

Dynamics of Handling Disputes Over the Results of Regional Head Elections at the Constitutional Court

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Abstract

This study analyzes the dynamics of handling disputes over the results of the 2024/2025 Simultaneous Regional Head Election (PHPKada) at the Constitutional Court, focusing on the dialectic between procedural legal certainty and substantive justice. After the Constitutional Court Decision Number 85/PUU-XX/2022 which confirmed the Court as a permanent institution for dispute resolution, there has been a significant transformation in procedural law through judicial digitalization (e-Court) based on PMK Number 3 of 2024. This study examines the problems of the implementation of the threshold of vote difference as stipulated in Article 158 of Law Number 10 of 2016, which is often a formal barrier for justice seekers. The findings of the study show the existence of the practice of judicial activism, where the Court applies an exception to the threshold if the applicant is able to prove the evidence of Structured, Systematic, and Massive (TSM) violations cumulatively. Through the analysis of case studies on the disputes of the Serang, Boven Digoel, and Tasikmalaya Regency Elections, this study confirms the role of the Court in upholding corrective justice through disqualification sanctions and Re-Voting Orders (PSU) due to abuse of authority and defective candidate requirements. Nevertheless, this study also identifies crucial challenges related to the internal ethical crisis of constitutional judges that has the potential to degrade the legitimacy of decisions. It is concluded that the enforcement of electoral integrity does not only depend on regulatory instruments and progressive evidentiary doctrines, but also requires strict ethical supervision to ensure the independence of the judiciary.

Keywords: Election Disputes, Constitutional Court, Substantive Justice, TSM Violations, Threshold.

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Introduction

In the construction of Indonesia's constitutional democracy, the handling of Disputes over the Results of the Regional Head Election (PHPKada) occupies a fundamental position as the ultimate corrective mechanism to ensure the integrity of the electoral process. The Constitutional Court (MK), in its capacity as the guardian of the constitution, has undergone significant functional evolution over the past two decades. This shift marks the transformation of the judicial approach from a legal-positivistic approach to a substantive-progressive approach. These dynamics are not a phenomenon that occurs in a vacuum, but rather an imperative response to the complexity of electoral manipulation that is increasingly sophisticated. Historically, the positive legal regime separated between the national General Election (Election) regime and the Regional Head Election (Pilkada), where Pilkada disputes were initially under the jurisdiction of the Supreme Court (MA) because they were classified as part of the local government regime (Salim, Liany, & Mahmud, 2025).

However, the empirical reality of political and legal shows that the intensity of the conflict and the potential derogation of citizens' constitutional rights in the Regional Elections have an equal escalation, often even sharper than the national elections. This fact became the main driver of the shift in adjudication authority to the Constitutional Court, which was later confirmed through a series of landmark rulings and legislation. This transition of authority reached its culmination point in the 2013-2014 period. Through Decision No. 97/PUU-XI/2013, the Court canceled its own authority as stipulated in Article 236C of the Regional Government Law due to the unconstitutionality of the norm (Samsul, 2014).

The aquo ruling had raised concerns about a vacuum of power, a state of legal uncertainty in which there is no institution that holds the definitive mandate to adjudicate disputes over the results of the regional elections (Banafanu, Yohanes, & Udju, 2023). Nevertheless, in its legal reasoning, the Court affirmed the principle of judicial responsibility to prevent legal vacuums, stating that it would still examine and decide the case of dispute results until the formation of a special judicial body mandated by law (Banafanu et al., 2023).

The peak of this institutional evolution occurred ahead of the colossal 2024 Simultaneous Regional Elections. The discourse on the establishment of a special judicial body, which was mandated by Law Number 10 of 2016, has proven to face obstacles to realization due to various technical and political obstacles (Reininda, 2021). Finally, in order to ensure fair legal certainty, through Decision Number 85/PUU-XX/2022, the Court ended the polemic of uncertainty by canceling the provisions regarding the special judicial body. This decision unanimously confirms the Constitutional Court as a permanent institution authorized to adjudicate Election disputes (Diar & Saputra, 2025). The juridical implications of this decision are very profound, namely placing the Constitutional Court no longer just as a "transitional" institution, but as the last bastion of electoral justice at the local level.

