

Towards Achieving Substantive Justice: The Importance of Extending the Time Limit for Resolving Presidential Election Disputes

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Abstract

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Presidential election dispute resolution (PHPU) is complicated because its scope covers the entire territory of Indonesia and its application to Indonesian citizens in various parts of the world. The PHPU dispute resolution process must also guarantee maximum protection of constitutional rights. This research uses normative research methods using secondary data sources. This aims to assess the urgency of extending the deadline for resolving presidential election disputes, which is currently 14 working days from the date of submission. Research sculpture approach and conceptual approach. These findings illustrate the need for changes to legislation to extend the time limit for resolving PHPU disputes beyond the existing 14-day limit. In practice, this time period does not provide maximum opportunity for the presentation of evidence. Historical analysis shows that from the 2004 presidential election to 2024, not a single PHPU demand has been granted, mainly because the demand cannot be proven. The author emphasizes that a time limit that is too early does not guarantee substantive justice, which includes not only fair and accurate decision-making, so rational considerations are needed that produce rational and logical decisions and a process that allows each party to present their arguments comprehensively and obtain fair treatment in the judicial process.

1. Introduction

The Constitutional Court has handled various cases related to elections and regional elections. The election and Pilkada dispute resolution process is regulated by law with very strict time limits. For example, in regional election cases, disputes must be resolved within a maximum of 45 days after the case is registered. Meanwhile, the time given to decide disputes over the results of legislative member elections (DPR, DPRD and DPD) is 30 working days from the time the case is recorded in the Constitutional Case Registration Book (BRPK). Meanwhile, for disputes over the results of the 2019 Presidential and Vice Presidential elections, the deadline for resolution is 14 working days from the time the application is recorded at the BRPK.

The Constitutional Court is often faced with tight deadlines in handling these cases. For example, when handling regional election disputes, they only have 45 days to resolve it after the case is registered. In the event of a dispute over the results of the election of members of the DPR, DPRD and DPD, the time limit given is 30 working days from the time the case is recorded at the BRPK. In 2019, the Constitutional Court was also faced with a deadline of 14 working days to resolve disputes over the results of the presidential and vice presidential elections after the application was recorded at the BRPK. This condition increases the workload of the Constitutional Court because it has to work quickly and precisely to meet the deadlines determined by law.

The Constitutional Court has broader responsibilities than simply functioning as a counter or tally in assessing the constitutional validity of election processes and results.¹ More than that, the Constitutional Court also plays a role as a guardian of democracy and the constitution which is often referred to as "guardian of the constitution".² Based on this, in carrying out its duties to protect democracy and ensure the upholding of the constitution, the Constitutional Court must strive to achieve substantive justice in resolving disputes over the Presidential Election Dispute (PHPU Pilpres). This role requires the Constitutional Court not only to focus on numerical calculations in disputes over results, but also to consider deeper aspects of justice. Decisions taken must be based on fundamental and comprehensive principles of justice, ensuring that every decision reflects and supports democratic values and upholds the integrity of the constitution. In the context of resolving presidential election disputes, this means that the Constitutional Court must look beyond numerical data and consider all evidence and arguments to achieve real and substantive justice.

Substantive justice refers to justice related to the content of court decisions when examining, adjudicating, and deciding a case. This justice must be based on rational, honest, objective, and impartial considerations.³ Apart from that, substantive justice must also be free from discrimination and in line with the judge's conscience or beliefs.⁴ Substantive justice emphasizes the quality and substance of the decision itself, not just the procedure. Therefore, substantive justice is very important in the decision-making process of the Constitutional Court, especially in handling PHPU disputes for the Presidential Election. The Constitutional Court must ensure that its decisions not only comply with formal law but also reflect true justice.⁵ These decisions must be made based on rational and honest analysis, ensuring that every argument and piece of evidence is considered objectively and impartially.

Thus, resolving disputes over the presidential and vice presidential elections will take more than 14 days. This is because the process of proving differences of opinion and fraudulent practices must be carried out in various widely spread areas. The imposition of a very short time limit will hamper efforts to carry out a comprehensive evidentiary process. Because there are many things that need to be proven, it requires sufficient time to collect comprehensive evidence. Facing evidentiary challenges in so many areas in a limited time is unrealistic. This process requires detailed and comprehensive evidence collection to prove the truth. Speeding up the proof process will only reduce the accuracy and validity of the final results. Therefore, according to the author, the limited time prevents the achievement of

¹ Purwadi, Wira, et al. "Putusan Konstitusional Demokratis Terhadap Sengketa Pemilu Serentak 2024." *Jurnal Al-Mizan* 9.2 (2022): 207-221.

² Surya, F. A., Wardhani, L. C., Christia, A. M., & Tristy, M. T. (2024). Penafsiran Konstitusi Tentang Kearifan Lokal (Studi Terhadap Peran Mahkamah Konstitusi). *Unes Journal of Swara Justisia*, 7(4), 1393-1402.

³ Syafridah, F. A. (2020). Implementasi Constitutional Question dalam Perspektif Paradigma Hukum Profetik. *Al-Balad: Journal of Constitutional Law*, 2(2).

⁴ Alifia Wiranisa, "Basic Analysis of Judges' Legal Considerations in Handing Down Decisions Against Children Perpetrating Crimes of Sexual Intercourse (Decision Study No. 55/ Pid.Sus -Anak/2020/Pn. Tjk)" (Thesis, University of Lampung, 2023).

⁵ Bulman-Pozen, J., & Seifter, M. (2022). Countering the New Election Subversion: The Democracy Principle and the Role of State Courts. *Wis. L. Rev.*, 1337.

substantive justice and thus becomes a serious legal problem. This is also proven by the inability to prove the allegations of the PHPU applicant for the 2004 to 2024 presidential elections.

