve due to death, resignation, or no longer meeting the requirements, the seat is given to the next candidate from the same political party and electoral district. This provision ensures that replacements maintain political representation in accordance with the choices of voters in the relevant electoral district. In Asahan Regency, the application of this principle has been carried out in accordance with regulatory provisions without any significant administrative obstacles.

The aspect of inter-agency coordination in the PAW process involved in Asahan Regency includes the Regional Representative Council, the General Elections Commission, and political parties as stakeholders. In Asahan Regency, coordination has been effective with no reports of administrative obstacles in the process of verifying documents or the validity of replacement candidates. This shows that the inter-agency coordination system has functioned well in supporting the implementation of PAW in accordance with legal provisions (Sahya Anggara, 2013).

The handling of disputes in the PAW process in Asahan Regency follows a tiered mechanism that begins with the internal political party and continues through to its implementation. Based on the results of interviews, the Asahan Regency DPRD responds to disputes or lawsuits from within the party by following the party's decision, holding internal meetings to find the best solution, and respecting the legal process if the dispute has entered the judicial process. This approach is in line with the principle of separation of powers between the legislative and judicial branches in dispute resolution, as well as respecting the internal autonomy of political parties in managing their administration. This dispute resolution mechanism demonstrates implementation in accordance with the principle of the rule of law in regional governance (Beddy Iriawan Maksudi, 2012).

An early warning system to anticipate delays in the PAW process has been implemented in Asahan Regency through an active correspondence mechanism. In cases where the PAW process is protracted and impacts the functioning of the council, the Asahan Regency DPRD takes responsive measures by issuing letters to the relevant political parties requesting acceleration of the PAW process and verification of PAW status at the party level (Hasil wawancara dengan Ratna Sari Dewi, 2025). The preventive measures implemented are intended to maintain the continuity of the legislative, budgetary, and supervisory functions of the DPRD, which must not be disrupted due to prolonged vacancies. The process in question aims to demonstrate the commitment of the Asahan Regency DPRD to ensuring the continuity of public services through the proper functioning of the council.

The aspects of transparency and accountability in the PAW process in Asahan Regency can be seen from the openness of information and public oversight participation. Systems such as SIMPAW make it possible to manage PAW data in an integrated manner, from submission and verification to the appointment of replacement candidates. In Asahan Regency, especially the Asahan Regency

DPRD, the application of SIMPAW technology demonstrates a commitment to modernizing public administration that is responsive to developments in information technology.

The temporal aspect of the PAW procedure in Asahan Regency follows the time limit stipulated in Article 22 paragraph 6 of PKPU 6/2019, which states that the KPU must submit the names of replacement candidates verified no later than 5 (five) days after receiving a letter from the DPRD leadership. In Asahan Regency, preventive measures have been taken through proactive communication with political parties to avoid delays in the PAW implementation process.

The integration of the PAW process with the rules of procedure of the Asahan Regency DPRD follows the provisions of Government Regulation Number 12 of 2018 concerning Guidelines for the Preparation of DPRD Rules of Procedure, which regulates the mechanism for inaugurating replacement DPRD members. The inauguration procession is carried out in a DPRD plenary meeting by taking an oath or pledge in accordance with applicable provisions. This inauguration stage marks the end of the PAW process and the beginning of the term of office for replacement DPRD members, who have the same rights, obligations, and authorities as other DPRD members. The harmonization between the PAW provisions and the Asahan Regency DPRD rules of procedure confirms that the replacement process runs seamlessly without disrupting the institutional rhythm of the DPRD.

The theoretical perspective on political representation in PAW in Asahan Regency can be understood through the theoretical framework of delegation and trusteeship in representative democracy systems. According to the source, political representation in Indonesia's democratic system adheres to the principle that legislative members are representatives of the people who are elected through a general election mechanism. Based on the information provided by the source, this principle is upheld through a replacement mechanism that prioritizes candidates with the next highest number of votes, thereby maintaining democratic legitimacy. The implementation in Asahan Regency shows that the PAW procedure has succeeded in maintaining a balance between the interests of political parties as election participants and the rights of voters as sovereign owners.