The 2024 Simultaneous Regional Elections set a new precedent in the history of the state as the largest election held simultaneously in hundreds of regions in Indonesia. This massive scale has the logical consequence of an increase in the volume of cases registered with the Constitutional Court. Case registration data recorded that there were 309 dispute applications as of early 2025, which included the election of governors, regents, and mayors (CNN Indonesia, 2025).

The complexity of handling this dispute does not solely lie in the quantity aspect, but also in the variation in the mode of violation or the quality aspect. The 2024 Regional Election dispute is colored by postulates of violations that are Structured, Systematic, and Massive (TSM), the practice of money politics (vote buying), the mobilization of the State Civil Apparatus (ASN), and the manipulation of candidacy requirements involving the intervention of state institutions (Rahayu, Karaniya, & Nisa, 2025).

In the face of these waves of cases, the Court is required to balance two principles that are often diametrically in nature: speed in resolving disputes for the sake of legal certainty of local government, and rigor in proving for the achievement of substantive justice. Failure to balance these two principles risks hurting public trust and legitimizing legally flawed election results (Kartika, 2024). Therefore, a comprehensive analysis of the dynamics of dispute handling in the Constitutional Court is not only relevant to constitutional law discourse, but also vital for the future of democratic consolidation in Indonesia.

Research Methodology

This research is a normative legal research that examines positive legal norms and their application in concrete in the Constitutional Court's decisions. The approaches used include a statutory approach to the Election Law and Constitutional Court Regulations, a case approach through the analysis of dispute decisions for the 2024/2025 period, and is complemented by a conceptual approach and comparative approach.

The data used are secondary data sourced from primary legal materials (laws and regulations and binding court decisions), secondary legal materials (literature, scientific journals, and research results), and tertiary legal materials. Data collection is carried out through library research, which is then analyzed qualitatively using descriptive-analytical methods using deductive logic to draw prescriptive conclusions.

Results

Legal Framework and Application of Procedural Law of the Constitutional Court in the Perspective of Legal Certainty and Substantive Justice

An analysis of the legal framework for dispute resolution for the 2024/2025 Simultaneous Regional Head Election (Pilkada) shows that there is a paradigm shift in the procedural law of the Constitutional Court (MK). This change is not only technical-administrative, but also related to the philosophical aspect of the judiciary, namely the balance between legal certainty based on procedural formalism and substantive justice (substantive justice) oriented to material truth.

As an operational basis, the Court issued Constitutional Court Regulation (PMK) Number 3 of 2024 concerning Procedures in Disputes Over the Results of the Election of Governors, Regents, and Mayors, as well as its amendments in PMK Number 2 of 2024. This regulation aims to realize fast, transparent, and accountable justice through the integration of information technology (e-Court), which includes e-BRPK (electronic Constitutional Case Registration Book) and e-HPKP3. The application of digital systems changes the mechanism of events from a physical document base to digital data. Although theoretically this system minimizes physical interaction and speeds up access, its implementation has juridical implications. The provisions of Article 18 of PMK Number 3 of 2024 regarding the deadline for rectifying preclusive applications have the potential to hinder applicants who experience network technical problems. This condition creates an antinomy between the principle of *audi et alteram partem* and the principle of speedy trial, so the application of judicial discretion is necessary so that administrative obstacles do not reduce the constitutional rights of the parties.

Furthermore, the main legal issue is the implementation of Article 158 of Law Number 10 of 2016. This article regulates the threshold of maximum vote difference as a formal requirement for submitting an application. Normatively, this provision is intended to limit the burden of cases in the Court so that the examination focuses on disputes with significant vote differences and has a strong evidentiary basis, as well as to limit lawsuits that do not have the relevance of the significance of votes (Bahri, 2020).