This research refers to several previous studies, there are also 3 previous studies related to the issue written by the author, namely the first; Journal written by Syafrul Achmad by title *Tinjauan Yuridis Mekanisme Penyelesaian Pemilu oleh Mahkamah Konstitusi*, rising in *Lex Administratum*, Vol. VII/No. 3/Jul-Sept/2019, with a conclusion explaining that the Constitutional Court in the case of PHPU can also originate from qualitative and quantitative problems. Qualitative means, problems related to the quality of election implementation. Where, the implementation is not in accordance with the Luber and Jurdil principles. Meanwhile, Quantitative means problems related to disputes over the results of the election figures. Next, the second previous journal was written by Andryan by title *Konstitusionalitas Masa Waktu Sengketa Pemilihan Presiden di Mahkamah Konstitusi* published in a journal *Buletin Konstitusi* Vol 4 no 2 In his research, Andryan emphasized that the proof imposed on the applicant has a very limited time, giving rise to legal uncertainty and the Constitutional Court is also in a very urgent situation to examine, try and decide the case for 14 working days and if the Constitutional Court is given an extension of time to decide it is more than 14 days or what is recommended in this research for 45 working days does not cause the State to be in a power vacuum at all, and the third journal research written by Ofis Rikardo by title *Kewenangan Konstitusional Mahkamah Konstitusi Dalam Memutus Sengketa Hasil Pemilu Dan Pilkada Serentak* published in a journal *hukum sasana* with the conclusion that elections are based on direct, general, free, secret, honest and fair which requires the Constitutional Court to work professionally and produce fair decisions in order to create a government that has legitimacy by the people.

2. Methods

This research is legal. This research uses normative research methods as a process for finding rule laws, principles laws, or doctrine laws to use answer issues facing law by utilizing secondary data sources. Research sculpture approach and conceptual approach.⁶

3. Results and Discussion

3.1. Analysis of Time Limits for Resolving Presidential Election Disputes

Article 74 paragraph (3) of Law Number 24 of 2003 concerning the Constitutional Court as amended by Law Number 7 of 2020 concerning the Third Amendment to Law Number 24 of 2003 concerning the Constitutional Court (hereinafter referred to as Law Number 24 of 2003), mandates that applications may only be submitted within a maximum period of 3x24 (three times twenty four) hours after the General Election Commission announces the results of the national election. This provision emphasizes that applications can only be submitted within 3 x 24 hours after the KPU announces the results of the national election. This reflects the efforts of legislators to provide strict time limits for filing disputes over presidential election results (PHPU Pilpres), which is likely an effort to speed up the resolution process and minimize post-election political uncertainty. However, this provision also provides challenges for parties who wish to submit a dispute. The very short time, only 3x24 hours, may

⁶ Peter Mahmud Marzuki, *Legal Research* (Jakarta: Kencana, 2016).

hinder parties who need more time to prepare arguments or formulate a strong legal strategy. Moreover, the process of collecting evidence and analyzing election results takes quite a long time.

From a substantive justice perspective, the very tight deadline for resolving PHPU presidential election disputes can also hinder access to a fair legal process.⁷ Parties who perceive irregularities in election results may not have enough time to obtain adequate legal assistance or prepare strong arguments to submit to the Constitutional Court. Additionally, short deadlines may increase the risk of errors or omissions in submitting dispute requests. Parties who rush to file a petition may not have enough time to conduct thorough research or consult with legal experts. As a result, the potential for unrealized justice is large. This time limitation may reduce the opportunity for aggrieved parties to present comprehensive arguments and evidence, which in turn may compromise the integrity and fairness of the legal process. Additionally, disadvantaged parties or those who do not have adequate access to legal resources may be further marginalized in situations where time is a determining factor. Therefore, it is important for the legal system to consider appropriate adjustments to the given time limits, thereby enabling all parties involved to present arguments and evidence fairly and comprehensively, thus ensuring that the legal process proceeds with substantive fairness and integrity maintained.

Based on Article 78 letter a of Law Number 24 of 2003 confirms that the Constitutional Court's decision on a PHPU application must be taken within the specified time limit. In this context, the maximum time limit is 14 (fourteen) working days from the time the petition is recorded in the Constitutional Case Registration Book (BRPK), especially in cases of Presidential and Vice Presidential Elections. Article 78 letter a Law No. 24/2003 aims to provide legal certainty and speed of dispute resolution, considering the importance of post-election political and social stability. However, this short deadline often sparks debate. *Judex debet judicare secundum allegata et probata* a judge must provide a judgment based on facts and statements later become base binding law There is opinion that 14 working days are not enough for the Constitutional Court to carry out careful and comprehensive examination and decision-making, considering its complexity and sensitivity.⁸ In the context of presidential and vice presidential elections, where the Constitutional Court's decisions can influence the political direction of a country, the Constitutional Court needs to have sufficient time to examine the evidence and arguments put forward. In addition, short deadlines can hamper access to justice for parties in dispute. Especially for those who need more time to prepare arguments or gather the necessary evidence. This can undermine the principles of justice and human rights.

Article 475 paragraph (1) of Law Number 7 of 2017 concerning General Elections (hereinafter referred to as Law Number 7 of 2017) regulates provisions governing procedures

⁷ Adhani, H. (2021). Mahkamah Konstitusi Indonesia di Era Digital: Upaya Menegakan Konstitusi, Keadilan Substantif dan Budaya Sadar Berkonstitusi. *Jurnal Penegakan Hukum Dan Keadilan*, 2(2), 130-146.

⁸ Rajab, A. M., Andriyan, Y., Muhamad, S., & Supardi, E. (2023). Legalitas Mahkamah Konstitusi Mengenai Kewenangan Memutus Sengketa Pilkada. *Jurnal Pemerintahan, Politik Anggaran dan Administrasi Publik*, 3(1), 36-51.

for resolving disputes regarding the determination of presidential and vice presidential election results. Based on these provisions, candidate pairs have the right to submit objections to the Constitutional Court within a maximum period of 3 (three) days from the announcement of the presidential and vice presidential election results by the KPU. Article 475 paragraph (1) of Law Number 7 of 2017 provides a relatively short time limit for Candidate Pairs to submit objections to the determination of the presidential and vice presidential election results determined by the KPU, namely 3 working days. This tight deadline has significant implications for the PHPU dispute resolution process. This short time limit emphasizes the readiness and skills in submitting objections by the Candidate Pair. They must immediately respond to controversial or doubtful election results, which indicates that this process requires a fast and timely response, in line with the speedy principle trial in resolving the PHPU Presidential Election.

