

ANALYSIS OF CONSTITUTIONAL COURT DECISION NUMBER 01/PHPU-PRES/XVII/2019 RELATED TO PRESIDENTIAL ELECTION DISPUTES

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Abstract: The study desires to find out the basic considerations and analysis of the Constitutional Court regarding the dispute over the results of the 2019 Presidential General Election. The type of research used is normative research. The results obtained from this study are that Bawaslu has too broad authority and even the Constitutional Court cannot re-examine the results of the Bawaslu decision because it is final. It is contrary to the principle of checks and balances applied in Indonesia. Therefore, the Drafters view that Law Number 7 of 2017 concerning General Elections needs to be replaced by a regulation that can expand the authority of the Constitutional Court or at least the Constitutional Court has the authority to re-examine decisions from election management bodies.

Keyword: Legal Considerations; Constitutional Court Decision; Presidential Election Dispute

INTRODUCTION

Indonesia is a democratic country that upholds the rights of its citizens to participate in developments and decision-making about their country (Ulfah et al., 2021), one example of democratic rights in Indonesia is the freedom to choose and be elected in general elections, based on equal rights through direct voting, general, free, confidential, honest and fair by laws and regulations so that it can be said that political developments in Indonesia are strongly influenced by the people's own choices.

The amendments to the 1945 Constitution of the Republic of Indonesia confirmed that the President is the head of state and head of government (Sekretariat Jenderal, 2013). The system of government in a narrow sense is the relationship between the legislature and the executive and in a broad sense, the system of government is defined as a structure consisting of legislative, executive, and judicial functions that are interconnected, work together, and influence one another (Harimurti, 2019). The government system used by Indonesia is presidential. The presidential system in Indonesia is a system that must be based on the constitution by prioritizing a system of control and balance of power (Sitabuana, 2020). The presidential system based on the 1945 Constitution of the Republic of Indonesia after the amendment has the following characteristics:

1. The President is not responsible to the MPR;
2. The term of office of the president and vice president is limited to 5 years and

after that, they can be re-elected in the same position, only for one term of office;

3. The president and vice president are directly elected by the people.
4. The president and/or vice president can be dismissed before their term ends if they violate the Constitution;
5. The President has the right to propose bills, not holding the power to form laws;
6. The President cannot freeze and/or dissolve the DPR; And
7. The President has the right to appoint and dismiss ministers.

One of the pillars of democracy is the trias politica, where power is divided into three types, so that there is no monopoly of power by adhering to the principle of classical distribution of power, by distributing state power to the legislative, executive, and judicial powers. In Indonesia after the reform era, legislative authority is exercised by the People's Consultative Assembly (MPR), the People's Representative Council (DPR), and the Regional Representatives Council (DPD). Executive authority is exercised by the President, and judicial authority is exercised by courts under the leadership of the Supreme Court (MA), in addition to the Constitutional Court (MK) and the Judicial Commission (Ekawati et al., 2019). This condition will make power not absolute and finally a balanced situation can be created by the Check and Balances principle that Indonesia adheres to. The principle of Check and Balance makes the three branches of power separate but on the other hand, they touch each other and

are bound by institutions of power. In addition, the people can play an active role in carrying out and overseeing the continuity of state administration because government representatives can be directly elected by the people themselves in general elections which are held every 5 years.

In the judicial power, apart from the Supreme Court, there is also another main institution that is useful for exercising judicial power in Indonesia, namely the Constitutional Court. The Constitutional Court is an institution of judicial power that specifically deals with administrative justice or political justice. The Constitutional Court has the authority to adjudicate at the first and final levels whose decisions are final to review laws against the 1945 Constitution, decide on the dissolution of political parties, and decide on general election disputes. The Constitutional Court does not only uphold the law in a procedural sense in the practice of democratic government but is even more substantial, namely, upholding justice, with a view that law enforcement will provide justice to society. Therefore, the law can be violated if it closes the way for upholding justice (Yasin, 2014).

