



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 165/PUU-XXI/2023**

**Concerning**

**Norms Regarding the Term of Office of Notaries, Dishonorable Dismissal  
of Notaries, and Single Notary Organization Does Not Have Binding Legal Force**

<b>Petitioner</b>	: <b>Anisitus Amanat</b>
<b>Type of Case</b>	: Judicial Review of Law 30 of 2004 concerning Notary Public (Law 30/2004) and Law Number 2 of 2014 concerning Amendment to Law Number 30 of 2004 concerning Notary Public (Law 2/2014) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
<b>Subject Matter</b>	: Article 8 paragraph (1) letter b and paragraph (2), Article 13 of Law 30/2004 and Article 82 paragraph (1), paragraph (2), and paragraph (3) of Law 2/2014 are contrary to Article 27 paragraph (2), Article 28, Article 28C paragraph (1), Article 28D paragraph (1) and paragraph (2), Article 28E paragraph (3), and Article 28H paragraph (1) of the 1945 Constitution.
<b>Verdict</b>	: To declare that the Petitioner's petition is inadmissible.
<b>Date of Decision</b>	: Wednesday, January 31, 2024
<b>Overview of Decision</b>	:

The Petitioner is an individual Indonesian citizen, working as a notary in Kendal Regency, Position Area of Central Java Province.

Regarding the Court's authority, because the Petitioner's petition is a judicial review of the constitutionality of norms of law, *in casu* Article 8 paragraph (1) letter b and paragraph (2), Article 13 of Law 30/2004 and Article 82 paragraph (1), paragraph (2), and paragraph (3) of Law 2/2014 against the 1945 Constitution, the Court has the authority to hear the *a quo* petition.

Before considering the legal standing and further considering the subject matter of the petition, the Court considers the following matters:

1. Whereas the Court has held a trial on 20 December 2023 with the agenda of a Preliminary Examination and the Panel of Justices has provided advice in accordance with the provisions of Article 39 of the Constitutional Court Law and given the Petitioner the opportunity to revise his petition because, among other things, the format of the Petitioner's petition is similar to the case petition in the

general court such as using primary and subsidiary *petitum*. In this regard, the Panel of Justices advised the Petitioner to read the examples of petitions at the Court and the *Petitum* formulation as provided in Article 10 of PMK 2/2021 [*vide* Hearing Minutes of Case Number 165/PUU-XXI/2023, Wednesday, 20 December 2023, p.14]. However, in the revised petition, it appears that the Petitioner did not do it carefully according to the advice given in the Preliminary Hearing and in accordance with the provisions of PMK 2/2021;

2. Whereas in the description of the reasons for the petition (*posita*) of the revised petition, the Petitioner does not clearly describe the contradiction of each norm or article in Law 30/2004 and Law 2/2014 whose constitutionality is petitioned for review against the 1945 Constitution which was used as the review basis. Therefore, the Court cannot know for sure the contradiction of the norms or articles being reviewed against the 1945 Constitution;
3. Whereas apart from the problem as stated in number 2 above, there is an inconsistency between the *posita* and the *petitum*. In the Court's opinion, this is because the description in the *posita* section does not clearly describe the contradiction of each norm or article whose constitutionality is being reviewed against the 1945 Constitution so what the Petitioner wants in the *petitum* is unclear;
4. Whereas in the *petitum* section of the revised petition (which is written "*Petitum* or Petitioner's Demands"), the Petitioner petitions from the Court eight *petitums* as follows:
  1. To grant the Petitioner's petition entirely.
  2. To declare that the legal norms of Article 8 paragraph (1) letter b and paragraph (2) of Law Number 30/2004 which has been amended by Law Number 2/2014 concerning Notary Public do not have binding legal force to the extent that being interpreted that a Notary ceases or is honorably dismissed from his/her position or retires because he/she is 65 (sixty-five) years old and can be extended until the age of 67 (sixty-seven) years by considering the health of the person concerned;
  3. To declare that a Notary can be honorably dismissed from his/her position if a medical examination result proves that the member of the Notary is unhealthy in terms of hearing which is very necessary for consultation with the community members who need him/her before drafting the document of the deed, unhealthy in terms of eyesight and speaking which are very necessary for reading deeds, unhealthy in terms of the organs of the two hands which are very necessary for writing and/or signing deeds, unhealthy physically due to illness or old age which is very necessary to go to and from the office, unhealthy in terms of mind due to stress or being crazy and/or permanently disabled, resigns or passes away;
  4. To declare that the legal norms of Article 13 of Law Number 30/2004 which has been amended by Law Number 2/2014 concerning Notary Public do not have binding legal force to the extent that is interpreted that a Notary is dishonorably dismissed by the Minister because he/she is sentenced to prison pursuant to a court decision which has permanent legal force for committing a criminal offense that is threatened by imprisonment for 5 (five) years or more;
  5. To declare that a member of Indonesian Notary may be dishonorably dismissed from the position of Notary only pursuant to a court decision that has permanent legal force;
  6. To declare that the legal norms of Article 82 paragraph (1), paragraph (2), and paragraph (3) of Law Number 2/2014 concerning Notary Public do not have binding legal force to the extent that being interpreted that the Indonesian Notary Association (INI) is the only organizational forum for Notaries throughout Indonesia;
  7. To declare that the legal norms of Article 82 of Law Number 30/2004 concerning Notary Public do not have binding legal force to the extent that being interpreted that Notaries gather in one Notary Organization;
  8. To declare that there can be more than one organization for Indonesian Notaries.

