



CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION
FOR CASE NUMBER 68/PUU-XIX/2021

Concerning

Presidential Candidate Threshold

- Petitioner** : H. Bustami Zainudin and H. Fachrul Razi
Type of Case : Examination of Law Number 7 of 2017 concerning General Election (Law 7/2017) against the 1945 Constitution of the Republic of Indonesia (UUD 1945).
Subject Matter : Article 222 of Law 7/2017 is in contrary to Article 6 paragraph (2), 6A paragraph (2), Article 6A paragraph (3), Article 6A paragraph (4), and Article 6A paragraph (5) of the 1945 Constitution
Verdict : To declare that the Petitioners' petition is unjustifiable.
Date of Decision : Thursday, February 24, 2022.
Overview of Decision :

The Petitioners are individual Indonesian citizens and members of the DPD (regional representative council) who do not represent the DPD institution. They argue that they have constitutional rights to vote and to be elected, the right to participate in government, and the right to a guaranteed fair legal certainty and equal treatment before the law and the government, including in running for President or Vice President position. They believed their rights are being prejudiced by the promulgation of the threshold requirements for the nomination of the Presidential and Vice-Presidential candidates in Article 222 of Law 7/2017.

Regarding the authority of the Court, because the Petitioners petition for a judicial review of the Law *in casu* Article 222 of Law 7/2017 against the 1945 Constitution, the Court has the authority to hear the *a quo* petition.

Regarding the legal standing of individual citizens in submitting petition for a review of the threshold requirement for presidential candidates *in casu* Article 222 of Law 7/2017, the Court has considered the matter in the Decision of the Constitutional Court Number 66/PUU-XIX/2021 dated February 24, 2022, which basically states that the party with legal standing to apply for a review of Article 222 of Law 7/2017 shall be a political party or a coalition of political parties participating in the General Election. Individual citizens who have the right to be elected may be deemed to have their constitutional rights being prejudiced as long as they can prove that they are supported by a political party or coalition of political parties participating in the general election to nominate themselves as a pair of candidates for President and Vice President or to submit their petition together with the supporting political party.

Based on the consideration in such decision, regarding the qualifications of the *a quo* Petitioners as individual Indonesian citizens who have the right to vote, the Court is of the opinion that the Petitioners have known that the results of their voting rights in the 2019 legislative elections will also be used as part of the threshold requirements for the nomination of the Presidential and Vice Presidential candidates in 2024 which can only be proposed by a political party or coalitions of political parties participating in the General Election, so that there are no constitutional losses on the side of the Petitioners. The issue of the number of pairs for the Presidential and Vice-Presidential candidates who will compete in the Presidential and Vice-Presidential election does not correlate with the norms of Article 222 of

Law 7/2017 because the *a quo* norms do not limit the number of pairs of Presidential and Vice Presidential candidates who are entitled to participate in the Presidential and Vice Presidential election. Therefore, in addition to the Petitioners not having a constitutional loss with the promulgation of the norms of Article 222 of Law 7/2017, there are also no causal relationship between the *a quo* norms with the constitutional rights of the Petitioners as voters in the Election. Likewise, regarding the qualifications of the Petitioners as members of the DPD, the Court did not find any constitutional loss on the side of the Petitioners and there were no causal relationship with the implementation of the duties and authorities of the Petitioners in absorbing the aspirations of the regional community, because the enforcement of the norms of Article 222 of Law 7/2017 does not reduce the opportunity for the best sons and daughters of the region to become the Presidential or Vice Presidential candidates as long as they fulfil the requirements and are proposed by a political party or coalition of political parties participating in the General Election. The Petitioners also do not meet the individual qualifications of citizens who have the right to be elected so that they are considered to have a loss of constitutional rights with the promulgation of the norms in Article 222 of Law 7/2017, because there is no evidence of support for the Petitioners to nominate themselves or to be nominated as Presidential and Vice Presidential candidates from a political party or coalition of political parties participating in the General Election or at least in submitting their petition together with the supporting political party.

Based on the entire description of the aforementioned considerations, the Petitioners do not have legal standing, so that the subject matter of the petition shall not be considered.

Accordingly, the Court subsequently issued a decision which verdict states that the Petitioners' petition is legally unjustifiable.