Case resolution deadlines often pose major challenges. The complexity and abundance of evidence in the PHPU Presidential Election dispute often take longer to prepare and organize comprehensively. Competing candidates may need additional time to gather sufficient evidence and formulate it into a strong, structured argument. These strict time limits can also limit fair access to the legal process for all parties involved. Candidates who cannot respond within the specified time period may lose their right to submit objections, which ultimately threatens the principle of equality before the law. The impact of this tight deadline can affect the quality of decisions taken because the assessment and verification process must be accelerated. Additionally, courts may face pressure to resolve disputes within short timeframes, potentially reducing the quality and accuracy of the results achieved. As a result, all of these factors can erode public trust in the integrity and fairness of the election process, thereby exacerbating existing political conflicts.

In accordance with the provisions of Article 475 paragraph (3) of Law Number 7 of 2017, the Constitutional Court has the authority to resolve disputes arising from rejection as intended in paragraphs (1) and (2) within a maximum period of time, no later than 14 (fourteen) working days after the request for rejection is received by the Constitutional Court. Article 475 paragraph (3) of Law Number 7 of 2017 sets a time limit of 14 working days for the Constitutional Court to decide on PHPU for the Presidential Election arising from objections submitted. This time limit is part of the presidential election dispute resolution mechanism regulated in Law Number 7 of 2017. This dispute resolution time limit reflects the efforts of legislators to provide legal and presidential certainty after the election. By setting a relatively short deadline, it is hoped that dispute resolution can be accelerated and efficient so that the democratization process is not hampered by uncertainty of outcome.

Judging from the Presidential Election which was carried out nationally and massively from Sabang to Merauke, meanwhile the election of regional heads, be they Governors or Mayors and Regents, only had a fairly small scope and only involved the people on the scale of one Province or Regency/City. So what caused the previous legislators to allow time to decide disputes over election results, which were long for the Regional Head Election but too short for the Presidential Election? In terms of quantity, the vote count for the Presidential Election is much greater than for the Regional Head Election, which of course will have

implications for parties who want to resolve disputes over vote counting to be able to collect evidence that will be brought to the Constitutional Court later. The term speedy trial in the Constitutional Court for disputes over presidential election results, covering 1 Indonesia, is given 5 days and 1 day for the applicant with 15 witnesses, and 2 experts. To be able to prove all of this, the burden of proof and suspected indications of crime in the presidential election.

The huge time difference is not only burdensome for the applicant in terms of evidence but also burdensome for all parties, including the respondent, related parties, and even the panel of judges themselves. Based on precedent in 2019, it could be judged that the Constitutional Court at a particular hearing took 20 hours which caused the parties to be very tired. The impact of fatigue will of course also have implications for the results of decisions because examinations and hearing expert opinions submitted are carried out continuously without adequate rest and sleep time. If we examine various terms in various statutory provisions, it is known that the Constitutional Court's authority to decide on disputes regarding election results is constructed as the authority to decide when objections or differences of opinion arise regarding election results between election participants and election organizers. These differences generally occur due to vote counting errors made by the KPU, which influence the election results. In this way, the Constitutional Court examines and adjudicates whether there was a vote-counting error or not, and whether the vote-counting error affected the election results. This is the basis for the Constitutional Court to decide whether the Constitutional Court grants the petition and determines the applicant's tally as the correct counting result, the Constitutional Court carries out its calculation, or the Constitutional Court declares the vote counting by the KPU to be correct.⁹

Judging from the Indonesian Legal Framework in the 1945 Constitution, Article 24C paragraph (1) gives authority to the Constitutional Court (MK) to decide disputes over general election results. Election Law (UU No. 7 of 2017) which regulates the process and time limits for resolving disputes over presidential election results at the Constitutional Court. In this law, the Constitutional Court must resolve disputes over election results within 14 working days of the application being submitted. On the one hand, the parties must obtain the right to a fair trial and fair legal process. The right to a fair trial is guaranteed in Article 28D paragraph (1) of the 1945 Constitution which states that everyone has the right to recognition, guarantees, protection and fair legal certainty as well as equal treatment before the law.

Fair Legal Process (Due Process of Law) is a legal principle that ensures that all parties have an equal opportunity to present their evidence and arguments and obtain a fair and impartial decision. Judging from the International Human Rights Standards of the Universal Declaration of Human Rights (UDHR): Article 10 states that everyone has the right, in full equality, to be heard fairly and openly by an independent and impartial tribunal. International Covenant on Civil and Political Rights (ICCPR): Article 14 provides for the right to a fair trial, including the right to adequate time to prepare a defense.

Strict Time Limits The 14 working day time limit for resolving presidential election disputes can prevent the parties involved from preparing evidence and arguments

⁹ Rikardo, O., Ikhwan, V. N., & Larasati, F. (2023). Kewenangan Konstitusional Mahkamah Konstitusi Dalam Memutus Sengketa Hasil Pemilu Dan Pilkada Serentak. *Jurnal Hukum Sasana*, 9(1), 9-30.

thoroughly, which can ultimately affect the quality and fairness of decisions. Right to Adequate Time: International standards emphasize that each party must be given sufficient time to prepare its case. Too short a time limit may violate this right. Capacity of the Constitutional Court: The MK's ability to handle disputes in a very limited time can be questioned, especially if there is a lot of evidence and witnesses that need to be examined. Procedural Fairness for a rushed process can lead to the omission of important details, potentially leading to unfair decisions and reducing public confidence in the justice system.

Therefore, the time limit for resolving presidential election disputes in Indonesia, which is stipulated in the Election Law, has the potential to violate the constitutional right to a fair trial and international human rights standards. The right to adequate time to prepare a defense is an important component of a fair trial. Therefore, consideration of extending time limits or providing flexibility in certain cases may be necessary to ensure substantive justice and procedural fairness. These adjustments can help ensure that all parties get a fair chance and that the decisions taken truly reflect truth and justice.

here are several important aspects that need to be considered regarding the time limit for resolving PPU disputes. First, the limited time may not be sufficient for the Constitutional Court to carry out a thorough examination and proof of the objections raised. A fair and thorough legal process requires sufficient time to gather evidence, listen to arguments from both sides and carefully consider every relevant aspect. Second, short deadlines can put great pressure on the Constitutional Court to decide cases immediately, without carefully considering all the evidence and arguments presented. This pressure has the potential to reduce the quality of decisions taken, thereby impacting the legitimacy of the Constitutional Court in the eyes of the public. Third, strict deadlines can also limit fair access to the legal process for all parties involved, ultimately endangering the principle of equality before the law. Therefore, careful consideration and adjustments to these deadlines need to be made to ensure the legal process runs fairly and effectively.¹⁰

Constitutional Law Expert Refly Harun¹¹ stated that the Constitutional Court should no longer be constrained by time constraints in examining evidence at lower levels. According to him, 14 days is not enough to handle all cases of falsification of C1 forms and present witnesses from the District Election Committee (PPK) and Voting Committee (PPS). If this situation continues during the presidential election, the Constitutional Court will likely decide cases where there is insufficient evidence. Based on the experience of previous legislative elections, 14 days has proven to be too short and ineffective. Therefore, Refly Harun emphasized the importance of giving the Constitutional Court more time to ensure that all evidence and witnesses can be examined thoroughly to produce a more accurate and fair decision. Adjusting the time limit is necessary to ensure the integrity and trust of the public in the election legal process.

