CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION
FOR CASE NUMBER 69/PUU-XXI/2023

Concerning

Limitations on Terms of Office and Periodization of Chairman of Political Party

Petitioners	**:**	**Eliadi Hulu, et al.**
Type of Case	**:**	Judicial Review of Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties (Law 2/2011) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
Type of Case	**:**	Article 2 paragraph (1) of Law 2/2011 is contrary to Article 7, Article 27 paragraph (1), Article 28D paragraph (1), and Article 28E paragraph (3) of the 1945 Constitution
Verdict	**:**	To declare that the Petitioners' petition is inadmissible
Date of Decision	**:**	Monday, 31 July 2023

Overview of Decision :

The Petitioners are individual Indonesian citizens who have experienced loss of constitutional rights in the form of unclear and fair legal uncertainty as stated in Article 27 paragraph (1), Article 28D paragraph (1) and Article 28E paragraph (3) of the 1945 Constitution as a result of the absence of regulation of the periodization and term of office of the chairman of a political party as stated in the Articles of Association and Bylaws (*Anggaran Dasar* or AD and *Anggaran Rumah Tangga* or ART) of the political party;

Regarding the Court's Authority, because the Petitioners petition for a review of the constitutionality of norms of law, *in casu* Article 23 paragraph (1) of Law 2/2011 against the 1945 Constitution, the Court has the authority to hear the *a quo* petition*;*

Regarding the legal standing, Petitioner I and Petitioner II are individual Indonesian citizens who have the desire to join as members of a political party. In this case, the provisions of the norms of Article 23 paragraph (1) of Law 2/2011 have the potential to cause loss of constitutional rights for Petitioner I and Petitioner II in the form of not having the opportunity to develop their political careers because there is no regulations concerning the standard and mandatory periodization and term of office of the general chairman that must be complied with by every political party in the norms of the *a quo* article. Furthermore, Petitioner III, as an individual Indonesian citizen, is an administrator of the disaster management agency of DPP Golongan Karya Party (Golkar Party), as evidenced by a photocopy of the Decree of the Central Leadership Council of the Golongan Karya Party Number: SKEP-45/DPP/GOLKAR/VIII/2021 concerning Ratification of the Composition and Personnel of the Golkar Party DPP Disaster Management Agency for the service period of 2019-2024 (Results of Changes), as Functional Personnel/Health Experts. In this regard, Petitioner III has concerns that in the absence of rigid regulations concerning periodization and terms of office of the general chairman pursuant to the references set out in Law 2/2011, there is a potential for the term of office of the general chairman of the Golkar Party, which is currently set for 5 (five) years, may be amended to a longer period. Furthermore, Petitioner IV, as an individual Indonesian citizen, is a member of Partai Nasional Demokrat (Nasdem Party), as proven by a photocopy of the Nasdem Party Membership Card (*Kartu Tanda Anggota* or KTA). In this case, Petitioner IV explained that he had experienced loss of constitutional rights in the form of legal uncertainty regarding the periodization and term of office of the general chairman of the Nasdem party. Although, the Nasdem Party's AD and ART

have stipulated that the general chairman is appointed by the party's high council once every 5 (five) years at a congress, there are no provisions regarding limitations on the periodization of the general chairman's term of office in the Nasdem Party's AD and ART;

Pursuant to the considerations of the decision, regarding the qualifications of the *a quo* Petitioners, the Court is of the following opinion:

- Whereas Petitioner I and Petitioner II are individual Indonesian citizens. Petitioner II is also part of an organization and serves as General Chairman of the Perhimpunan Mahasiswa Hukum Indonesian (Permahi or Indonesian Law Students Association) for the period of 2021-2023 but it is not a political party organization. In addition, the two Petitioners have the desire to join a political party organization, but there have been no concrete steps taken in relation to this desire. The Court is of the opinion that Petitioner I and Petitioner II did not describe their qualifications clearly and in detail in relation to the presumed potential loss of constitutional rights arising from the enactment of the norms of Article 23 paragraph (1) of Law 2/2011. In addition, Petitioner I and Petitioner II are also unable to describe the existence of a causal relationship (*causal verband*) between the potential loss of constitutional rights and the enactment of the norms of the article being petitioned for review, therefore there is no direct link or connection between the qualifications of Petitioner I and Petitioner II as individual Indonesian citizens who wish to join as members of a political party and the applicability of the norms of Article 23 paragraph (1) of Law 2/2011;
- Whereas Petitioner III in describing his qualifications, it turns out that the Court only found evidence in the form of a photocopy of the Decree of the Central Leadership Council of the Golongan Karya Party Number: SKEP-45/DPP/GOLKAR/VIII/2021 concerning Ratification of the Composition and Personnel of the Golkar Party DPP Disaster Management Agency for the service period of 2019-2024 (Results of Changes). Furthermore, there are legal facts revealed at the trial in the form that Petitioner III is unable to show a membership card as proof of membership of the Golkar party [*vide* minutes of the trial for Case Number 69/PUU-XXI/2023, dated 25 July 2023, p. 13]. This means that the Decree of the Central Leadership Council of the Golongan Karya Party Number: SKEP-45/DPP/GOLKAR/VIII/2021 is not enough to prove that Petitioner III is a member, let alone an administrator of the Golkar party. Moreover, the name listed in the decree is different from the name stated by the Petitioner in the *a quo* petition and KTP (*Kartu Tanda Penduduk* or Resident Identity Card) of Petitioner III. Therefore, the Court is not convinced that Petitioner III is a member of a political party, let alone an administrator of a political party. Therefore, Petitioner III does not have the legal standing to submit the *a quo* petition;
- Whereas Petitioner IV cannot provide evidence as an administrator of the Nasdem Party. Moreover, there are legal facts revealed at the trial in the form that Petitioner IV never exercised his right to channel his aspirations to his political party regarding Petitioner IV's desire to limit the periodization and term of office of the general chairman or other terms during the national conferences or other terms in the amendments to the Articles of Association and Bylaws of the Nasdem party [*vide* minutes of the trial for Case Number 69/PUU-XXI/2023, dated 25 July 2023, p. 15]. In addition, even though Petitioner IV is a member of a political party, Petitioner IV cannot convincingly prove that he is a political party administrator and/or member who has the right to vote and/or be elected as general chairman as regulated in the Articles of Association/Bylaws or other regulations of the political party. Even though the provisions of Article 3 letter a of the Party's Bylaws regulate the rights of members, one of which is for a member to vote and be elected, this is not explicitly describe the context of electing the general chairman of a political party. Therefore, Petitioner IV does not have the legal standing to submit the *a quo* petition;

Whereas pursuant to all of the descriptions above, it is clear that Petitioner I, Petitioner II, Petitioner III and Petitioner IV (hereinafter referred to as the Petitioners) do not have the legal standing to submit the *a quo* petition.

Whereas even though the Court has the authority to hear the *a quo* petition, but because the Petitioners do not have the legal standing to submit the *a quo* petition, the Court shall not consider the subject matter of the petition.

Accordingly, the Court subsequently handed down a decision whose verdict states that the Petitioners' petition is inadmissible.

CONCURRING OPINION

Regarding the *a quo* decision of the Constitutional Court, one Constitutional Justice, namely Constitutional Justice Arief Hidayat, has concurring opinion, as follows:

Actions to determine the limitation on the terms of office of the general chairman in a law may be considered as making fundamental changes to the constitution of a political party, such changes should be regulated in the Articles of Association and Bylaws and it is within the authority of the political party to determine them. Directly or indirectly regulating the term of office of the general chairman of a political party has the potential to reduce the sovereignty of political parties as one of the pillars of democracy. In other words, the term of office of the general chairman of each political party should remain to be regulated in the provisions of the respective Articles of Association and Bylaws in accordance with the needs and conscience of all political party administrators and members without interference from legislators. This does not mean that there is no democratization in the political party structure. Because basically the democratization of every political party remains in every National Conference process or other terms for which the rules of the game have been determined in the Articles of Association and Bylaws of each political party as the highest law that its members must obey.

Pursuant to the description of the legal considerations above, the Petitioners have no legal standing to submit the *a quo* petition. Even if the Petitioners have the legal standing*, quod non,* the subject matter of the petition is legally unjustifiable, therefore the *a quo* norms remain constitutional.