A long-term evaluation of the PAW procedure in Asahan Regency shows that the system is stable, with no substantial changes proposed by the DPRD. Based on the results of interviews, the Asahan Regency DPRD does not yet have any policy proposals or specific evaluations to improve the PAW mechanism because the existing system is considered to be in accordance with applicable laws and regulations.

In PAW, national provisions stipulated in PKPU have been consistently implemented in Asahan Regency without any significant deviation (Amir Santoso Muhammad, 2014). This shows that political decentralization in Indonesia has functioned optimally in maintaining the standardization of democratic procedures throughout Indonesia (Kacung Marijan, 2018).

Obstacles in the Implementation of Interim Replacement (PAW) in Asahan Regency

Obstacles in the implementation of PAW in Asahan Regency were identified through interviews with the DPRD Secretariat, which showed that the most common obstacle was incomplete PAW data or documents proposed by

political parties. Administrative problems in the PAW process were in line with the results of field research, which identified that the administrative process was not in accordance with the PAW mechanism due to political parties' lack of understanding of the required document requirements. Incomplete documents become a bottleneck in the PAW process because they hinder the verification stage carried out by the KPU and can prolong the completion time.

Analysis of documentation barriers shows that problems are related to the termination letters of former DPRD members, which must be accompanied by supporting documents such as death certificates (in the case of death), valid resignation letters, or termination letters from the Central Leadership Council (DPP) of political parties. Administrative requirements are sometimes not fully understood by political party officials in Asahan Regency, resulting in delays in submitting complete documents.

Communication and coordination between political parties, the DPRD, and the KPU are critical factors in the obstacles to PAW implementation in Asahan Regency. Although administrative obstacles are very apparent in the implementation of PAW according to DPRD sources, potential miscommunication can occur regarding the technical requirements and timelines that must be met.

Human resource capacity constraints at the political party level are a structural problem in the implementation of PAW in Asahan Regency. This situation occurs in Asahan Regency because political parties at the regency/city level generally have limited human resources (HR) with expertise in the technical aspects of electoral administration. These limitations have an impact on the quality of document preparation and understanding of the applicable PAW procedures.

The problem of data synchronization between political parties, the Regional Representative Council (DPRD), and the General Elections Commission (KPU) is a potential technical obstacle in the PAW process in Asahan Regency. The implementation of SIMPAW requires high data accuracy to ensure that the information on replacement candidates is in accordance with the latest election candidate list (DCT). This obstacle can arise when there are changes to the personal data of replacement candidates or changes to party membership status that are not updated in the system.

PAW obstacles from a legal perspective in Asahan Regency are related to the potential for internal political party disputes that could affect the process of determining replacement candidates. Although no disputes have occurred in Asahan Regency, research conducted by Nardin Mengi Uly shows that internal party conflicts or dualism in leadership can hinder PAW proposals (Nardi Mengi Uly, 2021).

Another obstacle relates to time pressure in completing the PAW process, which must take into account the deadlines set out in the existing regulations. The KPU is required to submit the names of replacement candidates verified no later than five (5) days after receiving a letter from the DPRD leadership. This short deadline becomes an obstacle when there are problems in verifying documents or additional clarification is required from the relevant parties.

The information technology aspect of SIMPAW implementation poses an obstacle for regions with limited information and technology (IT) infrastructure or human resources that are unfamiliar with digital applications. SIMPAW is designed

to simplify PAW administration, but adapting to SIMPAW technology requires learning and adjustment, which can cause transition obstacles. In Asahan Regency, the successful implementation of SIMPAW requires readiness in terms of human resources in the Regional People's Representative Council (DPRD), the General Elections Commission (KPU), and political parties in using digital systems. According to sources, these technological obstacles need to be anticipated through adequate training and socialization for all stakeholders.

