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EXAMINING CASE DELAY AND VICTIM RIGHTS IN PROCEDURAL LAW

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Abstract: This article examines whether Article 158(e) of Indonesia's Criminal Procedure Code (KUHAP), which permits pre-trial review of delay in case handling without valid grounds, provides victims with an effective remedy rather than merely procedural access. Using a normative-doctrinal method, the study reads Articles 23(6), 158(e), and 163(3) systematically and applies grammatical and teleological interpretation, supported by a focused comparison with South Africa and Germany. Aggregate case-resolution figures are treated only as an institutional context and not as proof that any unresolved case constitutes an unjustified delay. The analysis identifies a remedial gap: the Code does not operationalize "valid grounds," does not clearly connect the fourteen-day response rule in Article 23(6) to the evidentiary threshold under Article 158(e), and does not expressly specify a delay-specific follow-up order in Article 163(3). This does not mean that a favorable ruling has no legal effect, but it creates uncertainty regarding the required procedural act, the responsible institution, and the compliance period. The article proposes a victim-centered framework based on objective delay indicators; a prima facie evidentiary threshold followed by a duty of explanation from the authority; targeted judicial orders to restore active case handling without dictating its substantive outcome; compliance reporting; and improved victim access to case information and legal assistance.

Artikel ini mengkaji apakah Pasal 158 huruf e KUHAP, yang membuka praperadilan terhadap penundaan penanganan perkara tanpa alasan yang sah, benar-benar memberikan pemulihan efektif bagi korban dan bukan sekadar akses prosedural. Penelitian menggunakan metode normatif-doktrinal melalui pembacaan sistematis terhadap Pasal 23 ayat (6), Pasal 158 huruf e, dan Pasal 163 ayat (3), dengan penafsiran gramatikal dan teleologis serta perbandingan terbatas dengan Afrika Selatan dan Jerman. Data agregat penyelesaian perkara digunakan hanya sebagai konteks institusional dan tidak diperlakukan sebagai bukti bahwa setiap perkara yang belum selesai merupakan penundaan tanpa alasan yang sah. Hasil kajian menunjukkan adanya ketidaklengkapan hubungan remedial: parameter "alasan yang sah"

belum operasional, aturan empat belas hari belum terhubung secara jelas dengan ambang pembuktian Pasal 158 huruf e, dan Pasal 163 ayat (3) belum menentukan tindak lanjut khusus bagi temuan penundaan. Kondisi tersebut tidak berarti putusan sama sekali tidak memiliki akibat hukum, tetapi menimbulkan ketidakpastian mengenai tindakan yang wajib dilakukan, lembaga pelaksana, dan waktu pemenuhan. Artikel ini menawarkan kerangka perlindungan korban berupa indikator keterlambatan objektif, pembuktian prima facie yang diikuti kewajiban penjelasan aparat, perintah yudisial yang terukur, pelaporan kepatuhan, serta penguatan akses informasi dan bantuan hukum.

Keywords: *Criminal Procedure; Legal Certainty; Pre-Trial Review; Unjustified Delay; Victim Protection.*

INTRODUCTION

Global developments in contemporary criminal procedure law indicate a paradigm shift from a perpetrator-oriented model toward one that increasingly positions victims as active participants in the judicial process. This is particularly evident in the pre-adjudication stage which previously tended to be closed off and lacked accountability. Victim participation in the investigation and pre-prosecution stages is no longer understood merely as a procedural right, but rather as a corrective mechanism against potential abuse of discretion by law enforcement officials. European legal system strengthening the victim's position is also linked to the need to prevent unjustified delays in case processing as such delays directly erode victims' access to substantive justice (Cardona, 2023). This dynamic demonstrates that the issue of case processing delays is not merely an administrative problem but has evolved into a human rights issue closely tied to the principle of due process of law and the protection of victims within the modern criminal justice system (Komnas HAM, 2023).

A review of the current literature indicates that control mechanisms over the pre-trial stage, including oversight of the actions or omissions of investigative officials are key elements in ensuring legal certainty and the protection of victims. Comparative studies confirm that effective legal systems generally provide clear remedial mechanisms in cases of undue delay in case handling whether in the form of sanctions against officials or orders to expedite legal proceedings (Wąsek-Wiaderek, 2021). Other research also reveals that in practice these mechanisms are often distorted due to an imbalance between the need for efficiency and the guarantee of procedural justice (Kruk 2024). Pretrial review is positioned as an instrument of judicial oversight over the actions of law enforcement officials including in cases of case processing delays although its implementation still faces various conceptual and practical challenges (Witanto 2020).

Delays in case processing within Indonesian police practices are reflected in the data in the table which shows an imbalance between the number of cases handled and those resolved, leading to an accumulation of case backlogs year after year.

Table 1. Aggregate Case Resolution and Unresolved Caseload (2023–2025)

Year	Number of Reported Cases	Case Resolution	Unresolved Cases
2023	584,991	299,158 (51.2%)	285,833 cases
2024	325,150	244,975 (75.34%)	80,175 cases
2025	325,345	248,076 (±76.2%)	77,269 cases

Source: National Police Criminal Investigation Agency, 2026.