Consideration in revision of the deadline for resolving presidential election disputes can make The Constitutional Court carry out the process carefully and fairly. Such revisions may

¹⁰ Rikardo, O., Ikhwan, V. N., & Larasati, F

¹¹ Shohib, M. (2024). Penyelesaian Perselisihan hasil pemilu sebagai sengketa konstiusionalitas pemilu: Sengketa Pemilu di MK. *Jurnal Ilmiah Hukum dan Keadilan*, 11(1), 1-8.

include time extensions or procedural adjustments, to provide sufficient time for the Constitutional Court to carry out its constitutional functions optimally. These adjustments must be designed to maintain the speed and efficiency of dispute resolution without reducing the quality and thoroughness of the legal process. In this way, it is hoped that resolving presidential and vice presidential election disputes can achieve a higher level of justice and increase public confidence in the integrity of the election process. This update will also help ensure that all evidence and arguments of the disputing parties are thoroughly examined so that the Constitutional Court's decision truly reflects the principles of justice and legal truth.

Therefore, to increase the court's capacity to handle the resolution of the presidential election (pilpres) effectively without reducing the quality of the judiciary, several potential solutions and reforms can be implemented, namely the need to revise regulations and procedures with an extension of the deadline for revising the law to provide a more flexible time for settlement. elections, for example, extending the time limit from 14 working days to 21 working days or more if necessary and setting more detailed process stages by developing more detailed procedures regarding the stages in completion to ensure that each stage is carried out efficiently and effectively.

3.2. Time Limits in Realizing Substantive Justice: Critical Analysis of Presidential Election Dispute Resolution

Presidential election is a process in which the citizens of a country elect their leader, who will serve as head of state and government.¹² This is the main aspect of a democratic system¹³, where political power is entrusted to citizens to determine the direction and policies of their country through free and fair elections. Presidential elections often involve conflicts or disputes called "election disputes", which indicate that the process of selecting a country's president does not always run smoothly and is often marked by controversy or differences of opinion regarding the election results. Presidential and vice-presidential election disputes can arise for various reasons, such as alleged election violations, dissatisfaction with election results, fraud, or administrative errors.¹⁴ This underscores the importance of a transparent, fair, and well-managed election process to prevent disputes that undermine public confidence in the democratic system and the government's legitimacy.

The Constitutional Court was formed to initiate and maintain that the Constitution as the highest law is truly implemented or enforced in the administration of state life in accordance with the principles of a modern legal state because law is the determining factor for the overall dynamics of social, economic and political life in a country. In interpreting politics, the legal institution that can produce bad legal products such as laws is the Constitutional Court. The Constitutional Court is a counterweight to arrogance in making

¹² Maychellina, Vina Sabina, and Rizky Bangun Wibisono, "Presidential Election Mechanisms: Comparative Study from Indonesia, Russia, and Türkiye," *Mimbar Justice* 16, no. 2 (August 2023): 234–48.

¹³ Rahmi Dania, "The Role and Influence of Social Media in the 2024 Presidential Election Campaign," *Virtu: Journal of Communication, Culture and Islamic Studies* 3, no. 2 (2023).

¹⁴ Harry Setya Nugraha, "Redesign of the Court's Authority Constitution in Resolution Dispute Resolution Election General President and vice president in Indonesia," *Ius Quia Iustum Law Journal* 22, no. 3 (July 2015): 420–41, <https://doi.org/10.20885/iustum.vol22.iss3.art5>.

rules and regulations that are not in accordance with the ethics of the institution and with the 1945 Constitution as its foundation. Lobbying politics will continue to exist as long as interests exist, therefore this balancing institution is very necessary. The term MK does not mean Guardian of the Constitution.

In its development, the idea of establishing the Constitutional Court was based on serious efforts to provide protection for the constitutional rights of citizens and maintain the enforcement of the Constitution as the highest *grundnorm* or norm, which means that all statutory regulations subordinate to it must not conflict with what has been regulated in the constitution. The constitution is a form of delegation of the people's sovereignty to the state, through the constitution the people make a statement of willingness to give some of their rights to the state. Therefore, the constitution must be guarded and maintained. Because, all forms of deviation, whether by those holding power or legal regulations under the constitution against the constitution, are a real form of denial of the sovereignty of the people.

One of the Constitutional Court's functions in resolving election disputes is part of the Constitutional Court's role as Guardian of the Constitution, election disputes, in the context of PPHU disputes which were resolved by the Constitutional Court within a period of 14 days, did not fully complete the evidentiary process. This can be seen from the consistent rejection of claims by stating that the reasons are legally groundless, not constitutional. This raises the question of whether the PPHU presidential election trial is a legal or constitutional trial carried out by the Constitutional Court, and whether the process and considerations can provide the best results in terms of expected justice. Or does the Constitutional Court's decision simply provide legal certainty regarding political decisions?¹⁵ Evidently, since the first direct presidential election in 2004 until 2024, no PPHU lawsuit has been accepted by the Constitutional Court. Even in the 2024 PPHU lawsuit, the Constitutional Court rejected the entire petition submitted by the couple Anies Baswedan-Muhaimin Iskandar and Ganjar Pranowo-Mahfud MD in its entirety because the lawsuit was not proven due to insufficient evidence. This suggests that in complex cases, a short time period may not be sufficient to ensure substantive justice.¹⁶

What is meant by "perfect evidence" used by constitutional judges is that the parties filing a PPHU lawsuit for the Presidential Election must convincingly prove their arguments legally. However, judges also limit the type and amount of evidence that can be presented. These restrictions include the time period for witness testimony, the time period for expert testimony, as well as the number of witnesses and experts permitted. Although intended to maintain the efficiency of the judicial process, these limitations can hinder the parties' ability to present comprehensive evidence. As a result, there is a risk that the judge will not be able to evaluate all aspects of the case thoroughly, potentially affecting the quality and fairness of the decision.