Threshold Graph of Election Disputes

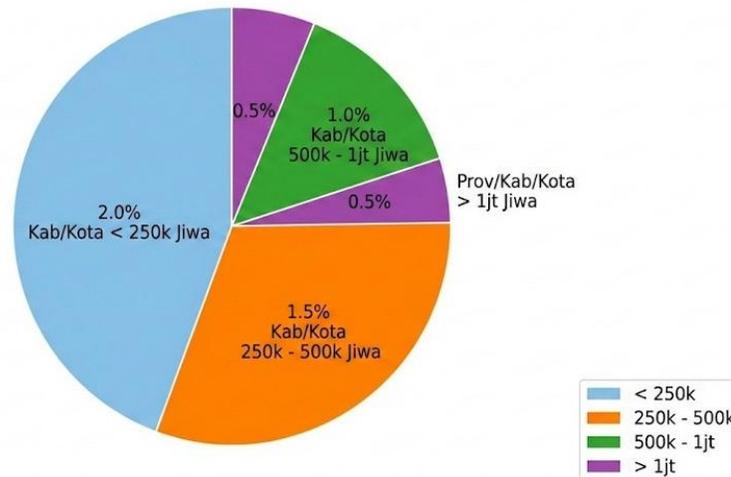


Figure 1. Threshold Graph of Election Disputes

Source: Processed from Article 158 of Law No. 10 of 2016 and Wijaya, Muddin, Pelu, Rado, & Pieter (2024).

Based on the provisions of Law Number 10 of 2016 as last amended through Law (Law) Number 6 of 2020, the regulation of dispute thresholds is limiting. For districts/cities with a population of less than 250,000 people, the threshold is set at 2%. This percentage decreased along with the increase in the population, reaching 0.5% for areas with a population of more than 1 million people (Wijaya et al., 2024). Empirically, the application of this article with a strict textual interpretation has the potential to give legitimacy to electoral fraud. In this perspective, manipulation of votes that results in a difference above the legal threshold for example 2.1% in a sparsely populated area or 0.6% in a densely populated area can cause the application to be declared inadmissible (*niet ontvankelijke verklaard*) through an interlocutory decision, without going through an examination of the subject matter (Media Justitia, 2025).

Criticism of Article 158 is based on the argument that democratic justice cannot be reduced solely to arithmetic logic. Victories obtained through unconstitutional means, such as money politics, intimidation, and bureaucratic abuse, are considered void *ab initio* regardless of the size of the vote. In this regard, there is a dynamic of legal discovery (*rechtsvinding*) by the Court. In several rulings in the 2024/2025 period, the Court applied exceptions to the *a quo* threshold. The Court's jurisprudence emphasizes that the threshold can be waived if the Applicant is able to prove convincingly the existence of a Structured, Systematic, and Massive (TSM) violation that distorts the purity of the voter's vote. This approach restores the function of the Court as the guardian of the constitution, not just a court of numbers. This exception functions as an instrument of substantive justice, although its application is casuistic and highly dependent on the judge's conviction (Diar & Saputra, 2025).

Furthermore, Constitutional Court Regulation (PMK) Number 2 of 2024 tightens the standard of proof by requiring a direct causality relationship between the evidence and the postulates of the application. This provision aims to limit the practice of speculative postulates (fishing expeditions) that are not supported by sufficient preliminary evidence (Rahayu et al., 2025). This requires the meticulousness of the lawyer in compiling the legal construction of the application. The Court emphasized that the hypothesis that is assuming and narrative without the support of written evidence or factual witnesses will be set aside. Thus, this regulatory framework

applies a double standard: enforcing procedural discipline for the sake of efficiency, while also opening up space for substantive justice through the doctrine of TSM, provided it is supported by strong evidence.

Construction of Proof of Systematic and Massive Structured Violations and Constitutional Interpretation in Disputes over Election Results

Proving Structured, Systematic, and Massive (TSM) violations in the dispute over the Regional Head Election is a juridical concept consisting of cumulative elements. Based on the jurisprudence of the Constitutional Court, the burden of proof is imposed on the Applicant, who is obliged to prove the three elements simultaneously, not alternatively.