The figures presented in table 1 are used only to describe aggregate case-resolution pressure within the police and should not be treated as direct evidence that every unresolved case constitutes an unjustified delay under Article 158(e). An unresolved case is not synonymous with an unjustified delay. Case backlog denotes the accumulation of unresolved cases; ordinary delay refers to time attributable to legitimate procedural steps; undue delay describes excessive delay assessed in light of its duration and surrounding circumstances; and delay in case handling without valid grounds constitutes the narrower statutory category requiring the absence of an objectively defensible justification. The legal determination under Article 158(e) must depend on case-specific reasons, procedural activity, proportionality, and resulting prejudice rather than on aggregate caseload figures alone (M. Rizki Yudha Prawira 2024). More directly relevant contextual evidence is provided by the Indonesian Ombudsman, which recorded 1,551 public reports concerning the police during 2024–2026, 60.4% of which were dominated by protracted-delay issues. This figure likewise does not establish that each report satisfies Article 158(e), but it demonstrates a factual context in which prolonged institutional inactivity can become a significant access-to-justice concern and therefore requires a judicially workable standard for distinguishing justified delay from legally unjustified inactivity (Ombudsman Republik Indonesia 2026).

A critical synthesis of the literature reveals a fundamental inconsistency between normative constructs and empirical practices in the pretrial system particularly regarding the scope of case delays without valid grounds. Research conducted by Susilo (2026) highlights that the expansion of the scope of pretrial proceedings following the Constitutional Court's ruling does indeed strengthen the protection of suspects' rights, but has not yet adequately accommodated the interests of victims. Research by Prawira (2024) on undue delay in case handling in Indonesia reveals a phenomenon of prolonged delays not accompanied by clear accountability mechanisms thereby creating legal uncertainty for victims. This situation is further exacerbated by weak internal oversight mechanisms for investigators which are often ineffective in following up on public reports of official negligence (Lathif 2019).

There is a significant conceptual gap in the normative provisions of the Criminal Procedure Code (KUHAP) particularly regarding the relationship between Article 23 (6) which sets a 14-day deadline for investigators to follow up on reports and Article 158 (e), which allows for pretrial review proceedings in cases where case handling is delayed without valid grounds. Criminal procedure literature indicates that the provision regarding this time limit is not accompanied by clear legal consequences in the event of a violation, thereby

creating a gray area in law enforcement practice (Lawra 2024). This ambiguity reflects a gap between "law in the books" and "law in action," where norms that formally guarantee legal certainty fail to provide effective protection for victims when confronted with the reality of slow law enforcement bureaucracy (Auliyanisya 2017).

The unresolved doctrinal issue is therefore not limited to the absence of a victim-centered discussion. Existing scholarship has not sufficiently explained how Article 23(6), which creates a measurable response obligation, Article 158(e), which authorizes judicial review of unjustified delay, and Article 163(3), which structures the consequences of pre-trial decisions, should operate as one coherent remedial sequence. The theoretical gap lies in the missing connection between trigger, adjudication, and remedy: a procedural duty has limited protective value if the legal system does not also specify how its breach becomes judicially reviewable and what corrective consequence may follow a favourable ruling. This systemic relationship constitutes the principal doctrinal contribution of the present article.

The urgency of this issue becomes even more pronounced when considered in light of the theory of legal certainty, which requires clarity of legal norms, consistency in their application, and the predictability of legal outcomes as the primary prerequisites for the protection of rights (Andrianto 2020). According to Apeldoorn the lack of clarity regarding the outcome or consequences of a pretrial ruling on the postponement of a case directly undermines the very principle of legal certainty. The theory of legal protection put forward by Philipus M. Hadjon emphasizes that the state has an obligation to provide preventive and repressive protection to citizens, including victims of criminal acts who have suffered harm due to the slowness of law enforcement officials. When pretrial proceedings are unable to provide concrete remedies for delays without valid reasons, this function of legal protection becomes suboptimal, and even tends to be illusory in practice (Pratama 2025).

This study takes a critical stance by thoroughly examining the relationship between the normative framework of pretrial proceedings and its ability to protect victims from the practice of delaying case processing without valid grounds. Unlike previous studies that have largely focused on the protection of suspects or procedural aspects of pretrial proceedings, this study specifically highlights the dimension of victim protection, which has been relatively neglected in the discourse on criminal procedure in Indonesia (Maringka and Kindangen 2023). This approach also seeks to fill a gap in the literature regarding the normative implications of Article 158 (e) of the Criminal Procedure Code, which has not provided clarity on the form of the ruling or the legal consequences for officials found to have caused delays without valid reasons a situation that, in practice, often leads to uncertainty and injustice for victims (Herman et al. 2022).