The Constitutional Court is not only an interpreter of the Constitution but has properly placed its institutional degree and constitutional position so that from a psychological-social perspective it can convince all conflicting parties and at the same time strengthen the legitimacy of determining the results of the General Election Commission's recapitulation. Social conflicts may occur during the handling and settlement of the General Election

Result Dispute (PHPU) lawsuit for the Presidential Election when the performance of the Constitutional Court is as mandated in Article 240 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, namely that it has the authority to adjudicate at the first level and the latter, whose decision is final, including in deciding the PHPU lawsuit, is not based on evidence and facts from the trial. The decision of the Constitutional Court is final and binding, meaning that there is no opportunity to take further legal action after the decision is like an ordinary court decision that still allows cassation and review (PK). In addition, the decision of the Constitutional Court (MK) has permanent legal force since it was read out in the trial of the Constitutional Court by Article 10 and Article 47 of Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court (*Pasal 10 Dan Pasal 47 Undang-Undang Nomor 8 Tahun 2011 Tentang Perubahan Atas Undang-Undang Nomor 24 Tahun 2003 Tentang Mahkamah Konstitusi*).

General Elections in Indonesia have been held up to 12 times from 1955 to 2019 but the Presidential Election (Pilpres) has only entered as General Election activities since the fourth amendment to the 1945 Constitution of the Republic of Indonesia in 2002. The presidential election as a series of General Elections was held for the first time in 2004. Nevertheless, the principles of general elections namely Direct, General, Free, and Secret (Overflow), as well as the principles of honesty and fairness are still being implemented.

In practice, General Elections are

often colored by conflicts of interest. In achieving its goals, it is not uncommon for parties to commit fraud or be accused of fraud to get one of the political seats at both the regional and central levels. General election fraud can be divided into 3 (three) types of disputes based on Law Number 7 of 2017 concerning General Elections, namely process disputes, General Election violations, and General Election result disputes. Disputes over general election processes and violations are resolved at the Election Supervisory Board (Bawaslu) to the General Election criminal court (Sulchan, 2014), while disputes over the results of the General Election are the authority of the Constitutional Court (MK) to resolve them (Yazwardi & Mikail, 2015).

The 2019 General Election is the first simultaneous general election in Indonesia, not only to elect members of the People's Representative Council (DPR), Regional Representative Council (DPD), Provincial Regional People's Representative Council (DPRD), and Regency Regional People's Representative Council (DPRD) /City but also to elect the President and Vice President. The general election, especially the presidential election, is a hot topic that is always discussed every year it is held. In the 2019 presidential election, there were 2 (two) pairs of presidential candidates, namely the pair of Candidates for President and Candidate for Vice President Number 01, namely Joko Widodo and Ma'ruf Amin, and the pair of Candidates for President and Candidates for Vice President Number 02, namely Prabowo Subianto and Sandiaga Uno.

Presidential candidate serial number 01 is the incumbent president so

during the General Election this time there were many positive and negative assumptions from the public. To increase the positive evaluation from the public, pairs of candidates who want to take part in general elections usually carry out campaigns. Campaigns are activities carried out by political organizations or candidates competing for positions in parliament and so on to gain the support of the masses of voters in a vote. Along with the development of technology, campaigns are no longer just distributing leaflets and raising names with mass media imagery but have spread to cyberspace such as hashtag wars on several social media, for example, Twitter and Instagram, making fan pages for each pair of presidential and vice presidential candidates, as well as comment wars until the emergence of a buzzer. Buzzer is someone who voices an opinion directly, using a personal identity or hidden identity, to express an interest in social media (Manik & Mayopu, 2019).

Access to information that is so free causes changes in political currents to experience great turmoil. It's so easy to sway public opinion with fake news or information (hoaxes) spread by irresponsible elements so that to avoid this incident, the public pays close attention to the movements of each General Election candidate. This presidential election has so many incidents that are discussed in society, such as allegations of misuse of the State Revenue and Expenditure Budget (APBN), the non-neutrality of the State Civil Apparatus (ASN), abuse of the Bureaucracy and State-Owned Enterprises (BUMN), restrictions on freedom of the press and media. discriminatory treatment and abuse

of law enforcement.

On April 17, 2019, voting in the simultaneous General Elections was completed. The Constitutional Court (MK) has made some preparations to face the simultaneous General Election, especially in six aspects, namely aspects of regulation, human resources, facilities and infrastructure, ICT-based information systems, technical guidance on procedures to stakeholders, and implementation and strengthening of cultural integrity of all components of the Constitutional Court.