The Structured Element requires the involvement of structural apparatus, including election organizers and government officials, which is carried out collectively. The Systematic Element indicates the existence of careful planning and organization and a clear pattern, so that it is not sporadic or incidental events. The Massive element is related to the impact of widespread violations, both in terms of geographical area and the significance of the number of voters affected (Rahayu et al., 2025). The main obstacle in proving TSM lies in proving the chain of command or the driving of the structure, considering that mobilization is often carried out through verbal or covert orders with minimal written evidence.

PSU Regional Recapitulation After the 2025 Constitutional Court Decision



Figure 2. PSU Regional Recapitulation After the 2025 Constitutional Court Decision

Source: Processed from Rahayu, Karaniya, & Nisa (2025); Constitutional Court Case Data (2025); and mass media reporting (InfoPublik, 2026; Kompas.com, 2025; Coil, 2026).

Analysis of the Constitutional Court Decision Number 70/PHPU. BUP-XXIII/2025 regarding the Serang Regency Regional Election dispute provides an empirical precedent regarding the application of the doctrine of Structured, Systematic, and Massive (TSM) violations. This case indicates an abuse of power involving an affiliation between state officials and election participants. The facts of the trial, supported by letter evidence and witness statements, revealed an anomaly in the ministry's program allocation pattern, where most of the working visit points were focused on the relevant constituency. In addition, it is evident that there is a mobilization of

village officials through certain associations accompanied by promises of providing materials and intimidation related to the management of village funds. The court considered that the set of facts had met the elements of TSM cumulatively. The decision to annul the election results and order a Re-Vote (PSU) is a form of corrective justice to affirm that the legitimacy of election results cannot be obtained through the abuse of state facilities (Rahayu et al., 2025).

In addition to the TSM aspect, this study highlights administrative integrity related to candidacy requirements, as contained in the dispute decision of the Boven Digoel Regency Regional Election. The Court found that there was negligence of the General Election Commission (KPU) in verifying the status of former convicts who had not met the cooling off period for five years. The Court applies the approach that honesty in stating legal status is an absolute requirement (*conditio sine qua non*). The negligence of the organizers in this case results in imperfection of information for voters. The Court's decision disqualifying the elected candidate and ordering the PSU affirms the principle that a nomination that is procedurally flawed from the beginning is void *ab initio*, so that the votes obtained do not have legal legitimacy ("Constitutional Court Decides on Pilbup," 2026).

Another constitutional issue is related to the interpretation of term limits in the Tasikmalaya Regional Election dispute. The Court gave a strict interpretation of the calculation of the term of office of the Acting Officer. The Court affirmed that term limits are a constitutional principle to prevent absolute power. By declaring that the incumbent had served two terms and disqualifying him, the Court placed constitutional supremacy above the administrative procedure of candidacy ("Full Explanation," 2025).

Furthermore, the handling of TSM violations often causes a conflict of jurisdiction between the Constitutional Court and the General Election Supervisory Agency (Bawaslu). Normatively, the handling of administrative violations of the nature of TSM is the authority of Bawaslu. However, there is a practice where the applicant submits the TSM argument directly to the Court on the grounds of ineffectiveness of law enforcement at the election supervisory level. Through its jurisprudence, the Court affirms the authority to examine the postulates of TSM if other election law enforcement instruments do not function effectively. This is based on the Court's position as a court of first and last instance whose decisions are final and binding, as well as the responsibility to ensure substantial electoral fairness (Arfandy & Maharani, 2026). Tactically, the proof of TSM's postulate in the Court aims to cancel the results of the vote count, so that the threshold of vote difference as stipulated in Article 158 of the Election Law can be set aside.

The recapitulation of the Court's decision ordering PSUs in various regions, such as Serang, Boven Digoel, Tasikmalaya, and Yapen Islands, indicates that violations in the 2024 Regional Elections have a wide spectrum. These various violations include vote manipulation at the election committee level, non-neutrality of the State Civil Apparatus (ASN), and irregularities in the special election system. This shows that the integrity of election organizers is still a crucial aspect that requires evaluation in the democratic system in Indonesia ("KPU Follow-up," 2026).