Previous studies have not sufficiently explained how the supervisory mechanism in Article 23(6), the object of judicial review in Article 158(e), and the remedial provisions in Article 163(3)-(4) operate as an integrated procedural chain. The unresolved issue not merely whether delay can become an object of pre-trial review but whether the statutory framework clearly identifies the legal trigger, allocates evidentiary responsibility, and provides an effective

remedy once unjustified delay has been established. This study conceptualizes the discontinuity between trigger, adjudication, and remedy as the principal doctrinal gap. The analysis moves beyond a topic-based gap concerning victim participation and examines whether the internal structure of KUHAP is capable of transforming procedural standing into substantive legal protection.

This article addresses two questions: (1) How should Articles 23(6), 158(e), and 163(3) be interpreted together to identify legally unjustified delay in case handling? (2) What procedural consequences and victim-protection safeguards should follow a finding of unjustified delay without transferring investigative or prosecutorial discretion to the pre-trial judge? This study aims to critically analyze the pretrial provisions regarding the unjustified delay of case proceedings under Article 158 (e) of the Criminal Procedure Code and to examine their relationship to victim protection within the criminal justice system. This study is also expected to yield theoretical contributions in the form of strengthening the concepts of legal certainty and legal protection in pretrial proceedings as well as practical contributions in the form of normative recommendations to clarify the legal outcomes and consequences of pretrial rulings in cases of case processing delays. It aims to provide direction for the reform of criminal procedure law to make it more responsive to the interests of victims.

RESEARCH METHOD

This study employs normative-doctrinal legal research to examine the legal structure governing unjustified delay in case handling and its implications for victim protection. The primary legal materials consist of Law No. 20 of 2025 on the Criminal Procedure Code, particularly Articles 1(15), 23(6), 158(e), 159, and 163(3), together with relevant pre-trial decisions. Secondary materials include criminal-procedure scholarship, victim-protection literature, and doctrinal commentary. The analysis applies grammatical interpretation to the concepts of "delay" and "valid grounds," systematic interpretation to the relationship among the relevant KUHAP provisions, and teleological interpretation to assess whether that structure advances legal certainty and effective victim protection. Aggregate police and Ombudsman statistics are used exclusively as supporting institutional context; they do not constitute the primary data of the study and are not treated as proof that any particular unresolved case amounts to a legally unjustified delay (Lawra 2024).

The comparative component is functional and deliberately limited to jurisdictions selected for their relevance to particular dimensions of the Indonesian problem. South Africa is examined through Section 342A of the Criminal Procedure Act 51 of 1977 because it provides express factors for assessing unreasonable delay and connects a finding of delay with remedial judicial authority. Germany is examined through Sections 170–175 of the *Strafprozessordnung* because Section 175 expressly links a judicial finding to an order whose implementation remains with the public prosecution office. The comparison applies common criteria comprising the trigger for judicial review, criteria for assessing delay or inaction, judicial authority, form of remedial order, institution responsible for implementation, and

the limits of judicial intervention. These foreign rules are used as functional reference points rather than as models for direct legal transplantation into Indonesian criminal procedure (Susilo 2026; Andrianto 2020).

RESULT AND DISCUSSION

Pretrial Review of Case Delays Under Procedural Law

The scope of pretrial proceedings in the Indonesian criminal procedure system has expanded significantly, particularly through the formulation of Article 158 (e) of the Criminal Procedure Code, which states: *"Delaying the handling of a case without a valid reason."* Including the delay of case proceedings without valid grounds as a subject of judicial review. This provision cannot be separated from the fundamental framework of pretrial proceedings as set forth in Article 1(15) of the Criminal Procedure Code, which states that:

> *"A pretrial hearing is the authority of a district court to examine and rule on objections filed by a suspect or the suspect's family, a victim or the victim's family, a complainant, or an attorney or legal aid provider authorized to represent the legal interests of the suspect or victim, regarding the actions of an investigator in conducting an investigation or the actions of a public prosecutor in conducting a prosecution, in accordance with the procedures set forth in this Act"*

Article 1 (15) of the Criminal Procedure Code affirms the authority of district courts to review the actions of investigators and public prosecutors. Pretrial review serves as a horizontal control mechanism over the exercise of discretion by law enforcement officials during the investigation and prosecution phases. A grammatical interpretation of the phrase "delay without valid cause" indicates the presence of administrative impropriety as well as a potential violation of procedural rights. The literature confirms that the expansion of this scope is a response to the practice of case stagnation that was not addressed by previous control mechanisms (Witanto 2020).

Article 158 (e) must be read in conjunction with Article 23(6), which provides that: *"If an investigator fails to respond to a report or complaint within a maximum of 14 (fourteen) days from the date the report or complaint was received, the reporter or complainant may report the investigator's failure to follow up on the report or complaint to the investigator's supervisor or to the official responsible for oversight in the investigation."*

Article 23(6) should not be interpreted as establishing that every period extending beyond fourteen days automatically constitutes an unjustified delay. Its stronger doctrinal function is as a temporal and accountability indicator: failure to provide the required response may establish a prima facie concern requiring explanation while the ultimate assessment under Article 158(e) must still consider the reasons for delay and the existence of actual procedural activity. Article 23(6) supplies the first step in the normative sequence a measurable duty to respond while Article 158(e) supplies judicial review and Article 163(3) should provide sufficient clarity regarding the remedial consequence. The principal weakness

therefore lies in the incomplete linkage among these stages rather than simply in the absence of a sanction (Lawra 2024).