Mitigation strategies to overcome obstacles implemented in Asahan Regency include a proactive approach in communicating with political parties to ensure the completeness of documents and understanding of the PAW procedure. Based on the interview results, the Asahan Regency DPRD has made preventive efforts by issuing letters to political parties requesting the acceleration of the PAW process and status verification. According to the source, this preventive strategy is in line with the need for socialization regarding the PAW process mechanism, discussions on requirements that are difficult to understand, and case studies for learning purposes.

The role of cooperation between various parties in overcoming PAW obstacles in Asahan Regency involves the DPRD, KPU, and political parties. According to the source, this cooperation can be assessed by the absence of reports of administrative problems in the PAW process that has been carried out. However, according to the source, stakeholder communication requires good communication in accordance with clear procedural standardization.

An evaluation of the impact of PAW obstacles shows that delays in the PAW process can affect the effectiveness of the Asahan Regency DPRD. Prolonged vacancies in the DPRD can disrupt the quorum for meetings and influence the legislative decision-making process in Asahan Regency. Therefore, according to the source, obstacles must be addressed responsively so that political representation and public services can continue uninterrupted. According to the source, regions that have successfully overcome PAW problems generally have good coordination systems and competent human resources. (Hasil wawancara dengan Tengku Anita Aryani, 2025).

The organizational learning aspects of PAW obstacles in Asahan Regency can be used as input for future system improvements. According to the source, although problems arising from the PAW process are very rare in Asahan Regency, documentation and analysis of each problem that arises should be recorded for the development of best practices. Furthermore, according to the source, evaluation of the PAW mechanism must continue to be carried out so that the PAW system is not misused and remains democratic.

According to the source, the things that need to be maintained and improved in the PAW process in Asahan Regency include increasing human resource capacity through training, developing a user-friendly information system, and strengthening the coordination mechanism between political parties, the KPU, and the Asahan Regency DPRD. In addition, it is also necessary to prepare more detailed technical guidelines for political parties regarding PAW requirements and procedures. The implementation of e-government in PAW administration is intended to be a long-term solution to reduce bureaucratic problems and improve efficiency in the PAW process (Hasil wawancara dengan Bahren Samosir, 2025). According to community

sources, as sovereign citizens, the public has the right to know the process and obstacles that occur in the PAW of DPRD members. Public oversight mechanisms and community participation can serve as constructive external pressure to ensure that PAW obstacles are handled properly and do not harm the public interest.

ACKNOWLEDGEMENT

The PAW procedure for members of the Asahan Regency DPRD has been carried out in accordance with applicable regulations, specifically Law No. 17/2014 and PKPU No.6/2017 in conjunction with PKPU No. 6 of 2019. The PAW mechanism in Asahan Regency involves good coordination between the DPRD, the Asahan Regency KPU, and political parties. The stages of the PAW procedure are carried out through a process of identifying the reasons for the dismissal of DPRD members, the submission of PAW proposals by political parties, verification of the required documents by the DPRD, technical verification of replacement candidates by the KPU, and the appointment and inauguration of replacement candidates in a plenary meeting of the DPRD. Each stage has a clear timeline and requirements in accordance with the provisions of laws and regulations. The mechanism for determining replacement candidates follows the principle of the next highest number of votes from the same political party in the same electoral district.

There are several obstacles to the implementation of Interim Replacement (PAW) in Asahan Regency, including administrative, technical, and procedural obstacles. The most common obstacle is that the PAW data and documents do not meet the criteria set out in the applicable regulations. Administrative obstacles include incomplete documentation and documents that do not comply with the applicable requirements. Timeline and deadline issues become obstacles when there are delays in one of the stages of the process. Human resource constraints, communication and socialization, as well as technological and information system aspects also influence the effectiveness of PAW implementation.

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