



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 177/PUU-XXII/2024**

Concerning

Time Limit for Resolving Electoral Crime Cases

Petitioners	: Indra Williams Liempepas and Christovel Liempepas
Type of Case	: Judicial review of Law Number 7 of 2017 concerning General Elections (Law 7/2017) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
Subject Matter	: Article 482 paragraph (1) of Law 7/2017 is deemed contrary to the 1945 Constitution
Verdict	: To dismiss the Petitioners' petition entirely
Date of Decision	: Wednesday, 16 October 2024
Overview of Decision	:

The Petitioners are individual citizens who feel prejudiced by the norms of Article 482 paragraph (1) of Law 7/2017, which they argue create multiple interpretations, potentially leading to legal uncertainty. Therefore, the Petitioners find that there is no certainty regarding the interpretation of the time limit for resolving Electoral crime cases at the district court level so that the norms of this Article are conditionally contrary to Article 28D paragraph (1) of the 1945 Constitution.

Regarding the Court's authority, since the Petitioners' petition is a judicial review of the norms of Law *in casu* Article 482 paragraph (1) of Law 7/2017 against the 1945 Constitution, which falls within the Court's authority, the Court has the authority to hear the *a quo* petition.

Regarding the legal standing of the Petitioners, the Court is of the opinion that the Petitioners have sufficiently explained a specific and actual or at least potential constitutional loss due to the enactment of the norms being petitioned for review. Additionally, the Petitioners also have explained that the alleged constitutional loss has a causal relationship with the enforcement of the norms of law being petitioned for review, specifically regarding the time limit for resolving electoral crime cases as stipulated in Article 482 paragraph (1) of Law 7/2017, in connection with the factual case faced by the Petitioners. Thus, regardless of whether the alleged unconstitutionality of the norms being petitioned for review is proven, the Court concludes that the Petitioners have legal standing to act as Petitioners in the *a quo* petition.

Whereas since the Petitioners' *a quo* petition is evident, there is no urgency and necessity in hearing the statements of the parties as referred to in Article 54 of the Constitutional Court Law.

The norms being petitioned for review by the Petitioners are Article 482 paragraph (1) of Law 7/2017, essentially providing a time limit for district courts to examine, adjudicate, and decide on electoral crime cases, specifically no later than 7 (seven) days after the case file is transferred. Additionally, the same norms stipulate that in a *quo* cases, the district courts' authority can be exercised without the presence of the defendant. In the context of handling electoral crimes, the *a quo* norms can be understood as a realization of expedited trial procedures (speedy trial). This shows that a *quo* Article 482 is one of a series of norms in Law 7/2017 within the section governing Procedures for Handling Electoral Crimes, where most articles in this section regulate time limits or deadlines in the procedural handling of electoral crimes. Norms in Law 7/2017 that substantively regulate time limits include the time limit for forwarding reports of alleged Electoral crimes from the General Election Supervisory Agency (Bawaslu) to the Indonesian Police [Article 476 paragraph (1)], the time limit for investigators to deliver investigation results to criminal investigators (Article 479), the time limit to deliver criminal investigation results to prosecutors (Article 480), the time limit for district courts to examine electoral crimes [Article 482 paragraph (1)], the time limit for filing appeals [Article 482 paragraph (2)], the time limit for transferring case files from district courts to appellate courts [Article 482 paragraph (3)], and the time limit for appellate courts to review appeals [Article 482 paragraph (4)]. These time limits are not only a necessity in implementing an expedited and cost-efficient judicial process but are also crucial for ensuring legal certainty in Electoral crime cases.

One of the critical reasons Electoral crime cases must be resolved as quickly as possible is because resolving these crimes is part of an integrated Electoral law enforcement process. The outcomes of these judicial proceedings can influence the decisions of other electoral law enforcement institutions, such as the General Elections Supervisory Agency (Bawaslu), the Honorary Council for Election Organizers (DKPP), and the Constitutional Court. Thus, the urgency in resolving Electoral crimes is a vital requirement for upholding justice and legal certainty in the administration of Elections. In this regard, to achieve such urgency, Article 482 paragraph (1) of Law 7/2017 also stipulates that the defendant's presence is not mandatory when the district court examines, adjudicates, and decides on Electoral crimes. This provision must be applied as an integrated whole with the *a quo* time limit provisions, as it aims to prevent potential delays in proceedings caused by the defendant's absence. Therefore, within reasonable reasoning, the formulation of Article 482 paragraph (1) of Law 7/2017, which combines the time limit for examining, adjudicating, and deciding on electoral crime cases with the provision allowing proceedings without the defendant's presence, is a necessity for ensuring legal certainty in Electoral cases.

The time limit as stipulated in Article 482 paragraph (1) of Law 7/2017 is a necessity that must be implemented by adhering to the principle of speedy trial. Regarding this, the formulation of a *quo* Article 482 paragraph (1), which states, "The District Court shall examine, adjudicate, and decide Electoral Crime cases no later than 7 (seven) days after the case file is transferred and may be conducted without the presence of the defendant", means that no later than 7 (seven) days after the case file is transferred, the case must be decided. Implicitly, the time limit for the commencement of the 7 (seven) day period is clear, namely the day following the case file is transferred to the district court. Subsequently, the district court must use the 7 (seven) day period to conduct judicial proceedings by examining, adjudicating, and deciding the case. Under the principles of legal certainty and speedy and cost-effective trial, as the Court has elaborated in the above considerations, the commencement of the 7 (seven) day period should occur as soon as possible after the case file is transferred, and this has been implicitly included in the formulation of Article 482 paragraph (1) of Law 7/2017. Therefore, according to the Court, the formulation of

Article 482 paragraph (1) of Law 7/2017 is sufficiently clear and does not conflict with the principle of fair legal certainty as guaranteed by Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Thus, the Petitioners' argument that Article 482 paragraph (1) of Law 7/2017 is contrary to Article 28D paragraph (1) of the 1945 Constitution is legally unjustifiable.

Regarding the formulation of the norms being petitioned for review by the Petitioners, the formulation of the norms of Article 482 paragraph (1) of Law 7/2017 intentionally aligns the time limit for the district court to examine, adjudicate, and decide on Electoral crime cases with the provision that such judicial processes may be conducted without the presence of the defendant. This alignment is essential to avoid delays in judicial proceedings caused by the absence of the defendant, whether intentional or unintentional. Therefore, if the Court were to grant the Petitioners' petition by interpreting Article 482 paragraph (1) of Law 7/2017 entirely based on the formulation in the *petitum* of the petition, namely, by declaring that such provision has no binding legal force to the extent that it is not interpreted as "no later than 7 (seven) days calculated from one day after the case file is transferred", then the provision regarding judicial proceedings being conducted without the defendant's presence would be eliminated from the interpretation of Article 482 paragraph (1) of Law 7/2017. Furthermore, by removing or not including the phrase "may be conducted without the presence of the defendant" as in the Petitioners' *petitum*, the authority of the judiciary to adjudicate without the defendant's presence (*verstek*), which is a fundamental principle or characteristic of speedy trial proceedings and is also a hallmark of resolving Electoral crime cases, would be eliminated. Thus, the Court finds no justification in the Petitioners' petition to remove the provision that judicial proceedings may be conducted without the presence of the defendant. Therefore, the *petitum* in the Petitioners' petition, if granted, would render Article 482 paragraph (1) of Law 7/2017 incomplete, resulting in legal uncertainty. Accordingly, the Petitioners' argument is entirely legally unjustifiable.

Subsequently, the Court passed down a decision in which the verdict was To dismiss the Petitioners' petition entirely.