A teleological interpretation of Article 158 (e) of the Criminal Procedure Code points to the objective of protecting parties who have suffered harm as a result of delays, whether suspects or victims. From the perspective of due process of law any action or omission by officials that impedes the legal process must be subject to judicial review. Delays without valid reasons constitute a form of maladministration that potentially violates the right to legal certainty. International literature indicates that undue delay in criminal proceedings is often categorized as a human rights violation (Wąsek-Wiaderek 2021).

This approach reinforces the normative legitimacy of pretrial proceedings as a corrective instrument. The normative construction of Article 158 (e) of the Criminal Procedure Code faces serious challenges regarding the ambiguity of the parameters for "valid grounds." This provision does not provide explicit criteria regarding the conditions that can be justified as grounds for postponement. This leaves ample room for interpretation by law enforcement officials and pretrial judges alike. This uncertainty has the potential to lead to disparity in rulings and inconsistency in the application of the law. Doctrinal analysis indicates that open-ended provisions like this are susceptible to abuse of discretion (Andrianto 2020). The absence of clear normative indicators also impacts the difficulty of proving claims in the pretrial process. The petitioner must prove that the delay lacks a valid basis while the respondent can present various administrative justifications. This creates an imbalance in the parties' positions during the evidentiary process. This situation highlights a gap between normative construction and the reality of implementation (Susilo 2026).

To make "valid grounds" judicially operable, the assessment should rely on non-exhaustive factors rather than a rigid closed list. Relevant considerations include the duration of inactivity; the specific reasons recorded for the delay; the existence of concrete investigative or prosecutorial steps; the seriousness and complexity of the case; dependence on essential forensic, expert, witness, or cross-jurisdictional evidence; whether any party contributed to the delay; the actual or potential prejudice caused to victims and other parties; and the effect of continued delay on the administration of justice. A reason should not become legally valid merely because it is administratively asserted: it should be documented, relevant to the case, proportionate to the period of delay, and capable of objective verification. Unexplained inactivity, repeated postponement without measurable progress, or generic reliance on workload without a case-specific explanation should weigh toward a finding that the delay lacks valid grounds.

The procedural rules for pretrial proceedings as set forth in Articles 159 and 163 of the Criminal Procedure Code, emphasize the principles of speed and simplicity. The pretrial judge is required to render a decision within a maximum of seven days from the date the petition is examined. This provision is intended to provide immediate legal certainty to the

parties. In cases of delayed case handling the short examination period may limit the scope for analyzing the complexity of the case. The literature indicates that the acceleration of procedures often conflicts with the need for substantive justice (Kruk 2024).

Article 163(3) expressly prescribes legal consequences for several pre-trial objects including unlawful arrest or detention and unlawful termination of an investigation or prosecution but it does not expressly identify a delay-specific remedial order for a finding under Article 158(e). This legislative silence should not be equated with a complete absence of legal effect. General supervisory duties administrative accountability mechanisms, and developing judicial practice may still shape the response to a favorable pre-trial ruling. The narrower doctrinal problem is one of remedial uncertainty: the Code does not state with comparable specificity what procedural act must follow a finding of unjustified delay, which institution must perform that act, or within what period compliance is expected. This asymmetry may produce inconsistent judicial orders and reduces predictability for both victims and law-enforcement authorities (Herman et al. 2022).

Early judicial application of Article 158(e) illustrates this uncertainty. In Decision No. 1/Pid.Pra/2026/PN Plw the petition was rejected because the handling of the report remained active at the inquiry stage whereas in Decision No. 62/Pid.Pra/2026/PN Jkt.Sel the court partially granted the application and ordered the respondent to continue the legal process to completion. These decisions demonstrate that courts are already required to construct both the threshold of legally relevant delay and the form of corrective relief. Their significance for the present article is not that either order should be adopted as a universal formula, but that clearer statutory guidance is required to produce consistent and institutionally bounded remedies.

It is important to map the relationships among the relevant provisions as illustrated in the following table:

Table 2. Pretrial Procedures Regarding the Postponement of Case Proceedings in the Criminal Procedure Code

Provision	Express Statutory Function	Role in Article 158(e) Analysis	Express Consequence	Identified Remedial Issue	Clarification Required
Article 1(15)	Establishes access to pre-trial review for legally interested parties, including victims	Determines procedural access/standing	Access to judicial review	Access does not itself guarantee corrective relief	Link procedural access to an effective remedy
Article 23(6)	Requires a response within fourteen days	Provides a temporal and accountability indicator	Supervisory complaint mechanism	Exceeding fourteen days is not automaticall	Clarify its evidentiary relationship with

	and permits escalation to supervisory authorities			y an Article 158(e) violation	unjustified delay
Article 158(e)	Makes delay in case handling without valid grounds an object of pre-trial review	Authorizes judicial assessment of the justification for delay	Judicial finding on the challenged delay	"Valid grounds" remain insufficientl y operationali zed	Introduce non-exhaustive assessment criteria
Article 163(3)	Regulates consequences for specified pre-trial findings	Provides the remedial stage of pre-trial adjudication	Express remedies for several objects, but no delay-specific formulation	Uncertainty regarding the appropriate follow-up to a favorable Article 158(e) ruling	Clarify permissible order, responsible institution, and compliance mechanism

Source: Compiled by the author, 2026.

