



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 15/PUU-XXI/2023**

**Concerning**

**Term of Office of Village Head and  
Periodization of Term of Office of Village Head**

- Petitioners** : Eliadi Hulu, et al.
- Type of Case** : Judicial Review of Law Number 6 of 2014 concerning Villages (Law 6/2014) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Judicial Review of Article 39 paragraph (1) and paragraph (2) along with the Elucidation of Article 39 of Law 6/2014 against Article 1 paragraph (3), Article 27 paragraph (1), Article 28C paragraph (2), Article 28D paragraph (1) and Article 28I paragraph (2) of the 1945 Constitution
- Verdict** :
1. To declare that the petition of Petitioner II, Petitioner III, Petitioner IV, Petitioner VII, Petitioner IX, and Petitioner X in relation to Article 39 paragraph (1) and paragraph (2) along with the Elucidation of Article 39 of the Law of the Republic of Indonesia Number 6 of 2014 concerning Villages (State Gazette of the Republic of Indonesia of 2014 Number 7 and Supplement to the State Gazette of the Republic of Indonesia Number 5495) is inadmissible;
  2. To declare that the petition of Petitioner V, Petitioner VI, Petitioner VIII, Petitioner XI, and Petitioner XII in relation to Article 39 paragraph (1) and paragraph (2) along with the Elucidation of Article 39 of the Law of the Republic of Indonesia Number 6 of 2014 concerning Villages (State Gazette of the Republic of Indonesia of 2014 Number 7 and Supplement to the State Gazette of the Republic of Indonesia Number 5495) is null and void;
  3. To declare that the petition of Petitioner I in relation to the judicial review of the Elucidation of Article 39 paragraph (1) and paragraph (2) of the Law of the Republic of Indonesia Number 6 of 2014 concerning Villages (State Gazette of the Republic of Indonesia of 2014 Number 7 and Supplement to the State Gazette of the Republic of Indonesia Number 5495) is inadmissible;
  4. To dismiss the remainder of the petition of the Petitioner I.
- Date of Decision** : Thursday, 30 March 2023

**Overview of Decision :**

Whereas the Petitioners are Indonesian citizens who believe that their constitutional rights have been harmed by having any village heads elected through direct elections, because the Petitioners have to wait for 6 (six) years to be able to participate in the village head elections. In

addition, the periodization of 3 (three) periods given to the village heads has further hampered the petitioners' constitutional rights to participate in the election process to nominate themselves as village head candidates.

Whereas in relation to the authority of the Court, because the Petitioners petition for a review of the constitutionality of norms of law, material review of the norms of Article 39 paragraph (1) and paragraph (2) along with the Elucidation of Article 39 of Law 6/2014 against the 1945 Constitution, the Court has the authority to hear the *a quo* petition of the Petitioner.

Whereas in relation to the legal standing of the Petitioners, the Court is of the opinion that Petitioner I has the legal standing to act as the Petitioner in the review of Article 39 paragraph (1) and paragraph (2) along with the Elucidation of Article 39 of Law 6/2014. Meanwhile, Petitioner II, Petitioner III, Petitioner IV, Petitioner VII, Petitioner IX, and Petitioner X do not have the legal standing to act as the Petitioners in the review of Article 39 paragraph (1) and paragraph (2) along with the Elucidation of Article 39 of Law 6/2014. As for Petitioner V, Petitioner VI, Petitioner VIII, Petitioner XI, and Petitioner XII who did not attend the Preliminary Examination session with the agenda to examine the revision of the petition on 1 March 2023 without a valid reason even though they were legally and properly summoned by the Court, they must be declared as dismissed.

Whereas since the *a quo* petition is clear, the Court is of the opinion that there is no urgency and relevance to request any information from the parties as stated in Article 54 of the Constitutional Court Law.

Whereas in the *petitum* of the petition of Petitioner I, the points in number 4 and number 5 are unclear or obscure (*obscuur*). Even if the arguments of Petitioner I are not obscure, *quod non*, the Court has taken a stance regarding the constitutionality of the Elucidation of Article 39 of Law 6/2014, which the Court is of the opinion that until now there has been no significant reason to change the stance of the Court.

Whereas regardless of whether the substance of the petition of Petitioner I is legally justifiable or not, based on the provisions of Article 60 paragraph (2) of the Constitutional Court Law and Article 78 paragraph (2) of PMK 2/2021, formally the *a quo* petition may be re-submitted.

Whereas with regard to the limitation of the term of office of the public in general, the 1945 Constitution only explicitly determines the limitation of the term of office for a number of public positions. In this case, the position of village head is not regulated in the 1945 Constitution, however it is regulated in the law. One of the reasons for the different arrangements is due to the characteristics of the village governance in the Indonesian state administration structure. Regarding the limitation of the term of office for the village head, as stipulated in the provisions of Article 39 paragraph (1) and paragraph (2) of Law 6/2014, it is 6 (six) years and the person is able to hold the same position for a maximum of 3 (three) terms of office. In other words, a person can serve as a village head for a maximum of 18 (eighteen) years.

Whereas the dynamic of change in the arrangements regarding the term of office of the village head is highly dependent on the philosophical, juridical, and sociological factors that influenced it at the time the provisions were made. In other words, if one day the legislators are of the opinion that by paying attention to community development there is a need to limit the term of office of the village head, including by determining the periodization of the term of office which may be different from the previous provisions, this does not necessarily mean that it is contrary to the 1945 Constitution, as long as the considerations for carrying out such limitations do not contain any matters prohibited by the 1945 Constitution. Including in the event of any difference regarding the term of office of the village head and the terms of office of other public position, this is an open legal policy of the legislators. Therefore, it is irrelevant to equate the term of office of a village head with the term of office of other public position, including the term

of office of the president and the vice president as well as the term of office of the regional heads

Whereas in accordance with all of the above legal considerations, the Court is of the opinion that it has been proven that the provisions of the norms of Article 39 paragraph (1) and paragraph (2) of Law 6/2014 are not contrary to the principles of the rule of law as stipulated in Article 1 paragraph (3) of the 1945 Constitution and have provided fair legal certainty as guaranteed in Article 28D paragraph (1) of the 1945 Constitution. Therefore, the argument of the petition of Petitioner I is legally unjustifiable entirely.

Subsequently, the Court passes down a decision in which the verdict states:

1. To declare that the petition of Petitioner II, Petitioner III, Petitioner IV, Petitioner VII, Petitioner IX, and Petitioner X with respect to Article 39 paragraph (1) and paragraph (2) along with the Elucidation of Article 39 of the Law of the Republic of Indonesia Number 6 of 2014 concerning Villages (State Gazette of the Republic of Indonesia of 2014 Number 7 and Supplement to the State Gazette of the Republic of Indonesia Number 5495) is inadmissible;
2. To declare that the petition of Petitioner V, Petitioner VI, Petitioner VIII, Petitioner XI, and Petitioner XII in relation to Article 39 paragraph (1) and paragraph (2) along with the Elucidation of Article 39 of the Law of the Republic of Indonesia Number 6 of 2014 concerning Villages (State Gazette of the Republic of Indonesia of 2014 Number 7 and Supplement to the State Gazette of the Republic of Indonesia Number 5495) is null and void;
3. To declare that the petition of Petitioner I in relation to the judicial review of the Elucidation of Article 39 paragraph (1) and paragraph (2) of the Law of the Republic of Indonesia Number 6 of 2014 concerning Villages (State Gazette of the Republic of Indonesia of 2014 Number 7 and Supplement to the State Gazette of the Republic of Indonesia Number 5495) is inadmissible;
4. To dismiss the remainder of the petition of Petitioner I.