CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION
FOR CASE NUMBER 77/PUU-XXI/2023

Concerning

Limitations on Term of Office of General Chairman of Political Party

Petitioner	:	**Risky Kurniawan**
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)
Subject Matter	:	Judicial Review of Article 2 paragraph (1b) of Law 2/2011 against Article 1 paragraph (2) and Article 28D paragraph (1) of the 1945 Constitution
Verdict	:	To declare that the Petitioner's petition is inadmissible
Date of Decision	:	Wednesday, 30 August 2023
Overview of Decision	:	

The Petitioner is an individual Indonesian citizen who is a student and a member of the Golongan Karya Party (Golkar).

Whereas regarding the authority of the Constitutional Court (the Court), since what is being petitioned for review is the law *in casu* Law 2/2011 against the 1945 Constitution, the Court has the authority to hear the *a quo* petition.

Whereas regarding the legal standing, the Petitioner is an individual Indonesian citizen who is a student and since 30 June 2023, he has joined the Golkar Party as a member. In the future, the Petitioner wishes to hold the position of Leadership of the Political Party, especially the General Chairman of the Political Party or other designation in accordance with the Articles of Association (AD) and Bylaws (ART). The Petitioner believes that his target is hampered by the absence of binding regulations and/or certainty regarding the limits on the terms of office in Law 2/2011, so that Political Party Leaders, especially the General Chairman, may hold the position indefinitely or resign on his/her own will.

Whereas regarding the description of the Petitioner's legal standing, before being considered by the Court, the Court will first consider the petition submitted by the Petitioner.

Whereas after the Court carefully examined the *a quo* petition, it is found that the Petitioner in his petition wishes to review Article 2 paragraph (1b) of Law 2/2011 which is part of Chapter II concerning the Establishment of Political Parties (*vide* Law Number 2 of 2008 concerning Political Parties), therefore it is very inappropriate if the norms are related to the issue questioned by the Petitioner that is the limitation on the term of office of the general chairman of Political Party, because the norms of Article 2 paragraph (1b) of Law 2/2011 regulate the prohibition of holding concurrent positions for founders and administrators of political parties as members of other parties. In addition, if it is connected to the *Petitum* of the petition requesting that Article 2 paragraph (1b) of Law 2/2011 be declared contrary to the 1945 Constitution and has no binding legal force, as long as it is not interpreted as "Leader of Political Party, especially the General Chairman of Political Party or other designations in accordance with the Articles of Association and Bylaws of Political Party, shall hold a term of office for 5 (five) years and may only be re-elected 1 (one) time for the same position, whether

consecutively or non-consecutively, as well as Founders and administrators of Political Parties are prohibited from holding the same position as members of other Political Parties," the Petitioner's Petitum is inappropriate since the addition of the phrase "Leader of Political Party, especially General Chairman of Political Part or other designations in accordance with the Articles of Association and Bylaws of Political Party, shall hold a term of office for 5 (five) years and may only be re-elected 1 (one) time for the same position, either consecutively or non-consecutively..." , as petitioned by the Petitioner to be included in the norms of Article 2 paragraph (1b) of Law 2/2011. The Court is of the opinion that this would actually eliminate the real meaning of the existence of the *a quo* norms*,* because the phrase being petitioned to be added to Article 2 paragraph (1b) of Law 2/2011 and the actual sound of Article 2 paragraph (1b) of Law 2/2011 are two different things. The additional phrase being petitioned for is related to the limitation on the term of office of the general chairman of a political party, while the original sound of Article 2 paragraph (1b) of Law 2/2011 is related to the prohibition of holding concurrent positions for founders and administrators of political parties as members of other political parties. Therefore, these two things cannot simply be combined to form one meaning of the norms of Article 2 paragraph (1b) of Law 2/2011. Therefore, The Court is of the opinion that it has been proven that there is a legal fact in the form of an inaccuracy in the substance of the petition submitted by the Petitioner. The Petitioner should have petitioned to review the part of the norms contained in Chapter IX concerning Management, instead the Petitioner petitions to review the part of Chapter II concerning the Establishment of Political Parties. Therefore, the article being petitioned for review is incorrect, resulting in the *petitum* submitted by the Petitioner also being unclear.

As for the legal standing of the Petitioner, the Court in the Constitutional Court Decision Number 69/PUU-XXI/2023 which was declared in the Plenary Session open to the public on 31 July 2023, Paragraph [3.8] has considered that the party is able to have the legal standing to submit the *a quo* petition is 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 or Bylaws or other regulations of the relevant political party.

Therefore, the Petitioner's legal standing is as an individual citizen when submitting the *a quo* petition cannot necessarily be said to represent the aspirations of the party. Moreover, the Petitioner is not a party official and has only been a member of the Golkar Party for a few months, and has never participated in or been a participant in the National Conference of the Golkar Party. Regarding the limitations on the terms of office for both the Central Leadership Council, Provincial Regional Leadership Council, Regency/City Regional Leadership Council, District Leadership Council, Village/Subdistrict Leadership Council have actually been regulated in the Golkar Party's Articles of Association and Bylaws in Articles 23 to Article 27, which are limited to 5 (five) years since it was stipulated, [*vide* Attachment to the Petitioner's Petition, Articles of Association and Bylaws of the Decision of the 2019 National Conference of the Golongan Karya Party X Number VIII/MUNAS-X/GOLKAR/2019]. Therefore, in fact, what the Petitioner considers to be hampering his constitutional right to become General Chairman of the Golkar Party is merely a concern, where the concern is not a loss of constitutional rights, so there is no causal relationship (*causal verband*) between the constitutional rights of the Petitioner and the enactment of the legal norms being petitioned for review which is one of the requirements that must be fulfilled in order to be considered as loss of constitutional rights as intended in Article 51 of the Constitutional Court Law as well as Constitutional Court Decision Number 006/PUU-III/2005 and Constitutional Court Decision Number 11/ PUU-V/2007 and the subsequent decisions. Therefore, the Court is of the opinion that the Petitioner does not have the legal standing to submit the *a quo* petition.

Whereas because the norms being petitioned for review is inappropriate and has no connection with the issue questioned by the Petitioner, the petitioner's *petitum* becomes unclear, there is no doubt for the Court to declare the Petitioner's petition unclear or obscure (*obscuur*). Even if the Petitioner's petition is not obscure, *quod non,* it has been proven that the Petitioner does not have the legal standing to submit the *a quo* petition. Therefore, the Court shall not consider the subject matter of the petition any further.

Pursuant to the aforementioned considerations, subsequently, the Court handed down a decision whose verdict states that the Petitioner's petition is inadmissible.