In the 2019 simultaneous General Elections, the Constitutional Court (MK) accepted as many as 1 (one) case of dispute over the results of the Presidential/Vice Presidential Election submitted by the Presidential/Vice Presidential Candidate Pair H. Prabowo Subianto and H. Sandiaga Salahuddin Uno. Disputes over the results of the Presidential/Vice Presidential Election are decided within 14 (fourteen) working days after registration. The trial for pronouncing the case decision was held on Thursday, 27 June 2019. The Constitutional Court stated that it rejected the Petitioner's petition in its entirety. According to the Constitutional Court, the arguments of the Petitioner's petition were declared not proven.

Society has to go through an extraordinary General Election period. Simultaneous General Elections will still be planned for the next General Election and so on, therefore, it is very necessary to study more deeply regarding the decision on the Election of President and Vice President as contained in the decision of the Constitutional Court Number 01-PHPU-PRES/XVII/2019 concerning Dispute

Dispute The results of the General Election for the President and Vice President, so that matters that have occurred in the dispute over the results of the current Presidential Election do not recur in the next Presidential Election.

Based on the background of the problems above, the Compiler feels the need to examine more deeply the decision which rejected the applicant's application in its entirety because it was not proven in the Constitutional Court decision Number 01-PHPU-PRES/XVII/2019 concerning Disputes over the Results of the General Election for the President and Vice President.

MATERIALS AND METHODS

The type of research used belongs to normative research, namely research whose object of study includes norms, legal principles, laws and regulations, doctrine, and jurisprudence (Hardianto, 2014). In this research, we examine the decision of Constitutional Court Number 01/PHPU-PRES/XVII/2019 regarding the dispute over the 2019 presidential election. Legal materials were obtained from various literature, laws and regulations, and other references that are related to the problem under study. Furthermore, legal materials will be studied and analyzed with several interpretations.

In this study, the Compilers obtained legal materials obtained from various literature, laws, regulations, and other references that are related to the problem under study (Tarto, 2021). The types of legal materials used in this study are:

- 1) Primary Legal Materials, legal materials
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that are authoritative in nature are made by authorized officials including statutory regulations

- a. Primary legal materials, namely legal materials that are authoritative in nature, are made by authorized officials including statutory regulations, including:
- b. The 1945 Constitution of the Republic of Indonesia
- c. Law Number 48 of 2009 concerning Judicial Power (State Gazette of the Republic of Indonesia of 2009 Number 157, Supplement to the State Gazette of the Republic of Indonesia Number 5076);
- d. Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court (State Gazette of the Republic of Indonesia of 2011 Number 70, Supplement to the State Gazette of the Republic of Indonesia Number 5226);
- e. Law Number 12 of 2011 concerning Formation of Legislation (State Gazette of the Republic of Indonesia of 2011 Number 82, Supplement to the State Gazette of the Republic of Indonesia Number 5234);
- f. Law Number 8 of 2012 concerning the General Election of Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council (State Gazette of the Republic of Indonesia of 2012 Number 117, Supplement to the State Gazette of the Republic of Indonesia Number

5316);

- g. Law Number 23 of 2014 concerning Regional Government which has been amended by Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government (State Gazette of the Republic of Indonesia of 2014 Number 244, Supplement to the State Gazette of the Republic of Indonesia Number 5587)
 - h. Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims (State Gazette of the Republic of Indonesia of 2014 Number 293, Supplement to State Gazette of the Republic of Indonesia Number 5602);
 - i. Law Number 7 of 2017 concerning General Elections (State Gazette of the Republic of Indonesia of 2017 Number 182, Supplement to the State Gazette of the Republic of Indonesia Number 61090);
 - j. Circular Letter Number 1 of 2018 concerning Management of the Vote Count Information System
 - k. General Election Commission Regulation Number 3 of 2019 concerning Voting and Vote Counting in General Elections
- 2) Secondary Legal Materials, namely legal materials which include reference books, legal expert opinions, papers, research results, papers, and others related to the decision of the Constitutional Court Number 01-PHPU-PRES/XVII/2019 Concerning Dispute
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Disputes Results of the General Election of President and Vice President

Tertiary Legal Materials, namely legal materials that provide explanations regarding primary legal materials and secondary legal materials, such as dictionaries, encyclopedias, and others. This legal material is used as a complement and supports clarity regarding primary and secondary legal materials, tertiary legal materials used in the Big Indonesian Dictionary, legal dictionaries, and legal encyclopedias.