¹⁵ Ilham Kurniawan Ardi and Zico Junius Fernando, "Judicial Design for Dispute Resolution of Presidential and Vice Presidential Election Results Disputes at the Constitutional Court," *Al- Ijarah: Journal of Islamic Government and Politics* 7, no. 2 (2022).

¹⁶Sulistyo Irianto, "Substantive Justice and Formal Procedural Justice," [www.kompas.id](https://www.kompas.id/baca/opini/2024/04/04/keadilan-substantif-dan-keadilan-prosedural-official), 2024, <https://www.kompas.id/baca/opini/2024/04/04/keadilan-substantif-dan-keadilan-prosedural-official>.

There are several Constitutional Principles in Resolving Presidential Election Disputes, the first is the principle of Legal Certainty in Article 28D paragraph (1) of the 1945 Constitution: Guaranteeing that every person has the right to recognition, guarantees, protection, and fair legal certainty as well as equal treatment in before the law. It is important to ensure that all parties involved in the dispute have clarity about the procedures and their rights. The two principles of the Right to a Fair Trial Article 24 paragraph (1) of the 1945 Constitution: States that the judicial power is independent to uphold law and justice. Includes access to independent courts and transparent and impartial processes. The three principles of a Fair Legal Process (Due Process of Law) in Article 28I paragraph (1) of the 1945 Constitution: Underline that basic human rights, including recognition as a person before the law and the right to a fair trial, cannot be reduced. Demand that each party be given sufficient opportunity to prepare a defense and present evidence.

There are several challenges to the first Constitutional Principles of Legal Certainty: Tight time limits can reduce the parties' ability to prepare their cases thoroughly, threatening legal certainty. Second Right to a Fair Trial A rushed process can reduce the quality and fairness of the decision, because the court may not have enough time to examine all the evidence and witnesses in depth. Thirdly, international Due Process of Law standards, as regulated in Article 14 of the ICCPR, state that each party has the right to adequate time to prepare their defense. Short time limits may violate these rights, especially in complex cases.

The time limit for resolving PHPU disputes is regulated in Article 74 paragraph (3) of Law Number 24 of 2003 which states, "A request can only be submitted within a maximum period of 3x24 hours from the announcement of the national general election results by the Chairman of the DPR." General Election Commissions." This provision reflects the lawmakers' efforts to establish a strict time period for submitting disputes over the results of the presidential and vice presidential elections, in order to speed up resolution and minimize post-election political uncertainty.

However, this tight deadline creates challenges for parties wishing to submit a dispute. The very short time limit, namely only 3x24 hours, can be a significant obstacle for parties who need more time to prepare arguments or formulate a strong legal strategy. In addition, collecting evidence and analyzing election results requires sufficient time. From a fairness perspective, tight deadlines may hinder access to a fair legal process, as those who feel aggrieved by the election results may not have enough time to obtain adequate legal assistance or prepare strong arguments to submit to the Constitutional Court. This time limit cannot be separated from the characteristics of the presidential election system which allows for a second round. In this context, extending the deadline for resolving PHPU disputes could affect the constitutional schedule, including the inauguration of the elected President and Vice President. The constitutional determination of the time frame for resolving PHPU disputes reflects efforts to ensure an efficient and transparent democratization process. However, in its implementation, this time period must also take into account the complexity of cases that may occur, especially in presidential election disputes which require complicated evidence and a thorough legal process. Nevertheless, an extension of the settlement period cannot be ignored,

given the direct relationship between dispute resolution and overall political and constitutional stability.¹⁷

Reviewing election results disputes is defined as limited to disputes between the KPU and election participants regarding the determination of national vote results, these disputes are also limited to disputes over vote results which can influence the acquisition of seats in both the DPR, DPD and DPRD member elections as well as the presidential and vice presidential elections only. can be submitted to the vote count results which influence the vote count results. There are strict limits in law on what the Constitutional Court can adjudicate and disputes can also stem from qualitative and quantitative issues. Disputes over election results certainly contain 3 substances/meanings of dispute. First, disputes due to violations of vote counting methods and procedures; The two disputes were due to violations by members of the KPU, PPK and PPS as intended in Article 505 of Law no. 7 of 2017 concerning Elections. Which reads, Members of the KPU, Provincial KPU, Regency/City KPU, PPK, and PPS who due to their negligence result in the loss or alteration of the minutes of the recapitulation of the vote count results and/or the certificate of recapitulation of the vote count results are subject to criminal penalties. imprisonment for a maximum of 1 (one) year and a maximum fine of IDR 12,000,000.00 (twelve million rupiah); and thirdly, disputes because the general election was not held based on the principles, principles and rules of honest, fair and integrity general elections as intended in Article 22E paragraph (1) of the 1945 Constitution, Article 2, Article 3 letters b and c, and Article 4 letter b UU no. 7 of 2017 and other regulations as a follow-up to the principles of honesty and fairness. If it is proven that there is a violation of the vote-counting methods and procedures, then the Constitutional Court's decision orders a recount.¹⁸

If it is proven that there was a violation by the KPU and its staff as intended in Article 505 of the Election Law which resulted in losses to the votes obtained by election participants, then the Constitutional Court must relate and link it by stating that the election was carried out fraudulently, dishonestly and unfairly. The election violated the principles, principles, and norms of honesty, fairness, and integrity, so based on Article 77 of Law No. 24 of 2003 concerning the Constitutional Court, the decision was that the results of the election calculation by the KPU were annulled.¹⁹ The settlement of PHPU which is based on the main reason of the case due to violations of the principles and principles of honesty and fairness, is qualitative evidence, not testing quantitative numerical evidence. If it is convincingly proven that there is a violation of the principles of holding honest and fair elections which results in losses for the candidate pair, then the determination of the general election results has violated the constitution. technical, but much more essential and fundamental in holding elections, namely honesty and fairness.