The matrix distinguishes the provisions expressly stated by the legislature from the authors' doctrinal assessment of the remedial linkage that remains insufficiently specified. The table indicates a normative inconsistency that undermines the effectiveness of pretrial proceedings in the context of case delays. A historical analysis of the development of pretrial proceedings indicates that the expansion of the scope of pretrial proceedings was a response to criticism of the old Criminal Procedure Code which was considered too narrow. Constitutional Court Decision No. 21/PUU-XII/2014 marked a turning point in expanding the scope of pretrial proceedings including the designation of suspects (Kurniati 2021). This expansion was not accompanied by the formulation of comprehensive legal norms. This has led to the emergence of various new issues in practice. The literature assesses that criminal procedure law reform remains partial (Kartadinata 2023).

South Africa provides the closest functional comparator for the temporal dimension of the problem. Section 342A(2) of the Criminal Procedure Act 51 of 1977 requires the court to consider factors including the duration and reasons for the delay responsibility for it, the complexity of the charges, actual or potential prejudice, the effect on the administration of justice, and the interests of the public and victims. Where the delay is found unreasonable, Section 342A(3) authorizes the court to issue orders aimed at removing the delay or preventing further prejudice. The comparative lesson is not that Indonesia should reproduce the South African remedies but that the statutory relationship between assessment criteria, judicial finding, and remedial authority is made explicit.

Germany offers a different lesson concerning institutional implementation. Under Sections 170–175 of *the Strafprozessordnung* an aggrieved party may ultimately obtain judicial

review of a decision not to proceed with public charges. Where the application is found well-founded Section 175 permits the court to order the preferment of public charges and expressly provides that the order is carried out by the public prosecution office. The significance for Article 158(e) lies in this separation of functions: judicial control can generate a binding procedural consequence without transferring the substantive prosecutorial function to the court.

These two models support a limited principle for Indonesian reform. A favorable ruling on unjustified delay should be capable of requiring the responsible institution to restore active case handling or take the next legally required procedural step while the court should not determine who must be designated suspect what evidence is sufficient or what substantive outcome the investigation or prosecution must reach. This distinction preserves the corrective function of pre-trial review while reducing the risk of judicial overreach.

Doctrinal analysis also indicates that pretrial proceedings serve as a mechanism for checks and balances within the criminal justice system. This function can only operate effectively if supported by clear and operational norms. The absence of sanctions for case delays undermines this control function. Law enforcement officials still possess broad discretionary power without effective oversight. This reinforces criticism regarding the lack of accountability (Lathif, 2019). The phenomenon of case delays is also linked to the concept of undue delay which has been extensively examined in the international literature. Undue delay is viewed as a violation of the right to a fair trial. Pre-trial proceedings are intended to serve as a remedial mechanism. Without clarity regarding the outcome, this function becomes suboptimal. This highlights a gap between theory and practice (M. Rizki Yudha Prawira 2024).

Based on table 1 it is evident that many cases continue to be delayed year after year without any clear resolution. This situation reflects the weakness of the case management system within the police force. There is a significant backlog in the handling of criminal cases (Zikry, Ardhan, and Tiara 2016). This situation underscores the urgency of strengthening judicial control mechanisms. Pre-trial proceedings serve as a relevant instrument to address these issues. From a socio-legal perspective delays in case handling are also linked to structural factors such as the workload of law enforcement personnel and resource constraints. These factors cannot be used as justification for disregarding the legal rights of the parties involved. Legal norms must continue to ensure effective protection. This analysis indicates that the issue of delays is multidimensional. A normative approach must be supported by institutional reform (Allo, Ulil Amri, and Syarif Saddam Rivanie Parawansa 2024).

Preliminary hearing rulings in practice also reveal varying interpretations of Article 158 (e) of the Criminal Procedure Code (MURYAWAN 2021). Under the principle of *contante justitie* judicial proceedings must be conducted swiftly, simply, and at low cost. Delaying the handling of a case without a valid reason clearly contradicts this principle. Preliminary hearings should serve as an instrument to uphold this principle. Effectiveness depends on the

clarity of the norms, and without that, the principle of *contante justitie* is difficult to realize (Ryan Fani, BJ, Wibowo, and Amor 2025). The provisions on pretrial proceedings regarding the delay in handling cases under Article 158 (e) of the Criminal Procedure Code still have significant structural weaknesses. These weaknesses lie in the lack of clarity regarding parameters, the absence of sanctions, and the lack of provisions regarding the outcome of the decision. This situation results in low effectiveness of legal protection. Reformulating the legal norms is an urgent necessity in the revision of the Criminal Procedure Code. This is crucial to ensure that pretrial proceedings can function optimally as a control mechanism within the criminal justice system.