RESULTS AND DISCUSSION

Basic Legal Considerations of the Panel of Judges in the Constitutional Court Decision Number 01-PHPU-PRES/XVII/2019 concerning Disputes over the Results of the General Election for the President and Vice President

Legal considerations (ratio decidendi) are the legal reasons or rationale used by a judge in deciding a case. Legal considerations are the core of the judge's decision, which contains analysis, argumentation, and legal opinions and conclusions from the judge examining the case. Each judge is given authority through the interpretation of the law based on justice, not based on the interests of the judges themselves.

In the Constitutional Court Decision Number 01-PHPU-PRES/XVII/2019 concerning the Dispute over the Results of the General Election for the President and Vice President, there are several legal considerations for the Panel of Judges of the Constitutional Court to decide on the dispute. The Constitutional Court is the only one with the authority to examine and

decide disputes over election results. However, to decide on the results of the general election, there must also be issues of the constitutionality of the election administration which lead to disputes over the results of the general election. Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia and Article 475 paragraph (2) of Law Number 7 of 2017 Concerning General Elections explicitly stipulate that objections that can be submitted to the Constitutional Court are only objections to the results of the vote count.

In the 2019 simultaneous General Elections, the Constitutional Court accepted 1 (one) dispute over the results of the Presidential/Vice Presidential Election. The parties involved include the Petitioner, namely the 2019 Presidential and Vice Presidential Candidate Pairs, Serial Number 02, namely H. Prabowo Subianto and H. Sandiaga Salahudin Uno, the Respondent, namely the General Election Commission (KPU), and the Related Parties are the Presidential Candidate Pair and Vice President in the 2019 General Election of President and Vice President, Serial Number 01 namely Ir. H. Joko Widodo and Prof. Dr. (HC). KH. Ma'ruf Amin.

Before deciding on an application, the Constitutional Court will first examine the legal standing or legal position of the applicant, the deadline for applying, and the arguments being applied for by the authority of the Constitutional Court. Based on these matters, the Constitutional Court will consider and decide on the petition.

1. The legal status of the applicant

The legal position of the applicant or legal standing is the condition in which

a party fulfills the requirements and therefore has the right to submit a request for a dispute or dispute to the Constitutional Court of the Republic of Indonesia. Legal standing is an adaptation of the term *personae standi in iudicio* which means the right to file a lawsuit or application before a court (Suharizal & Arifin, 2019). Several arguments are the focus of this dispute, namely allegations of misuse of the State Revenue and Expenditure Budget (APBN), non-neutrality of the State Civil Apparatus (ASN), abuse of the Bureaucracy and State-Owned Enterprises (BUMN), restrictions on press freedom and discriminatory treatment, as well as abuse of law enforcement, as well as allegations that candidate for Vice President number 01 did not relinquish his position as an official for a State-Owned Enterprise (BUMN). Of the many arguments put forward, several arguments should not be the authority of the Constitutional Court but the authority of the Election Supervisory Body (Bawaslu) by Law Number 7 of 2017 concerning General Elections, but this matter is still being considered by the Constitutional Court in this dispute trial.

2. Deadline for Application Submission

The period for applying is by Article 475 paragraph (1) of Law Number 7 of 2017 concerning General Elections, and Article 6 paragraph (1) of the Constitutional Court Regulation Number 4 of 2018 concerning Procedures in Cases of Disputes over the Results of the Presidential and Deputy General Elections President, an application can only be submitted within a maximum period of 3 (three) days after the announcement of the determination of the

vote acquisition results for the Presidential and Vice-Presidential election nationally by the Respondent (Winata, 2020). The Petitioner submitted a request for a dispute over the results of the general election against the determination of the vote acquisition results for the national general election by the Respondent to the Court on 24 May 2019 at 22.35 WIB based on the Deed of Submission of the Petitioner's Application Number 01/AP3-PRES/PAN.MK/2019 dated 24 May 2019, thus the petition filed by the Petitioner is still within the time limit as determined by the statutory regulations (Aminuddin & Prasetyawan, 2022).