¹⁷ Pebrianto, R., & Dahlan, S. (2024). Analisis Sengketa PHPU Pilpres Tahun 2024 dalam Perspektif Hukum Progresif: Studi Kasus Putusan MK No: 1/PHPU. PRES-XXII/2024. Jurnal Risalah Kenotariatan, 5(1), 84-103.

¹⁸ Ibrahim, I. F. R. (2021). Penyelesaian Sengketa Pemilihan Umum Dan Legitimasi Pemerintahan Demokrasi. *Lex Crimen*, 10(8).

¹⁹ Gunawan, E. (2022). Putusan Konstitusional Demokratis Terhadap Sengketa Pemilu Serentak 2024. *Al-Mizan*, 9(15h).

The need for quite a lot of time in the process of proving the presidential and vice presidential elections is quite large because these elections are held in various locations in Indonesia and even throughout the world where Indonesian citizens are located. Proving a dispute requires sufficient time to gather evidence from various places, listen to testimony from various witnesses, and carefully examine every aspect of the case. However, time constraints, especially the maximum of 14 working days, create unavoidable pressure. This time limitation has had a significant impact on the evidence and defense process in the PPHU Presidential Election trial. In this short period of time, it is difficult for the disputing parties to collect the necessary evidence and testimony thoroughly and accurately. The limited number of witnesses and evidence that can be presented is an unavoidable reality, thereby reducing the ability of the parties to a dispute to present their case comprehensively.

The judge restricted the parties from investigating testimony provided by the government to prove alleged structured, systematic, and massive (TSM) violations. These limitations, including the number of questions and duration of examination, aim to comply with the 14-day resolution period set for the dispute process. This limitation is also related to the ability of the available workforce to handle PPHU disputes within a short period of time. However, this limitation can be detrimental because it can result in an imperfect proof process. When the evidence submitted cannot be examined and tested thoroughly, it automatically increases the risk of the application being rejected by the judge. This situation raises serious concerns regarding the fairness of the legal process, as decisions taken may not fully reflect the facts and evidence. Apart from that, the short time period also carries the risk of decisions that do not fully cover the justice aspects of the Constitutional Court. The judicial power held by the Constitutional Court is absolute to guarantee that the state provides or facilitates efforts to seek justice for anyone, both individuals and groups. The Constitutional Court does not just issue decisions with a legal certainty approach, but must also be able to cover aspects of justice, especially since the Constitutional Court, through judges, is the final arbiter in upholding democracy in the election process in Indonesia.²⁰

If the Constitutional Court is given a maximum of 45 working days to make a decision, the question arises as to whether the extension will have an impact on a country's constitutional system, because the public will have to wait longer, up to 45 additional days, to find out about human rights. elected President and Vice President. According to the schedule in the General Election Commission Regulation Number 3 of 2022 concerning the Stages and Implementation of the 2024 General Election (PKPU Number 3 of 2022), the vote count will be carried out on February 14, 2024. If the presidential candidate pair and their deputy, the presidential election only lasts one round, Those wishing to submit an objection to the election results must submit an objection no later than February 17, 2024. With a maximum time of 45 working days for the Constitutional Court, the decision will be announced on April 2, 2024. However, if the presidential and vice presidential elections involve two rounds, then voting will take place on June 26, 2024. This provides enough time. between the Constitutional Court ruling (2 April 2024) and the second round of voting. Even though there is an overlap with the

²⁰ Andryan and M. Kholis MA Harahap, "Constitutionality of the Time Period for Presidential Election Disputes at the Constitutional Court," *Constitutional Bulletin* 4, no. 2 (November 2023).

time period for updating voter data and compiling the voter list set by the KPU on March 22 to April 25, 2024, there is still room for adjustments to the schedule for the second round of voting. The inauguration of the President and Vice President will be held on October 20, 2024. Thus, there will be no power vacuum if the Constitutional Court is given a maximum of 45 working days to resolve disputes over election results. The period between the vote and the inauguration is long enough to prevent serious legal repercussions or a power vacuum. There is no legal or political reason not to extend the term of office of the Constitutional Court because this will not only lighten the workload of the Constitutional Court in adjudicating disputes over election results but also provide more time for all parties involved to prepare arguments and evidence without rushing.²¹

The PHPU dispute concerns the constitutional rights of all Indonesian citizens. The process of resolving presidential and vice presidential election disputes must ensure that these constitutional rights are safeguarded and protected as best as possible. However, in the context of a limited time period, there is great potential for these rights not to receive fair and appropriate treatment. In the PHPU case for direct presidential elections from 2004 to 2024, there is a cause-and-effect relationship between the limited time period, as regulated in Article 74 paragraph (3) and Article 78 letter a of Law Number 24 of 2003 and Article 475 paragraph (1) and (3) Law Number 7 of 2017, as well as potential losses to the constitutional rights of the parties to the dispute. Limited time to submit applications and resolve disputes can hinder access to justice for the parties involved.²²

The implications of the time limit for resolving tensions on substantive justice are firstly the quality of decisions. Decisions taken within a very limited time may lack depth and may not consider all relevant aspects, having a negative impact on substantive justice. Second, Public Perception of Justice, a resolution process that is considered rushed and unfair can reduce public confidence in the justice system election process and Political Stability. Even though a fast resolution aims to maintain political stability, a decision that is considered unfair can trigger further dissatisfaction and tension.

Substantial justice, according to legal experts, is often interpreted as "the truth justice" or true justice. The main focus in seeking substantial justice is not limited to the dimensions of formal law (state law) and material law (living law) but also includes the nature of law which involves moral, ethical, and religious considerations.²³ Therefore, substantial justice includes more than just fair and accurate decision-making; it also involves a legal process that allows all parties to present their arguments comprehensively and receive fair treatment from the court. Substantial justice aims to ensure that all legal decisions not only follow formal procedures but also achieve truly fair results based on widely recognized moral and ethical values. Court decisions that reflect true justice will in turn strengthen public confidence in the

²¹Andryan and M. Kholis MA Harahap.,

²² Bachri, S. (2022). Peran Badan Pengawas Pemilu Dalam Upaya Pencegahan Dan Penyelesaian Sengketa Hasil Pemilu Di Mahkamah Konstitusi. *Jurnal Administrasi Dan Kebijakan Publik*, 12(2), 192-216.

