



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 4/PUU-XXI/2023**

**Concerning**

**Constitutionality of the Limitations on Term of Office of President and Vice  
President and Presidential Threshold**

<b>Petitioner</b>	:	<b>Herifuddin Daulay</b>
<b>Type of Case</b>	:	Judicial review of Law Number 7 of 2017 concerning General Elections (Law 7/2017) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
<b>Subject Matter</b>	:	Limitations on the Term of Office of President and Vice President in Article 169 letter n and Article 227 letter i of Law 7/2017, and the requirements for obtaining 20% of the seats in the DPR or 25% of national votes in Article 222 of Law 7/2017 are contrary to the principle that sovereignty is in the hands of the people in Article 1 paragraph (2), the principle that President holds government power in Article 4 paragraph (1) of the 1945 Constitution, the principle that president and vice president are directly elected by the people in Article 6A paragraph (1), the guarantee of the right to participate in efforts to defend the State in Article 27 paragraph (3), and the principle that the State Language is Indonesian Language in Article 36 of the 1945 Constitution
<b>Verdict</b>	:	<b>On Preliminary Injunction:</b> To declare the Petitioner's petition for preliminary injunction is inadmissible  <b>On the Merits:</b> To dismiss the Petitioner's petition entirely
<b>Date of Decision</b>	:	Tuesday, 28 February 2023
<b>Overview of Decision</b>	:	

The Petitioner is an individual Indonesian citizen who has a voting right in the general election who feels that his constitutional rights have been harmed by the enactment of the norms of the articles being petitioned for review because the *a quo*

norms do not provide guarantees of the principles in the 1945 Constitution;

Regarding the authority of the Court, because the petition is to review the constitutionality of norms of law, *in casu* Law 7/2017 against the 1945 Constitution, the Court has the authority to hear the Petitioner's petition;

Regarding the Petitioner's legal standing, the Court is of the opinion that, as a voter in the election, the Petitioner has been able to specifically explain his constitutional right, which in his opinion, has been or at least is potentially harmed by the enactment of the norms being petitioned for review, namely the right to elect a president and vice president who are directly elected by the people in general elections as guaranteed in the 1945 Constitution. The Court is of the opinion that it is evident that there are a logical connection and a causal relationship between the Petitioner's assumptions regarding the loss of his constitutional rights and the enactment of the norms of the articles being petitioned for review. Therefore, if the Petitioner's petition is granted, the assumption of such loss is or will no longer occur. Thus, the Court is of the opinion that the Petitioner has the legal standing to submit the *a quo* petition.

Whereas because the *a quo* petition is clear, the Court is of the opinion that there is no urgency and need to hear statements from the parties as stated in Article 54 of the Constitutional Court Law.

Before assessing the subject matter of the petition, the Court first examined whether the review of the norms of the articles submitted for submission may be re-submitted as stipulated in Article 60 of the Constitutional Court Law and Article 78 of PMK 2/2021 due to the *a quo* norms have previously been submitted for review. Regarding this matter, the Court is of the opinion that the basis used for this review is different from the previous petition, namely by using the basis for review of Article 4 paragraph (1), Article 27 paragraph (3), and Article 36 of the 1945 Constitution. Thus, without having to examine further the reasons that are different from all previous petitions, the existence of the basis for the review is clear and sufficient for the Court to declare that the Petitioner's petition can be submitted again.

Regarding the Subject Matter of the Petition, the Court divided it into two groups of issues as follows:

1. The requirements to nominate a candidate for President or candidate for Vice President, *in casu* the requirements as set forth in Article 169 letter n and Article 227 letter i of Law 7/2017, have been decided by the Court. Concerning these two norms, the Court considered them in Constitutional Court Decision Number 117/PUU-XX/2022, pronounced in a plenary session open to the public on 31 January 2023. The Court is of the opinion that the constitutional issues petitioned by the Petitioner in the *a quo* petition, in essence, are not much different from Constitutional Court Decision Number 117/PUU-XX/2022, and the Court does not or has not yet had strong legal reasons to change its stance. Therefore, the legal considerations in Constitutional Court Decision Number 117/PUU-XX/2022 *mutatis mutandis* apply as the legal considerations in the *a quo* decision. This means that the norms of Article 169 letter n and Article 227 letter i of Law 7/2017 are constitutional;
2. Regarding the norms of Article 222 of Law 7/2017, the constitutionality has been reviewed by as many as 27 (twenty-seven) petitions that the Court has decided. Out of all these decisions, there were 5 (five) decisions in which the verdict was to dismiss the Petitioner's petition, while in other decisions, the petitions were declared inadmissible. The Court is of the opinion that the constitutional issues petitioned in the *a quo* petition, in essence, are not different from the previous

decisions regarding the threshold for nominating a pair of candidates for president and vice president (presidential threshold). Referring to all of these decisions, the Court is of the opinion that the threshold for nominating a pair of candidates for President or candidate for Vice President is constitutional. Therefore, the legal considerations in the previous decisions stating that the norm of Article 222 of Law 7/2017 also *mutatis mutandis* applies to the legal considerations in the *a quo* decision. However, the Court reiterated that of all the decisions mentioned above, two Constitutional Justices, namely Constitutional Justice Suhartoyo and Constitutional Justice Saldi Isra, raised dissenting opinions and remained in their stance that the threshold for nominating a pair of candidates for president and vice president is contrary to the 1945 Constitution (unconstitutional). However, apart from these different opinions, the provision of Article 222 of Law 7/2017 is constitutional.

Regarding other arguments in the Petitioner's petition, the Court is of the opinion that these arguments are not clear and have no connecting line with the *petitum*. Similarly, regarding the Petitioner's petition for preliminary injunction, which petitions for the Court to "declare that the Rule of Law subject to the Rule of the Indonesian Language", the Court is of the opinion that the *petitum* of such petition for preliminary injunction is ambiguous or obscure so that it must be dismissed.

In accordance to these legal considerations, the Court is of the opinion that the Petitioner's arguments, stating that the norms of Article 169 letter n, Article 227 letter i, and Article 222 of Law 7/2017 are contrary to the 1945 Constitution, are legally unjustifiable.

Accordingly, the Court passes down a decision in which the verdict is as follows:

**On Preliminary Injunction:**

To declare the Petitioner's petition for preliminary injunction inadmissible.

**On the Merits:**

To dismiss the Petitioner's petition entirely.

**Dissenting Opinion**

Regarding the *a quo* decision, two constitutional justices have dissenting opinions, namely Constitutional Justice Anwar Usman and Constitutional Justice Daniel Yusmic P. Foekh, who, in essence, are of the opinion that the Petitioner has no legal standing to submit a petition and, therefore the Court should declare the Petitioner's petition inadmissible (*niet ontvankelijke verklaard*).