3. Considerations of the Constitutional Court

Based on the decision of the Constitutional Court Number 01/PHPU-PRES/XVII/2019 which consists of 1944 pages with discussions from nine (9) judges namely Dr. Anwar Usman, S.H., M.H. as chairman of the Constitutional Court, Prof. Dr. Aswanto, S.H., M.Sc., DFM, Prof. Dr. Arief Hidayat, S.H., M.S., Dr. Wahiduddin Adams, S.H, M.A, Dr. Suhartoyo, S.H., M.H., Prof. Dr. Enny Nurbaningsih, S.H., M.Hum. , Dr. Manahan M.P. Sitompul S.H., M.Hum. , Prof. Dr. Saldi Isra., S.H., MPA. , Dewa Gede Palguna, S.H., M.Hum. The nine judges decided to reject all of the applicant's applications without any dissenting opinion with several considerations regarding the arguments put forward by the applicant, namely:

a. Structured, Massive, and Systematic Violations (TSM)

In the application, the applicant explained that there was an alleged Structured, Systematic, and Massive (TSM)

violation with 6 points which will be explained as follows:

- 1) Structured, Systematic, and Massive Violations (TSM) on the principle of free and secret General Elections
 - 2) Fraudulent misuse of the State Revenue and Expenditure Budget (APBN) and government work programs
 - 3) Abuse of Bureaucracy and State Owned Enterprises (BUMN)
 - 4) Non-neutrality of the State Apparatus (Police and Intelligence)
 - 5) Restrictions on Media and Press Freedom
 - 6) Discrimination in Treatment and Abuse of Law Enforcement
- b. Other Fraud

In addition to the Structured, Systematic, and Massive (TSM) arguments discussed above, the applicant obtained allegations of other forms of fraud which resulted in the acquisition of votes, so the applicant included this argument in the petition.

Analysis of Legal Considerations in the Constitutional Court Decision Number 01-PPHU-PRES/XVII/2019 which is reviewed based on the interpretation of the Constitution

The judge has the freedom to determine the point of view to resolve a case. This perspective is often referred to as legal interpretation. There are no rules that stipulate that judges must use a particular method of interpretation or that there is a prohibition for judges to use that method of interpretation.

Legal interpretation (interpretation) is an approach to legal discovery in terms of the rules that exist but it is not clear to

apply to events. On the other hand, it can also happen that the judge has to examine and adjudicate cases for which there are no specific regulations. Here the judge faces a void or incomplete law that must be filled in or completed, because the judge may not refuse to examine and try a case on the pretext that there is no law or the law is incomplete. The judge found the law to fill the void in the law.

Interpretation is a very important activity in law. Interpretation is a method for understanding the meaning contained in legal texts to be used in solving cases or making decisions on matters faced concretely. In addition to this, in the field of constitutional law, interpretation, in this case, judicial interpretation, can also function as a method for amending the Constitution in the sense of adding, subtracting, or correcting the meaning contained in a text of the Constitution.

Jazim Hamidi, citing the opinion of Sudikno Mertokusumo, A. Pitio, Achmad Ali, and Yudha Bhakti, noted 11 (eleven) types of legal interpretation methods, namely:

- a. Grammatical Interpretation, interpreting the words in the law according to the rules of language and rules of grammar law.
- b. Historical Interpretation, namely the interpretation of the history of laws and legal history.
- c. Systematic Interpretation, interpreting the law as part of the entire statutory system.
- d. Sociological or teleological interpretation, the meaning of the law is seen based on its societal goals, so that interpretation can reduce the gap

- between the positive nature of law and legal reality.
- e. Comparative Interpretation, interpreting by way of comparison with various legal systems.
 - f. Featureistic Interpretation, interpreting the law by looking at the bill that is currently in the process of being discussed.
 - g. Restrictive interpretation, limits interpretation based on words with a certain meaning.
 - h. Extensive Interpretation, interpreting by exceeding the limits of grammatical interpretation results.
 - i. Authentic Interpretation, an interpretation that may only be made based on an obvious meaning in the law.
 - j. Interdisciplinary interpretation, using the logic of interpretation of more than one branch of law.
 - k. Multidisciplinary interpretation, interpreting using the interpretation of other sciences outside of the law.