Judicial Integrity and Institutional Ethics Implications in Enforcement of Electoral Justice

The quality and legitimacy of a verdict is not solely determined by the accuracy of the juridical analysis, but also depends on the moral integrity of the panel of judges. In the 2024/2025 period, public trust in the Constitutional Court will be a concern, in line with reports of alleged ethical violations submitted by the Lokataru Foundation to the Honorary Council of the Constitutional Court (MKMK).

There is an alleged violation of the principles of "Competence and Diligence" and "Wisdom and Wisdom" as stated in *Sapta Karsa Utama*. Findings related to anomalies in the mechanism of the Judges' Consultative Meeting (RPH) are the main problem. Legal facts show that the

determination of the status of the Related Party is carried out on the same day as the registration registration, with a minimal duration of review. This indicates a hasty examination process (undue haste), which has the potential to ignore the deepening of the substance of the case and injure the principle of justice ("Nine Judges," 2026).

Specifically, in the handling of disputes in the Papua region, there was identified a neglect of procedural law and the local sociological context. Delay in submitting notification of status determination to the parties is qualified as a violation of the principles of due process of law and procedural rights. This condition results in the loss of a proper opportunity for the parties to prepare a legal defense. In addition, the handling of cases that do not consider the complexity of the Noken system and the potential for horizontal conflicts indicates that the panel of judges has not optimally understood the anthropological reality of local law ("Nine Judges," 2026).

If the MKMK proves that there has been an ethical violation, it has serious implications for the institutional legitimacy of the Court. Decisions resulting through ethically flawed processes, although legally final and binding, have moral flaws that can degrade the authority of the judiciary. The precedent of previous ethical violations is an important note regarding the urgency of maintaining the independence of the judiciary ("Ethical Violations," 2023).

From a comparative law perspective, the characteristics of the Indonesian Constitutional Court have significant differences from the Malaysian Election Court. Comparative studies show that the Malaysian Election Court tends to take a conservative approach and rejects lawsuits on technical-procedural grounds. On the other hand, the Indonesian Constitutional Court is categorized as implementing judicial activism, where judges interpret progressive laws to fill legal gaps or correct injustices (Aziz, 2024). This approach is in line with the concept of Pragmatic Monism, which uses international legal and human rights standards pragmatically to strengthen domestic constitutional arguments, particularly regarding free and fair election standards (Simon & Siregar, n.d.).

Nevertheless, the application of judicial activism requires high integrity of judges to prevent judicial tyranny. Legal breakthroughs, such as the waiver of Article 158 thresholds for the sake of substantive justice, must be based on objectivity and independence, and free from political intervention or conflicts of interest. Therefore, this study concludes that the strengthening of regulations and evidentiary doctrines must be accompanied by strict ethical enforcement and external supervision of judges' behavior. This is an absolute prerequisite (*conditio sine qua non*) for the realization of substantive electoral justice in Indonesia.

Conclusion

The dynamics of handling disputes over the results of the Regional Head Election (Pilkada) at the Constitutional Court in the 2024/2025 period reflect the function of institutions in upholding the integrity of electoral democracy in the midst of the complexity of the mode of violation. The court has transformed its approach, no longer limited to the purely quantitative aspect or the court of numbers. Through the decision in the Serang, Boven Digoel, and Tasikmalaya Regency disputes, the Court determined disqualification sanctions against election participants who were proven to have committed violations and ordered a Re-Vote (PSU). The *a quo* decision affirms the legal principle that the legitimacy of the election process has a more fundamental position than just obtaining final results.

The application of the doctrine of Structured, Systematic, and Massive (TSM) violations and the waiver of thresholds as stipulated in Article 158 of Law Number 10 of 2016 has become permanent jurisprudence in handling disputes. Nevertheless, the exercise of constitutional authority is faced with internal challenges related to the ethical integrity of constitutional judges. The existence of reports of alleged violations of the code of ethics and maladministration in

handling cases indicates the need to evaluate and strengthen institutional supervision mechanisms. The Court's consistency in upholding the principles of constitutionalism and improving institutional ethics is an essential element in ensuring legal certainty and the quality of electoral democracy in the future.

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