



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 97/PUU-XXI/2023**

**Concerning**

**Retirement Age Limit for The Indonesian National Armed Forces Soldiers**

- Petitioners** : **Kresno Buntoro, et al.**
- Type of Case** : Judicial Review of Law Number 34 of 2004 concerning Indonesian National Armed Forces (Law 34/2004) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Article 53 of Law 34/2004 is contrary to Article 1 paragraph (3), Article 28D paragraph (1), Article 28D paragraph (3), Article 30 paragraph (2) and Article 30 paragraph (3) of 1945 Constitution.
- Verdict** : Accordingly, the Court passed down a Decree which states as follows:
1. To grant the withdrawal of the petition of the Petitioners;
  2. To declare that the Petition in Case Number 97/PUU-XXI/2023 concerning the Petition for Judicial Review of Law Number 34 of 2004 concerning the Indonesian National Armed Forces (State Gazette of the Republic of Indonesia of 2004 Number 127, Supplement to the State Gazette of the Republic of Indonesia Number 4439) against the 1945 Constitution of the Republic of Indonesia was withdrawn;
  3. To declare that that the Petitioners may not resubmit the *a quo* petition;
  4. To order the Registrar of the Constitutional Court to record the withdrawal of Petition Number 97/PUU-XXI/2023 in the Electronic Constitutional Case Registration Book (*Buku Registrasi Perkara Konstitusi Elektronik* or e-BRPK) and return a copy of the petition file to the Petitioners.
- Date of Decision** : Thursday, December 21, 2023
- Overview of Decision** :

Whereas the Petitioners are individual Indonesian citizens consisting of active Indonesian National Armed Forces Soldiers (Petitioner I to Petitioner III and Petitioner VII) and retired Indonesian National Armed Forces officers (Petitioner IV to Petitioner VI) who believe that they are injured by the enactment of Article 53 of Law 34/2004 because, according to the Petitioners, such article is discriminatory and it hinders the Petitioners' right to develop themselves because it determines that the retirement age limit for Indonesian National Armed Forces members is 58 years of age for *perwira* ranked officers and 53 years of age for *bintara*

ranked officers.

Whereas the Constitutional Court has received the petition of the Petitioners dated 10 August 2023, which was received by the Registrar of the Constitutional Court on 10 August 2023 pursuant to the Deed of Submission of Petition Number 94/PUU/PAN.MK/AP3/08/2023, dated 21 August 2023 and it has been recorded in the Electronic Constitutional Case Registration Book (*Buku Registrasi Perkara Konstitusi Elektronik* or e-BRPK) on 21 August 2023 under the Number 97/PUU-XXI/2023 concerning Judicial Review of Law Number 34 of 2004 concerning the Indonesian National Armed Forces (hereinafter referred to as Law 34/2004) against the 1945 Constitution of the Republic of Indonesia;

Whereas on 7 December 2023, the Court received a letter from the Petitioners' attorney regarding the application for withdrawal of case Number 97/PUU-XXI/2023 dated 7 December 2023 which substantially requested the Court to grant the application for withdrawal of the *a quo* case for the reason of handing over the process of amending Article 53 of Law 34/2004 to the legislators;

Whereas the Court will hold a hearing on 13 December 13, with an agenda of confirming the withdrawal of the petition. During the hearing, the Panel of Justices clarified the matter of withdrawal and the Petitioners' attorneys confirmed the withdrawal of their petition;

Whereas regarding the withdrawal of the petition of the Petitioners, Article 35 paragraph (1) of the Constitutional Court Law states, "The Petitioner may withdraw the Petition before or during the Constitutional Court examination" and Article 35 paragraph (2) of the Constitutional Court Law states that withdrawal will result in the *a quo* Petition being unable to be resubmitted;

Whereas the Deliberation Meeting of Justices on 18 December 2023 concluded that the withdrawal or revocation of the petition for Case Number 97/PUU-XXI/2023 was legally justifiable and the Petitioners may not resubmit the *a quo* petition;

Accordingly, the Court passed down a Decree which states as follows:

1. To grant the withdrawal of the petition of the Petitioners;
2. To declare that the Petition in Case Number 97/PUU-XXI/2023 concerning the Petition for Judicial Review of Law Number 34 of 2004 concerning the Indonesian National Armed Forces (State Gazette of the Republic of Indonesia of 2004 Number 127, Supplement to the State Gazette of the Republic of Indonesia Number 4439) against the 1945 Constitution of the Republic of Indonesia was withdrawn;
3. To declare that that the Petitioners may not resubmit the *a quo* petition;
4. To order the Registrar of the Constitutional Court to record the withdrawal of Petition Number 97/PUU-XXI/2023 in the Electronic Constitutional Case Registration Book (*Buku Registrasi Perkara Konstitusi Elektronik* or e-BRPK) and return a copy of the petition file to the Petitioners.