Apeldoorn's legal-certainty framework is applied in this article through three operational indicators. Clarity asks whether the law identifies the trigger for review the criteria for determining an unjustified delay, and the permissible corrective response. Consistency asks whether Articles 23(6), 158(e), and 163(3) operate as a coherent sequence from procedural duty to judicial review and remedy. Predictability asks whether victims and respondent authorities can reasonably anticipate the evidentiary threshold and the legal effect of a favourable decision. Article 158(e) satisfies clarity only partially because the object of review is stated but "valid grounds" remain insufficiently operationalized; consistency is weakened by the incomplete connection between the fourteen-day response duty and the remedial provisions; and predictability remains limited because the form and timing of follow-up depend heavily on judicial construction. The theory therefore functions as an evaluative test rather than merely as confirmation that the statutory text is ambiguous.

Pretrial Delays and Victim Protection in Criminal Justice

The connection between pretrial proceedings and victim protection in cases of unjustified case delays requires a systematic analysis of the structure of the KUHAP as a criminal procedural law that remains oriented toward the protection of suspects. Article 1 (15) of the KUHAP has indeed opened the door for victims to file for pretrial proceedings but this expansion has not been fully accompanied by a strengthening of the substantive protections. Under Article 158(e) victims are granted access to challenge case delays this access is procedural in nature and not yet substantive. This creates a tension between formal rights and actual protection. The literature emphasizes that effective legal protection must go beyond mere access to a forum (Andrianto 2020). This relationship remains normative and has not yet been operationalized.

According to Philipus M. Hadjon's theory of legal protection protection for victims should be designed along two complementary dimensions: a preventive dimension that prevents violations from occurring, and a repressive dimension that provides redress for violations that have already occurred. Under Article 158(e) of the KUHAP pretrial review does indeed serve as a repressive mechanism allowing victims to challenge the unjustified

delay in case handling; however, its normative design is limited to a minimal corrective function. The absence of an explicit obligation for investigators or public prosecutors to immediately proceed with legal proceedings following a pretrial ruling indicates that this mechanism lacks sufficient coercive power. Pretrial proceedings do not transform into an instrument for restoring victims' rights but remain merely a declaratory forum that acknowledges the existence of a violation without ensuring its rectification.

This situation creates the illusion of legal protection in which victims' rights are formally recognized but they do not substantively receive any tangible benefits. This condition reflects the failure of the criminal procedure system to internalize the principle of the effectiveness of legal protection as argued by Hadjon because legal protection must not stop at normative recognition alone but must be realized through concrete and enforceable remedial mechanisms. The interconnection of these issues becomes even more complex when analyzed through Apeldoorn's theory of legal certainty, which emphasizes the importance of clarity of norms, consistency, and predictability in the application of the law.

The delay in handling a case without a valid reason which is normatively regulated under Article 158(e) actually highlights conceptual ambiguity regarding the parameters of "valid reason," which have not been explicitly defined by the legislature. Although Article 23(6) of the Criminal Procedure Code sets a 14-day deadline for investigators to follow up on a report the absence of clear legal sanctions renders this provision practically unenforceable. Victims are left in a state of prolonged uncertainty as they have no guarantee that their reports will be processed in a timely manner nor any effective mechanism to compel authorities to act. Pre-trial review is indeed available as a means of judicial review but without clarity regarding the legal consequences of its rulings this mechanism fails to provide victims with certainty regarding the outcome.

From a victim-protection perspective the seriousness of delay should not be assessed solely by elapsed time but also by the prejudice that continued inactivity produces. Relevant consequences may include repeated difficulty obtaining case-progress information, additional legal and administrative costs, prolonged uncertainty regarding the status of the case, psychological strain or re-traumatization, deterioration of evidentiary opportunities, and delayed access to restitution or other forms of recovery. These consequences do not independently establish that a delay is unlawful but they are relevant to proportionality and to the urgency of any corrective order. This approach transforms victim protection from an abstract normative value into a set of legally relevant consequences that can inform judicial assessment.

This indicates a normative dysfunction in which the law fails to fulfill its primary function as a means of providing both certainty and protection. Without a reformulation that clarifies the parameters of valid grounds, strengthens sanctions for violations, and ensures the enforceability of pretrial rulings, the existence of such norms risks prolonging legal

uncertainty and weakening the position of victims within the criminal justice system (Susilo 2026). A teleological interpretation of Article 158 (e) indicates that this provision aims to protect the legal interests of aggrieved parties, including victims. This objective is not fully reflected in the normative design of the Criminal Procedure Code. The absence of clear indicators regarding "legitimate grounds" leads to varying interpretations in practice. This results in inconsistencies in pretrial rulings. Such inconsistencies erode public trust in the judicial system's ability to protect victims. The literature refers to this phenomenon as a form of normative uncertainty (Lawra 2024).