²³ Adhani, H. (2021). Mahkamah Konstitusi Indonesia di Era Digital: Upaya Menegakan Konstitusi, Keadilan Substantif dan Budaya Sadar Berkonstitusi. *Jurnal Penegakan Hukum Dan Keadilan*, 2(2), 130-146.

justice system. The application of substantial justice in the judicial dispute process, such as in the PHPU Presidential Election dispute, requires greater attention to the quality of the evidence collection and assessment process. This ensures that all parties have an equal opportunity to present their case fully and fairly. Therefore, integrating substantial justice into the legal process is essential to building a fair, balanced, and credible justice system.²⁴

In the 2024 Election, the role of the Constitutional Court as an Indonesian judicial body has an important role in the realization of democracy, especially in handling the 2024 Presidential Election PHPU. The dynamics in the trial process of the Constitutional Court's decision have given color to the quality of Indonesian democracy. The occurrence of dissenting opinions from the three constitutional judges raises questions about the quality of the Constitutional Court's decisions. Because this is the first time this has happened in the dynamics of the PHPU presidential election issue. The existence of election violations that were conveyed in the dissenting opinion caused the integrity of the 2024 election to decline. The decline in the quality of democracy in Indonesia can also be seen from all the requests that were rejected by the Constitutional Court on the grounds that they were not legal issues, but rather ethical issues. This can have an impact on the creation of a perspective because, in the Constitutional Court's role as the guardian of the constitution and the final interpreter of the constitution, the Constitutional Court is also the guardian of democracy, the protector of citizen's constitutional rights and the protector of human rights. The Constitutional Court as the guardian of democracy means that the MK protects democracy.

Substantive justice is very important in the PHPU (Presidential Election Results Dispute) process and must be carefully considered. Considering the important role of judges in determining outcomes, the state needs to provide ample opportunities for the parties to achieve justice.²⁵ The breakthrough that needs to be made is an extension of the time given so that the proof process can be carried out more comprehensively. In essence, the lack of opportunity to present evidence cannot be entirely attributable to the judge, as the authority to extend time and reduce procedural restrictions rests with the legislator. Therefore, a compromise between these two institutions is very important to create a more efficient and adequate system of seeking justice at the Constitutional Court. Adjusting to a more realistic timeframe is essential to allow sufficient space for presenting evidence and defense, to ensure that the evidentiary process is not unduly constrained. The number of witnesses and the length of time they provide testimony should not be limited if there is an intention to improve evidentiary procedures at the Constitutional Court in the PHPU Presidential Election dispute. Apart from that, the Constitutional Court must ensure that the dispute resolution process is carried out carefully and does not rush into decision making. Therefore, strengthening the monitoring and accountability mechanism for resolving presidential election disputes is very important to ensure that every decision of the Constitutional Court is based on careful consideration and adheres to the principles of substantive justice.

²⁴ Muh Isra Bil Ali and Aminah Aminah, "Enforcement Environmental law Life in Justice perspective Substantive in Indonesia, " *Legal Spectrum* 18, no. 2 (20 October 2021), <https://doi.org/10.35973/sh.v18i2.1914>.

²⁵Haryono, " Law Enforcement Based on Justice Values Substantive (Study of Constitutional Court Decision No. 46/PUU-VII/2012 Dated 13 February 2012)."

Legal reform, particularly the extension of the time for adjudicating PHPU Presidential Election disputes at the Constitutional Court, can be carried out through revisions to Law Number 24 of 2003 and Law Number 7 of 2017. This adjustment aims to increase the effectiveness of the legal process that parties to a dispute can prepare their evidence and arguments. better. By extending the length of the judicial process, the parties will have a greater opportunity to gather relevant evidence and prepare their defense or claims more thoroughly. This will prevent situations where the parties rush to formulate their legal strategies, thereby minimizing the risk of errors or injustice in dispute resolution.

This adjustment will have a positive impact on substantial justice in the judicial process of PHPU presidential election disputes at the Constitutional Court. By allowing the Court sufficient time to consider the evidence and arguments from both sides, the resulting decision is likely to be more accurate and fair. Decisions taken by the Constitutional Court will better reflect substantive justice, ensuring that the rightful party wins based on the available evidence.²⁶ This will also increase public confidence in judicial institutions. Legal reform to extend the judicial process for the Presidential Election PHPU dispute at the Constitutional Court is not just an administrative adjustment but is an important step to improve the quality and fairness of the judicial system. This extension allows the Constitutional Court to carry out comprehensive evidence testing and verification, thereby reducing the risk of making decisions based on insufficient evidence. In this way, every decision taken will be more morally and legally accountable and in line with democratic principles and the supremacy of law. These reforms will support the continuity of transparent and accountable legal processes, which are important for maintaining election integrity and political stability. Revision of the time period for resolving PHPU disputes in the Presidential Election is an important step to ensure that the Constitutional Court can carry out its duties optimally and provide decisions that are fair and in line with public expectations.

4. Conclusion

The process of resolving presidential and vice presidential election disputes must safeguard and uphold constitutional rights. Within limited time limits, there is a significant risk that these rights will not receive fair and adequate treatment in solution disputes, thus potentially hampering substantial justice for the parties involved. Adjustment in period time dispute This will have a positive impact on substantial justice in the judicial process of PHPU presidential election disputes at the Constitutional Court. Providing sufficient time for the Court to consider the evidence and arguments from both sides, the resulting decision will likely be more accurate and fair. This will ensure that decisions taken by the Constitutional Court reflect substantive justice and strengthen public confidence in the judiciary. This extension allows the Constitutional Court to carry out comprehensive evidence testing and verification, thereby reducing the risk of making decisions based on insufficient evidence. In this way, every decision taken will be more morally and legally accountable and in line with democratic principles and the supremacy of law. More realistic timeframe adjustments should be considered to provide sufficient space for the presentation and defense of evidence, to

²⁶ Lailiyah, K. (2023). Tinjauan Yuridis Sengketa Hasli Pemilu Serentak 2024 berbasis Nilai Keadilan. *Journal Legal Dialectics*, 2(2).

ensure that the evidentiary process is not unduly restricted. Legal reform to extend the term of the PPHU presidential election trial at the Constitutional Court. The author presents several recommendations based on the aforementioned conclusions revision of Law Number 24 of 2003 and Law Number 7 of 2017. By extending the trial period, the parties will have a greater opportunity to collect relevant evidence and prepare their defense or claims more thoroughly. This will prevent situations where the parties rush to formulate their legal strategies, thereby minimizing the risk of errors or injustice in dispute resolution. Revision of the time period for resolving PPHU disputes in the Presidential Election is an important step to ensure that the Constitutional Court can carry out its duties optimally and provide decisions that are fair and in line with public expectations.