Based on the considerations of the Constitutional Court described in the discussion above, the Compilers can conclude that the Decision of the Constitutional Court Number 01/PHPU-PRES/XVII/2019 concerning the Dispute on the Results of the General Election for the President and Vice President used extensive, authentic, and systematic interpretation in the consideration of the panel of judges. The decision was taken by considering substantive justice, namely justice related to the judge's decision in examining, hearing, and deciding a case that must be made based on considerations of honesty, objectivity,

impartiality, without discrimination, and based on conscience.

The Judge Deliberation Meeting for the Constitutional Court Decision Number 01/PHPU-PRES/XVII/2019 was conducted by nine Constitutional Justices, namely, Anwar Usman, as Chairperson concurrently Member, Aswanto, Wahiduddin Adams, Arief Hidayat, I Dewa Gede Palguna, Suhartoyo, Manahan M.P. Sitompul, Saldi Isra, and Enny Nurbaningsih, each as a Member, on Monday, 24 June 2019, decided to reject all of the applicant's applications. By rejecting all of the applicant's requests, the Constitutional Court's decision ends a legal dispute, based on the characteristics of the decision which is final and binding, has ended a legal dispute and there are no legal remedies that can be taken again, and applies to all of Indonesia.

Regarding the basic legal considerations and based on the Final Report on Legal Analysis and Evaluation Related to General Elections made by the National Legal Development Agency of the Ministry of Law and Human Rights of the Republic of Indonesia in 2020, several judicial reviews of Law Number 7 of 2017 concerning General Elections have been carried out with the results various decisions, namely (BPK, 2017):

1. Decision Number 53/PUU-XV/2017

This decision concludes that the phrase "has been determined/" in Article 173 paragraph (1) and Article 173 paragraph (3) of Law Number 7 of 2017 concerning General Elections is contrary to the 1945 Constitution of the Republic of Indonesia and has no legal force. tie.

2. Decision Number 61/PUU-XV/2017

This decision stipulates that Article 557 of Law Number 7 of 2017 concerning General Elections is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force.

3. Decision Number 66/PUU-XV/2017

The conclusion of the Decision Number 66/PUU-XV/2017 is that Article 571 letter d of Law Number 7 of 2017 concerning General Elections is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force.

4. Decision Number 20/PUU-XVII/2019

This decision has several essences, namely:

- a. State the phrase "electronic identity card" in Article 348 paragraph (9) of Law Number 7 of 2017 concerning General Elections is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force conditionally as long as it is not interpreted "including a statement letter for recording an electronic identity card issued by the population and civil registration service or other similar agency that has the authority to do so.
- b. Stating the phrase "at the latest 30 (thirty) days" in Article 210 paragraph (1) of Law Number 7 of 2017 concerning General Elections is contrary to the 1945 Constitution of the Republic of Indonesia and does not have conditionally binding legal force as long as it is not interpreted "no later than 30 (thirty) days before voting day except for voters due to

unforeseen conditions beyond the ability and will of voters due to illness, natural disasters, being detained, and because carrying out their duties at a voting time is determined no later than 7 (seven) days before voting day.

- c. Stating the phrase "only carried out and completed at the TPS/TPSLN concerned on voting day" in Article 383 paragraph (2) of Law Number 7 of 2017 concerning General Elections is contrary to the 1945 Constitution of the Republic of Indonesia and does not have conditionally binding legal force as long as it is not interpreted as "only carried out and completed at the TPS/TPSLN concerned on voting day and if the vote counting has not been completed it can be extended without a maximum break of 12 (twelve) hours from the end of the voting day".