Another issue that further highlights the weaknesses of the pretrial regulations lies in the absence of clear and enforceable legal consequences for rulings that order the postponement of a case without valid grounds. Article 163 (3) strictly limits the legal consequences to specific matters such as arrest, detention, termination of investigation, and seizure, yet systematically overlooks the legal consequences of case delays as referred to in Article 158 (e) of the KUHAP. The absence of such an imperative follow-up provision creates a situation where pretrial rulings lose their enforceability as they are not accompanied by legally binding obligations requiring law enforcement officials to act. Under criminal procedure law, this condition indicates a disconnect between recognition norms and enforcement norms, which should operate coherently. Pretrial proceedings remain merely declaratory unable to compel a change in the behaviour of law enforcement officials. This situation is not merely a technical shortcoming but reflects a failure in normative design to establish an effective control mechanism over official discretion (M. Rizki Yudha Prawira 2024).

The difference in normative treatment between other pretrial proceedings and the postponement of case proceedings indicates a systemic inconsistency in the structure of the Criminal Procedure Code. When the termination of an investigation is declared invalid Article 163 (3) (c) of the Criminal Procedure Code explicitly requires investigators to continue the legal process thereby ensuring legal certainty and immediate consequences for the aggrieved party. In the case of case postponement there is no similar provision governing the obligation to immediately process the case, thereby allowing authorities to continue postponing proceedings under various administrative justifications. This situation demonstrates that the legislature did not formulate Article 158 (e) of the Criminal Procedure Code comprehensively resulting in a legal gap that has serious implications for victim protection. The literature identifies this phenomenon as a form of normative incompleteness that has the potential to weaken the function of pretrial proceedings as a mechanism of checks and balances (Mamadaliev 2025).

This gap not only undermines the effectiveness of pretrial proceedings but also creates a moral hazard for law enforcement officials as there are no clear legal consequences for their negligence. A further implication of this lack of legal consequences is that the function of

pretrial proceedings as an instrument of legal protection for victims is reduced to a mere normative symbol devoid of substance. Victims who have successfully proven the existence of a delay without valid grounds still receive no guarantee that the case will be processed promptly so that the pretrial ruling does not provide significant practical benefits. Within the framework of legal protection theory this condition reflects the state's failure to provide effective remedial mechanisms, as legal protection demands not only recognition of the violation but also redress for the resulting harm (Szafrańska 2022).

The absence of clear legal consequences also creates ongoing normative uncertainty as there are no predictable standards regarding the follow-up procedures after a pretrial ruling. It can be asserted that the normative gap in Article 163(3) of the Criminal Procedure Code is not merely a technical legislative issue but a structural problem that hinders the realization of a criminal justice system that is accountable, responsive, and oriented toward victim protection. Reformulating the provision to integrate obligations for action, sanctions, and oversight mechanisms is an urgent necessity to close this legal gap while restoring the pretrial hearing's function as an effective control mechanism. Victims often find themselves in a vulnerable position when accessing pretrial hearings. Limited information, costs, and lack of legal representation are the main barriers. This indicates that the formal access provided by the Criminal Procedure Code does not automatically guarantee substantive access. This situation reflects a serious disparity. Pretrial proceedings have not yet fully become an inclusive instrument. Socio-legal analysis underscores the importance of strengthening access to justice (Allo, Ulil Amri, and Syarif Saddam Rivanie Parawansa 2024).

The relationship between Article 23(6) of the Criminal Procedure Code and Article 158(e) of the Criminal Procedure Code reveals a lack of alignment in the normative framework. The 14-day time limit is not accompanied by an effective oversight mechanism. While pretrial review proceedings can be used to challenge such violations, the process requires the victim to take the initiative. This places a disproportionate burden on the victim. In a modern criminal justice system, the state should be more proactive in protecting victims. This situation highlights the need for a reformulation of the norms. To clarify this normative relationship, the following mapping can be presented: From a comparative perspective some jurisdictions have developed more progressive victim protection mechanisms. Courts may order the acceleration of proceedings or award compensation for delays. Such mechanisms provide more concrete protection. The pretrial system in Indonesia remains limited to formal review. This highlights a gap between national standards and international practices (Cardona 2023).

A systematic interpretation of the Criminal Procedure Code (KUHAP) indicates that the protection of victims has not yet become a top priority. The KUHAP places greater emphasis on the protection of suspects as a reaction to past repressive practices. Modern legal developments demand a balance between the protection of suspects and victims. Pretrial

proceedings can serve as an instrument to achieve this balance. Nevertheless, strengthening of supporting legal norms is necessary. The role of pretrial proceedings will remain limited (Kurniati 2021).

