



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 104/PUU-XXI/2023**

**Concerning**

**Constitutionality of Minimum Age Requirements for Presidential Candidates  
and Vice-Presidential Candidates and Constitutionality of Requirements  
for Never Having Held the Position of President or Vice President**

- Petitioner** : **Gulfino Guevarrato**
- Type of Case** : Judicial Review of Law Number 7 of 2017 concerning General Election (Law 7/2017) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : According to the Petitioners, Article 169 letters n and q of Law 7/2017 is contrary to the 1945 Constitution because the absence of limitation on the number of nominations in the General Election for President and Vice President; as well as the absence of maximum age requirements for people to run as Presidential or Vice Presidential candidates, have reduced the opportunity for the Petitioner and other Indonesian citizens to nominate themselves as Presidential or Vice Presidential candidates
- Verdict** : 1. To declare that the petition of the Petitioner related to the norms of Article 169 letter q of Law 7/2017 is inadmissible.  
2. To dismiss the remainder of the petition of the Petitioner.
- Date of Decision** : Monday, 23 October 2023
- Overview of Decision** :

Whereas the Petitioner is an individual Indonesian citizen. The Petitioner petitions for a review of the constitutionality of Article 169 letters n and q of Law 7/2017.

Regarding the Court's Authority, because the Petitioner petitions for a review of the constitutionality of statutory norms, *in casu* Article 169 letter n and letter q of Law 7/2017 against Article 28D paragraph (3) and Article 28J paragraph (1) of the 1945 Constitution, the Court has the authority to hear the *a quo* petition;

Regarding the Petitioner's legal standing, according to the Petitioner, the norms of Article 169 letter n of Law 7/2017 which only limits the number of times a citizen may serve as president or vice president, but does not limit the number of times a citizen may run as a presidential or vice presidential candidate are harming the rights of the Petitioner and other citizens to run as presidential or vice presidential candidate.

Meanwhile, the norms of Article 169 letter q of Law 7/2017 which regulates the minimum age of 40 years to run as a Presidential or Vice Presidential candidate, according to the Petitioner, has limited the rights of the Petitioner who is 33 years old, so that he could not run for president or vice president. In addition, in relation to the productive age, according to the Petitioner, the age limit for presidential or vice presidential candidates should be a minimum of 21 years and a maximum of 65 years.

The Court is of the opinion that the Petitioner, as an Indonesian citizen, has also explained to the Court that the Petitioner has constitutional rights as regulated in Article 28D paragraph (3) and Article 28J paragraph (1) of the 1945 Constitution.

Pursuant to these considerations, the Court is of the opinion that regardless of whether the unconstitutionality of the norm of Article 169 letter n and letter q of Law 7/2017 is proven or not, the Petitioner has been able to describe the presumed loss of constitutional rights that has the potential to occur and the presumption that such loss has a causal relationship (*causal verband*) with the enactment of the *a quo* norms. Therefore, if the Petitioner's petition is granted, the said loss of constitutional rights will not occur. Therefore, the Court considers that the Petitioner has the legal standing to act as the Petitioner in the *a quo* Petition;

Whereas pursuant to Article 54 of the Constitutional Court Law, since the *a quo* petition is clear, the Court is of the opinion that there is no urgency to request statements from the parties as described in Article 54 of the Constitutional Court Law;

Whereas the Petitioner petitions the Court to interpret Article 169 letter n of Law 7/2017, the formulation of the *a quo* Article previously states, "has never held the position of President or Vice President for 2 (two) terms of office in the same position", the Petitioner petitions the Court to add the interpretation with the phrase, "or has never run for President or Vice President 2 (twice) in the same position", therefore Article 169 letter n of Law 7/2017 shall read, "has never served as President or Vice President for 2 (two) terms of office in the same position, or has never run for President or Vice President 2 (twice) in the same position."

The Court is of the opinion that such interpretation does not merely provide a new meaning to the formulation of certain norms, *in casu* norms in Article 169 letter n of Law 7/2017, but also create/make new norms which are substantially (categorically) not directly related to the norms of Article 169 letter n of Law 7/2017. The Court is of the opinion that it is more appropriate to say that the petition is a request for the Court to create new norms and at the same time a request to add new requirements, instead of "merely" a request to interpret or give new meaning.

The Court is of the opinion that in relation to the formulation/formation of laws, the content/meaning of the norms of Article 169 letter n of Law 7/2017 is quite clear and explicit. Therefore, the Petitioner petitions the Court to provide additional meaning (which is completely new and unrelated to the meaning of the original formulation), this not only creates a new meaning for the norms of Article 169 letter n of Law 7/2017 but also creates legal uncertainty.

Regarding the petition for constitutionality review of Article 169 letter q of Law 7/2017, the Court considers that the object of the *a quo* petition is the same as the object of the petition in Case Number 90/PUU-XXI/2023. Regarding the Case Number 90/PUU-XXI/2023, the Court has handed down its Decision which was declared in a plenary session open to the public on 16 October 2023.

Therefore, regardless of the fact that in such Decision there were Constitutional Justices who had concurring opinions and dissenting opinions, the Court is of the opinion that the argument of the Petitioner in relation to the constitutionality review of the norms of Article 169 letter q Law 7/2017 has lost its object.

Pursuant to the legal considerations above, the Court is of the opinion that the Petitioner's petition is legally unjustifiable in part and has lost its object in another part.

Therefore, the Court subsequently handed down a decision whose verdict states as follows:

1. To declare that the petition of the Petitioner related to the norms of Article 169 letter q of Law 7/2017 is inadmissible.
2. To dismiss the remainder of the petition of the Petitioner.