



CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION  
FOR CASE NUMBER 9/PUU-XXI/2023

Concerning

Maximum Age Limit for Dismissing Candidates for  
Members of the Audit Board of Indonesia

<b>Petitioners</b>	: Patuan Siahaan, et al.
<b>Type of Case</b>	: Judicial Review of Law Number 15 of 2006 concerning the Audit Board of the Republic of Indonesia (Law 15/2006) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
<b>Subject Matter</b>	: Judicial Review of Article 18 letter c of Law 15/2006 against Article 1 paragraph (3), Article 27 paragraph (2), Article 28C paragraph (1), Article 28D paragraph (1), and Article 28I paragraph (2) of the 1945 Constitution
<b>Verdict</b>	: To declare that the Petitioners' petition is inadmissible
<b>Date of Decision</b>	: Tuesday, 28 February 2023
<b>Overview of Decision</b>	:

The Petitioners are individual Indonesian citizens who are retired officers of the Prosecutors' Office of the Republic of Indonesia who are about to nominate themselves as members of the Audit Board of the Republic of Indonesia (Badan Pemeriksa Keuangan or BPK).

Whereas in relation to the authority of the Constitutional Court (the Court), because the Petitioners petition for judicial review of law, *in casu* Law 15/2006, the Court has the authority to hear the *a quo* petition.

Whereas regarding the legal standing, the Petitioners are individual Indonesian citizens who are retired officers of the Prosecutors' Office of the Republic of Indonesia; Petitioner I is 74 years old, Petitioner II is 70 years old, and Petitioner III is 70 years old. The Petitioners believe that their constitutional rights have been harmed due to the enactment of Article 18 letter c of Law 15/2006 which regulates the term of office for the members of the Audit Board of the Republic of Indonesia (Badan Pemeriksa Keuangan or BPK). It regulates that the members would be dismissed at the age of 67 (sixty-seven) years old. Therefore, the Petitioners are automatically unable to take part in the selection/nomination process of BPK members as stipulated in Article 13 of Law 15/2006, because the ages of the Petitioners have exceeded the age limit of 67 (sixty-seven) years old. The term of office for BPK members has actually been limited to a term of 5 (five) years and after that they can be re-elected for 1 (one) term of office.

Whereas regarding the description of the Petitioners' legal standing, the Court is of the opinion that the Petitioners in principle outlined the presumption that the constitutional losses they experienced are related to the existence of a provision of maximum age limit to be dismissed as chairperson, deputy chairperson and members of BPK. In their petition, the Petitioners used Article 13 letter i of Law 15/2006 as the basis for the minimum age requirement to be elected as members of BPK, namely, the minimum age is 35 (thirty-five)

years old. Then, if both articles are linked, namely Article 13 of Law 15/2006 which is a requirement to be elected as a member of BPK and Article 18 of Law 15/2006 which is the reason for the dismissal of chairperson, deputy chairperson, and members of BPK, especially Article 18 letter c of Law 15/2006, the Petitioners explained that the provision regarding the maximum age limit for dismissal, which is 67 (sixty-seven) years old, has resulted in the Petitioners not being able to nominate themselves as candidates for BPK members, even though they had met the minimum age requirements as stipulated in Article 13 of Law 15/2006. Therefore, if the maximum age limit for a term of office of 67 (sixty-seven) years is abolished, the Petitioners may nominate themselves as candidates for BPK members. The Court is of the opinion that the Petitioners have been quite clear in describing the presumed loss of constitutional rights and the enactment of the norms of Article 18 letter c of Law 15/2006. In addition, the Petitioners have also been able to explain the existence of a causal relationship (*causal verband*) between the presumed loss as referred to and the enactment of the norms of the article being petitioned for review. In this case, as described by the petitioners, if their petition is granted, the potential loss as referred to by the Petitioners will not occur. However, after the Court examined the petition and the evidence submitted by the Petitioners, it turned out that the Court has not seen or found any descriptions and evidence that could convince the Court that the Petitioners are candidates who are about to nominate themselves or have previously nominated themselves as candidates for BPK members. Regarding this matter, the Panel of Judges, in the Preliminary Session on 7 February 2023, has advised the Petitioners to add the descriptions and evidence that can show that they have previously nominate themselves to take part in the selection process for BPK members (*vide* Minutes of Case Session Number 9 /PUU-XXI/2023, dated 7 February 2023, p. 13 and 14). As citizens who have served a relatively long period of retirement, if the Petitioners wish to become members of BPK, within the limit of reasonable reasoning, they should have previously nominated or taken part in the selection process as candidates for BPK members. However, in the revised petition, the Court did not find any descriptions and evidence regarding the matter. Even though such descriptions and evidence are important as they at least would be an entry point for the Petitioners to submit the petition for the review of the *a quo* norms. Moreover, if the normative structure of Article 18 letter c of Law 15/2006 is read in full, those who are actually harmed or at least have the potential to be harmed so that they have the legal standing to submit the petition for review of the *a quo* norms are individual Indonesian citizens who at the time of the submission of the petition are serving as chairperson, deputy chairperson or members of the BPK. That means, if the descriptions and evidence as referred to can be added to the revision of the petition, at least the Petitioners can be assessed as potentially having the legal standing to submit the *a quo* petition. Therefore, the Court is of the opinion that the Petitioners do not have the legal standing to act as Petitioners in the *a quo* petition, thus the Court shall not consider the subject matter of the petition.

Based on all of the above considerations, the Court subsequently passes down a decision in which the verdict states that the petition of the Petitioners is inadmissible.