5. Whereas even though the revised petition has been submitted to the Court in accordance with the time limit determined and stated in the Preliminary Hearing, namely no later than 14 (fourteen) days from the preliminary examination hearing to check the completeness and clarity of the petition material, on Tuesday, 2 January 2024, at 09.00 WIB [*vide* Hearing Minutes of Case Number 165/PUU-XXI/2023, Wednesday, 20 December 2023, p.7-23], during the Preliminary Hearing with the agenda of submitting a revised petition, the Petitioner revised the entire *petitum* to become:
  1. To grant the Petitioner's petition entirely.
  2. To declare that the legal norms of Article 8 paragraph (1) letter b and paragraph (2) of Law Number 30/2004 which has been amended by Law Number 2/2014 concerning Notary Public do not have binding legal force to the extent that being not interpreted that a Notary ceases or is honorably dismissed from his/her position or retires because he/she is 75 (seventy-five) years old and/or unhealthy pursuant to the statement of an authorized doctor;
  3. To declare that the legal norms of Article 13 of Law Number 30/2004 which has been amended by Law Number 2/2014 concerning Notary Public do not have binding legal force to the extent that is interpreted that a Notary is dishonorably dismissed by the Minister because he/she is sentenced to prison pursuant to a court decision which has permanent legal force for committing a criminal offense that is threatened by imprisonment for 5 (five) years or more or a Notary is dishonorably dismissed from his/her position only pursuant to a court decision which has permanent legal force;
  4. To declare that the legal norms of Article 82 paragraph (1), paragraph (2), and paragraph (3) of Law Number 2/2014 concerning Notary Public do not have binding legal force to the extent that being interpreted that the Indonesian Notary Association (INI) is the only organizational forum for Notaries throughout Indonesia and become there can be more than one Indonesian Notaries;
  5. To order the publication of this decision in the State Gazette of the Republic of Indonesia as appropriate.

In addition, the Petitioner in the revised *petitum* adds, "If Your Honor, the Panel of Justices at the Constitutional Court, has a different opinion, we expect to be given a decision that is as fair as possible (*ex aequo et bono*) solely for the sake of justice in accordance with the belief in the Almighty God" [*vide* Hearing Minutes of Case Number 165/PUU-XXI/2023, Wednesday, 17 January 2024, p.7-25];

6. Whereas regarding the *a quo* Petitioner's *petitum*, it is important for the Court to emphasize the provisions of Article 43 paragraph (2) of PMK 2/2021 stating, "Revisions to Petition other than as referred to in paragraph (1) may be carried out provided:
  - a. the Petitioner who submits the Petition is not replaced entirely;
  - b. additions to the object of Petition in the form of norms of law or Government Regulation in Lieu of Law (Perppu) being petitioned for review may only be made to the extent that there is a relation to the substance of the norms of law or Perppu being petitioned for review in the initial Petition;
  - c. additions to the object of Petition in the form of norms of law or Perppu other than those already submitted may only be made to the extent that there is a similarity/relation to the substance of the norms of law or Perppu being petitioned for review in the initial Petition."

Thus, revisions to the petition can only be made within the specified revision period, in case of changes or improvements being made as stipulated in Article 43 of PMK 2/2021. The revised petition will then be uploaded on the Court's website [*vide* Article 44 paragraph (4) of PMK 2/2021]. Regarding the revision of the *a quo* Petitioner's petition, during the Preliminary Hearing with the agenda of submitting a revised petition, the Petitioner revised the entire *petitum*, not limited to the technical aspects of the *petitum* but changing the substance of the entire *petitum*. Regarding these changes, in the Court's opinion,

substantive or major revisions or changes, including changes in *petitum*, cannot be made in the hearing for submission of revisions to the petition. Only minor revisions are allowed. After the Court carefully examines the formulation of the Petitioner's *petitum*, both the *petitum* before being revised and the revised *petitum*, it is evident that both of them are not in accordance with Article 10 paragraph (2) letter d of PMK 2/2021, that "*petitums*, which contain matters petitioned to be decided in the petition for material review as referred to in Article 2 paragraph (4), are:

1. to grant the Petitioner's petition;
2. to declare that the contents of the paragraphs, articles, and/or parts of the law or Perppu petitioned for review are contrary to the 1945 Constitution and do not have binding legal force;
3. to order the publication of the decision in the State Gazette of the Republic of Indonesia;

or if the Court has a different opinion, to be given a Decision that is as fair as possible (*ex aequo et bono*)"

Pursuant to the description above, while the Petitioner's petition regarding conditional unconstitutionality, the formulation in the *petitum* does not refer to the *petitum* formulation as in the provisions above, so that the *petitums* submitted before the revisions and after the revisions are unclear or obscure. In addition, the preparation of the petition, especially the description of the *posita* and *petitum*, is not in accordance with PMK 2/2021, including that the Petitioner does not describe the contradiction between the articles and/or paragraphs petitioned for review and the 1945 Constitution. In fact, in order for an article and/or paragraph of a law to be declared "not having binding legal force", the article and/or paragraph must first be proven and declared to be contrary to the 1945 Constitution. Therefore, regarding the *a quo* Petitioner's petition, the Court cannot understand the Petitioner's petition. Thus, in the Court's opinion, the Petitioner's petition is unclear or obscure (*obscuur*), and therefore, the Court does not need to consider the legal standing, subject matter of the Petitioner's petition, and other matters because they are deemed to have no relevance.

Thus, the Court subsequently passed down a decision in which the verdict was to Declare that the Petitioner's petition was inadmissible.