The existence of pretrial proceedings must be able to guarantee victims' right to effective justice. Delays in handling cases without valid reasons clearly harm victims in multiple ways. These impacts are not only legal but also psychological and social. Legal protection must be comprehensive. Pretrial proceedings should be part of this mechanism. A fundamental criticism of the current system is the lack of enforceability of pretrial rulings. Rulings that are merely declaratory do not bring about significant changes for victims. Law enforcement officials still have broad discretion. This indicates a weakness in institutional design highlighting the need to strengthen sanctions. Without a robust enforcement mechanism legal protection becomes ineffective (Herman et al. 2022).

Because most information concerning case progress is controlled by investigators or prosecutors Article 158(e) should not require the victim to prove the absence of valid grounds in absolute terms. The petitioner should first establish a prima facie period of inactivity through information reasonably accessible to them, such as the report receipt, progress notices, correspondence, or a chronology of unanswered requests (Kartadinata 2023). Once that threshold has been established the respondent should bear a burden of production to provide a reasoned chronology of procedural steps and the legal or factual basis for the delay, subject to legitimate confidentiality restrictions. The pre-trial court should be able to require disclosure of non-confidential progress records necessary to test that justification. This arrangement does not reverse the ultimate legal burden; rather, it responds to the information asymmetry that would otherwise make the remedy practically inaccessible to victims (Zikry, Ardhan, and Tiara 2016).

The procedural aspects of Article 163 of the Criminal Procedure Code, which governs the duration of pretrial hearings, also warrant scrutiny. The short timeframe can hinder an in-depth analysis of cases involving case delays. This impacts the quality of the resulting rulings. In the context of victim protection, the quality of the decision is crucial. Therefore, procedural flexibility must be considered. The literature supports this approach (Kruk 2024). From a socio-legal perspective case delays are caused not only by normative factors but also by structural factors. The workload of officials and bureaucratic culture are significant factors. Pre-trial proceedings cannot address these issues on their own. Institutional reform is an essential part of the solution. A normative approach must be complemented by a structural approach. The literature emphasizes the importance of systemic reform (MURYAWAN 2021).

This interconnection also reflects the dynamics of the relationship between the state and victims within the criminal justice system. The state has an obligation to protect victims as part of human rights. Delaying cases without valid grounds constitutes a failure on the part

of the state. Pretrial proceedings serve as a means to demand accountability. This highlights the need to strengthen accountability mechanisms (Ryan Fani, BJ, Wibowo, and Amor 2025). A normative analysis indicates that Article 158(e) of the Criminal Procedure Code has not been able to provide optimal protection for victims. This weakness stems from the ambiguity of the provisions and the absence of legal consequences. This results in the low effectiveness of pretrial proceedings. Victim protection remains largely formal. This situation requires serious attention. Normative reform is an urgent necessity.

The reform proposed in this article does not authorize a pre-trial judge to dictate the substantive result of an investigation or prosecution. A proportionate remedial structure should permit the court to: declare that the proven period of delay lacks valid grounds; order the responsible authority to take the next legally required procedural steps and restore active case handling within a reasonable period; require a written progress or compliance report; and preserve the authority of investigators and prosecutors to evaluate evidence and determine the lawful substantive outcome. Victim access should simultaneously be strengthened through timely provision of non-confidential case-progress information and legal-assistance mechanisms for eligible petitioners. Where a judicial order is not complied with follow-up should operate through the competent institutional supervisory mechanism and external maladministration oversight, including the Ombudsman within its statutory mandate, rather than through judicial substitution for investigative or prosecutorial functions. Compensation for harm caused by unjustified delay should not be assumed to arise automatically from Article 158(e); if adopted, it requires an express statutory basis, a defined causal threshold, and a separate remedial rule.

CONCLUSION

Article 158(e) materially expands judicial control by allowing pre-trial review of delay in case handling without valid grounds, but the surrounding provisions do not yet form a complete remedial sequence. Article 23(6) provides a measurable response obligation but should function as a temporal indicator rather than conclusive proof of unlawful delay; Article 158(e) creates the object of judicial review but leaves "valid grounds" insufficiently operationalized; and Article 163(3) does not expressly specify the delay-specific procedural act, responsible institution, or period for compliance following a favourable ruling. The problem is therefore not the total absence of legal consequences, but uncertainty in the transition from procedural trigger to judicial finding and from that finding to corrective action. Early judicial practice confirms that courts are already constructing this gap, strengthening the need for statutory clarification. The article contributes a victim-centered remedial framework combining objective delay indicators, a prima facie evidentiary threshold followed by a responsive duty of explanation, and targeted judicial orders capable of restoring active case handling without dictating the substantive result of investigation or prosecution.

South Africa demonstrates the value of express delay-assessment factors and remedial authority, while Germany demonstrates the importance of identifying the institution responsible for implementing a judicial order. In Indonesia model Article 158(e) with bounded procedural orders, compliance reporting, access to non-confidential case information, legal assistance, and institutional oversight. Such a structure would transform formal access to pre-trial review into more effective victim protection while maintaining the boundary between judicial control and law-enforcement discretion. [W]

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