5. Decision Number 32/Puu-Xix/2021

This decision stipulates that the provisions of Article 458 paragraph (13) of Law Number 7 of 2017 are contrary to the 1945 Constitution of the Republic of Indonesia and do not have binding legal force as long as they are not interpreted, "The decision as referred to in paragraph (10) is binding for The President, KPU, Provincial KPU, Regency/City KPU, and Bawaslu are decisions of TUN officials that are concrete, individual, and final, which can become the object of a lawsuit in the TUN court";

6. Decision Number 39/Puu-Xvii/2019

This decision stipulates that Article 416 paragraph (1) of Law Number 7 of 2017

concerning General Elections are contrary to the 1945 Constitution of the Republic of Indonesia and do not have binding legal force as long as they are not interpreted as "does not apply to general elections for the President and Vice President which are only attended by 2 (two) pairs of candidates"

7. Decision Number 55/Puu-Xviii/2020

This decision stipulates that Article 173 paragraph (1) of Law Number 7 of 2017 concerning General Elections which states, "Election Contesting Political Parties are political parties that have passed the verification by the KPU", contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force as long as it is not interpreted, "Political parties that have passed the 2019 Election verification and passed/meet the Parliamentary Threshold provisions in the 2019 Election are still administratively verified but not factually verified, as for political parties that do not pass/do not meet the Parliamentary provisions Threshold, political parties that only have representation at the Provincial/Regency/City DPRD level and political parties that do not have representation at the Provincial/Regency/City DPRD level, are required to be re-verified administratively and factually, this is the same as the provisions that apply to a new political party".

The legal interpretation carried out by the nine judges of the Constitutional Court in the Constitutional Court Decision Number 01-PHPU-PRES/XVII/2019 concerning the Dispute over the Results of the General Election for the President and Vice President is under the rules, legal

norms, and the interests of the people, but also proves that there are still There are many deficiencies in the regulations governing general elections resulting in a conflict of authority, especially between the Election Supervisory Body (Bawaslu) and the Constitutional Court, where the authority to decide on the results of general election disputes is in the hands of the Constitutional Court but decisions on general election issues are more in the hands of the Constitutional Court. Election Supervisory Body (Bawaslu). so that the drafters view the need for a judicial review conducted by the Constitutional Court regarding the authority of Bawaslu as regulated in Article 95 of Law no. 7 of 2017 concerning General Elections. Judicial review is the process of examining lower laws and regulations against higher laws and regulations carried out by the judiciary, in this case, the Law against the 1945 Constitution of the Republic of Indonesia.

One of the powers of the Constitutional Court is to decide disputes about the results of general elections. This is not interpreted by the results of the vote count on election day, but must also be seen in the process of organizing general elections. The emergence of Bawaslu to oversee the General Election, in fact, in its development it was given too broad authority, even the Constitutional Court could not re-examine the Bawaslu decision is contrary to the authority of the Constitutional Court to decide on PHPU disputes, which must also be seen how the implementation process and must be able to examine and decide again on the decisions of the institutions under it.

Based on the research results

above, there does not appear to be any judicial review regarding the authority of the Election Supervisory Body (Bawaslu), the General Election Commission (KPU), and the Constitutional Court to date, even though this should be an important concern because of Law Number 7 of 2017 concerning The General Election will be used again in the General Election in 2024.

CONCLUSION

The rapid development of information and communication technology has affected the holding of the 2019 Presidential General Election. Its free access to information has caused significant changes to political currents. Allegations of abuse and irregularities are points that are widely evaluated by the public. The Constitutional Court (MK) has stated that it rejects the entire application submitted by candidate pair number 02 because according to the Constitutional Court, the arguments used by the applicant are not proven.

The formulation of the problem from this research is (1) What is the legal basis for the panel of judges' legal considerations in the Constitutional Court Decision Number 01-PHPU-PRES/XVII/2019 concerning Disputes over the Results of the General Election for the President and Vice President; (2) What is the juridical analysis of the decision of the Constitutional Court Number 01-PHPU-PRES/XVII/2019 concerning Disputes over the Results of the General Election for the President and Vice President.

This type of research is normative legal research with primary and secondary legal materials collection models used in

this research being library research, document study, and archival study. Then it is analyzed with the method of systematic interpretation and extensive interpretation so that it can answer the main problems studied.

The results of this study, based on the juridical analysis carried out, show that the 2019 General Election still has weaknesses in the process of holding the General Election (Election). The authority of the Election Supervisory Body is too broad to be said to be an election management body only, so in deciding this decision, several arguments were rejected because based on Law Number 7 of 2017 concerning General Elections it is the authority of the Election Supervisory Body and the results of the decision are final and there is no further effort to continue the case, including resubmitting it to the Constitutional Court. This is an important note, especially since Law Number 7 of 2017 concerning General Elections is still a reference for the 2024 Election.

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