



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 75/PUU-XXI/2023**

Concerning

**Founders and Administrators of Political Parties Are Prohibited from Holding
Concurrent Positions as Members of Other Political Parties**

Petitioners	: Muhammad Helmi Fahrozi, 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 (1b) of Law 2/2011 is contrary to Article 1 paragraph (3), Article 27 paragraph (1), Article 28D paragraph (1), and Article 28 paragraph(3) of the 1945 Constitution
Verdict	: To declare that the Petitioners' petition is inadmissible
Date of Decision	: Wednesday, 30 August 2023
Overview of Decision	:

Petitioner I is an individual Indonesian citizen who is an active lecturer teaching constitutional law at UPN Veteran Jakarta, Petitioner II and Petitioner III are Indonesian citizens who have reached the age of 17 and are eligible to become members of political parties if they so wish.

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

Regarding the Legal Standing, before the Court considers further the Legal Standing of the Petitioners and the Subject Matter of the Petition, it is important for the Court to emphasize that after the Court has carefully examined the Petitioners' petition, specifically the part of the matters to be decided (*petitum*) which in principle petitions the Court to declare that Article 2 paragraph (1b) of Law 2/2011, "Founders and administrators of political parties are prohibited from holding concurrent positions as members of other political parties" is contrary to the 1945 Constitution and has no binding legal force provided that it is not interpreted as, "Founders and administrators of political parties are prohibited from holding concurrent positions as members of other political parties, and Political Party Administrators shall hold the positions for 5 (five) years and may only be re-elected 1 (one) time for the same position, either consecutively or non-consecutively". Regarding the *a quo* *petitum*, after close examination by the Court, it is found that Article 2 paragraph (1b) of Law 2/2011 is part of Chapter II concerning the Formation of Political Parties. Meanwhile, the issues being petitioned for review by the Petitioners are part of Chapter IX concerning Management. If the Court follows the Petitioners' wishes to give a new interpretation to the norms of Article 2 paragraph (1b) of Law 2/2011, the new interpretation is not part of the norm which regulates the formation of political parties. If the new interpretation as petitioned is contained in Chapter II, whether we realize it or not, this will change the structure and substance regulated in Chapter II. This new interpretation is increasingly difficult to justify because the Petitioners wish for political party administrators to hold the positions for 5 (five) years and may only be re-elected 1 (one) time for the same position, either consecutively or non-consecutively.

This shows that there is a conflict between the reasons for submitting the petition (*posita*) and the matters being petitioned for review (*petitum*), as is the relationship between the *posita* and the *petitum* regulated in Article 74 of the Constitutional Court Regulation Number 2 of 2021 concerning Procedures in Judicial Review Cases. Therefore, the Petitioners' petition is unclear (obscure).

Pursuant to the above consideration of the facts and law, the Court handed down a decision whose verdict states that the Petitioners' petition is inadmissible.