



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 81/PUU-XXI/2023**

Concerning

**Constitutionality of the Plan to Change the Minimum Age Requirements
for Candidates for Constitutional Justices**

Petitioner	: Fahri Bachmid
Type of Case	: Judicial Review of Law Number 7 of 2020 concerning Third Amendments to Law Number 24 of 2003 concerning Constitutional Court (Law 7/2020) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution).
Subject Matter	: According to the Petitioner, Article 15 paragraph (2) letter d of Law 7/2020 is contrary to the 1945 Constitution if it is interpreted other than what is explicitly stated in the norms of Article 15 paragraph (2) letter d of Law 7/2020.
Verdict	: To dismiss the Petitioner's petition in its entirety.
Date of Decision	: Wednesday, November 29, 2023
Overview of Decision	:

The Petitioner is an individual Indonesian citizen. The Petitioner petitions for a review of the constitutionality of Article 15 paragraph (2) letter d of Law 7/2020. According to the Petitioner, the norm of Article 15 paragraph (2) letter d of Law 7/2020 which reads "at least 55 (fifty-five) years of age" is contrary to the 1945 Constitution and it does not have conditionally binding legal force if it is not interpreted as "other than what is explicitly stated in the *a quo* norm.

Regarding the Court's authority, because the Petitioner petitions for a review of the constitutionality of statutory norms, *in casu* Article 15 paragraph (2) letter d of Law 7/2020 against Article 1 paragraph (3), Article 24 paragraph (1), and Article 28D paragraph (1) of the 1945 Constitution, the Court has the authority to hear the *a quo* petition;

Regarding the Petitioner's legal standing, if it is related to the constitutional rights as regulated in Article 28D paragraph (1) of the 1945 Constitution, the Petitioner has the potential to experience the constitutional injury in terms of the rights to recognition of guarantees, protection and fair legal certainty as well as equal treatment before the law. In this case, the minimum age limit requirement that keeps on changing shows a causal relationship (*causal verband*) between the presumed potential constitutional injury and the provision being petitioned for review by the Petitioner. Pursuant to the aforementioned description, if the *a quo* petition of the Petitioner is granted, such constitutional injury will not occur.

In accordance with these considerations, the Court is of the opinion that regardless of whether the conditional unconstitutionality of the norms of Article 15 paragraph (2) letter d of Law 7/2020 is proven or not, the Petitioner has the legal standing to act as a Petitioner in the *a quo* Petition;

The Petitioner petitions that the norms of Article 15 paragraph (2) letter d of Law 7/2020 be interpreted as what is explicitly stated in the formulation of the relevant norms. That means, within the limits of reasonable reasoning, the *a quo* petition requests a confirmation in the form of a Decision of the Constitutional Court that there will be no changes to the substance which has been strictly regulated in the norms of Article 15 paragraph (2) letter d of Law 7/2020.

Pursuant to grammatical interpretation, the Court is of the opinion that the norm of Article 15 paragraph (2) letter d of Law 7/2020 which reads "at least 55 (fifty-five) years of age" is a norm whose formulation is clear, comprehensible and unequivocal, so that it is not possible to interpret the norm differently, other than the interpretation as stated in the *a quo* norm.

Regarding the discourse on changes to the Constitutional Court Law, including the discourse on changes relating to the terms of office for constitutional justices, especially the minimum age requirements, retirement age and term of office, the Court considers that, in general, legal changes are something that is natural because the law is required to always adapt to the current development. Legal changes are something that are necessary to achieve legal objectives, namely regulating human relations in order to protect common interests. Therefore, any effort to change the law must always contain the spirit of creating better conditions. This is because the essence of legal changes is to change, and even to eliminate or replace old laws and regulations, to create new laws and regulations which would lead to the creation of new, better conditions.

In this regard, the norm of Article 28D paragraph (1) of the 1945 Constitution states, "Everyone has the right to recognition, guarantees, protection and fair legal certainty as well as equal treatment before the law." In relation to legal changes, *in casu* the law, the existence of Article 28D paragraph (1) of the 1945 Constitution, among others, requires that any legal changes must maintain the establishment of fair legal certainty. This means that in every process of legal changes, the new laws and regulations are required to respect, guarantee and maintain the previous status/condition that a person has legally achieved/accomplished.

If the legislators wish to change the law that is currently in force, including any changes to the Constitutional Court Law, the Court needs to emphasize that there are at least limitations or signs that must be used as guidelines by the legislators, namely that, among others, any changes to the law may not be made if such changes are detrimental to any parties who are the subjects of the relevant legal changes.

Specifically regarding the Constitutional Court Law, especially with regard to the age requirements, these changes must not be detrimental to the Constitutional Justices who are currently serving. This means that if the legislators wish to change the requirements, other than the requirements regulated in the 1945 Constitution, including any changes to the term of office (periodization), such changes must only apply to any Constitutional Justices who are appointed after the law is changed.

If the provisions regarding requirements and terms of office are changed and the new provisions are applied directly to those who are currently in office, such changes shall have an impact on those currently in office. In relation to the impact of such legal changes, Law 12/2011 has affirmed the legal guarantees or protection for any parties affected by the legal changes [*vide* Section C.4 number 127 Appendix II to Law 12/2011]. In addition, in relation to the independence of judicial power as regulated in Article 24 paragraph (1) of the 1945 Constitution, any changes that are made, including any changes to the age requirement and term of office, such changes will clearly threaten the independence of the relevant judicial power.

Accordingly, the Court subsequently passed down a decision whose verdict states to dismiss the Petitioner's petition in its entirety.