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6. References

- Ali, Muh Isra Bil, and Aminah Aminah. "Environmental Law Enforcement From The Perspective of Substantive Justice In Indonesia". *Legal Spectrum* 18, no. 2 (20 October 2021). <https://doi.org/10.35973/sh.v18i2.1914>
- Alifia Wiranisa, "Basic Analysis of Judges' Legal Considerations in Handing Down Decisions Against Children Perpetrating Crimes of Sexual Intercourse (Decision Study No. 55/Pid.Sus -Anak/2020/Pn. Tjk)" (Thesis, University of Lampung, 2023).
- Adhani, H. (2021). Mahkamah Konstitusi Indonesia di Era Digital: Upaya Menegakan Konstitusi, Keadilan Substantif dan Budaya Sadar Berkonstitusi. *Jurnal Penegakan Hukum Dan Keadilan*, 2(2), 130-146.
- Andryan, and M. Kholis MA Harahap. "Constitutionality of the Time Period for Presidential Election Disputes in the Constitutional Court." *Constitutional Bulletin* 4, no. 2 (November 2023).
- Ardi, Ilham Kurniawan, and Zico Junius Fernando. "Judicial Design for Dispute Resolution of Presidential and Vice Presidential General Election Results Disputes at the Constitutional Court." *Al-Imarah: Journal of Islamic Government and Politics* 7, no. 2 (2022).
- Bachri, S. (2022). Peran Badan Pengawas Pemilu Dalam Upaya Pencegahan Dan Penyelesaian Sengketa Hasil Pemilu Di Mahkamah Konstitusi. *Jurnal Administrasi Dan Kebijakan Publik*, 12(2), 192-216.
- Bulman-Pozen, J., & Seifter, M. (2022). Countering the New Election Subversion: The Democracy Principle and the Role of State Courts. *Wis. L. Rev.*, 1337.
- Dania, Rahmi. "The Role and Influence of Social Media in the 2024 Presidential Election Campaign." *Virtue: Journal of Communication, Culture and Islamic Studies* 3, no. 2 (2023)
- Gunawan, E. (2022). Putusan Konstitusional Demokratis Terhadap Sengketa Pemilu Serentak 2024. *Al-Mizan*, 9(15h).
- Harry Setya Nugraha, "Redesign of the Court's Authority Constitution in Resolution Dispute Resolution Election General President and vice president in Indonesia," *Ius Quia Iustum Law Journal* 22, no. 3 (July 2015): 420-41, <https://doi.org/10.20885/iustum.vol22.iss3.art5>
- Irianto, Sulistyono. "Substantive Justice and Formal Procedural Justice." www.kompas.id, 2024. <https://www.kompas.id/baca/opini/2024/04/04/keadilan-substantif-dan-keadilan-prosedural-formal>.
- Ibrahim, I. F. R. (2021). Penyelesaian Sengketa Pemilihan Umum Dan Legitimasi Pemerintahan Demokrasi. *Lex Crimen*, 10(8).

- Lailiyah, K. (2023). Tinjauan Yuridis Sengketa Hasil Pemilu Serentak 2024 berbasis Nilai Keadilan. *Journal Legal Dialectics*, 2(2).
- Maychellina, Vina Sabina, and Rizky Bangun Wibisono. "Presidential Election Mechanisms: A Comparative Study from Indonesia, Russia, and Türkiye." *Mimbar Keadilan* 16, no. 2 (August 2023): 234-48.
- Maychellina, Vina Sabina, and Rizky Bangun Wibisono, "Presidential Election Mechanisms: Comparative Study from Indonesia, Russia, and Türkiye," *Mimbar Justice* 16, no. 2 (August 2023): 234-48.
- Peter Mahmud Marzuki. *Legal Research*. Jakarta: Kencana, 2016.
- Purwadi, Wira, et al. "Putusan Konstitusional Demokratis Terhadap Sengketa Pemilu Serentak 2024." *Jurnal Al-Mizan* 9.2 (2022): 207-221.
- Rajab, A. M., Andriyan, Y., Muhamad, S., & Supardi, E. (2023). Legalitas Mahkamah Konstitusi Mengenai Kewenangan Memutus Sengketa Pilkada. *Jurnal Pemerintahan, Politik Anggaran dan Administrasi Publik*, 3(1), 36-51.
- Rahmi Dania, "The Role and Influence of Social Media in the 2024 Presidential Election Campaign," *Virtu: Journal of Communication, Culture and Islamic Studies* 3, no. 2 (2023).
- Rikardo, O., Ikhwan, V. N., & Larasati, F. (2023). Kewenangan Konstitusional Mahkamah Konstitusi Dalam Memutus Sengketa Hasil Pemilu Dan Pilkada Serentak. *Jurnal Hukum Sasana*, 9(1), 9-30.
- Surya, F. A., Wardhani, L. C., Christia, A. M., & Tristy, M. T. (2024). Penafsiran Konstitusi Tentang Kearifan Lokal (Studi Terhadap Peran Mahkamah Konstitusi). *Unes Journal of Swara Justisia*, 7(4), 1393-1402.
- Syafridah, F. A. (2020). Implementasi Constitutional Question dalam Perspektif Paradigma Hukum Profetik. *Al-Balad: Journal of Constitutional Law*, 2(2).
- Shohib, M. (2024). Penyelesaian Perselisihan hasil pemilu sebagai sengketa konstitusionalitas pemilu: Sengketa Pemilu di MK. *Jurnal Ilmiah Hukum dan Keadilan*, 11(1), 1-8
- Wiranisa, Alifia. "Basic Analysis of Judges' Legal Considerations in Handing Down Decisions Against Children Perpetrating Crimes of Sexual Intercourse (Decision Study No. 55/Pid.Sus -Anak/2020/Pn. Tjk)." Thesis, University of Lampung, 2023.