



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 27/PUU-XXII/2024**

**Concerning**

**Term of Office for Regional Heads and Deputy Regional Heads  
Elected in the 2020 Election**

- Petitioners** : Al Haris, et al.
- Type of Case** : Judicial Review of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning Elections for Governors, Regents and Mayors to Become a Law (Law 10/2016) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : The term of office for the regional heads and the deputy regional heads in Article 201 paragraph (7), paragraph (8), and paragraph (9) of Law 10/2016 is contrary to the principles of the rule of law, is contrary to the equality before the law and in government, creates legal uncertainty, and violates the election principle and the democratic principle as guaranteed by Article 1 paragraph (3), Article 18 paragraph (4), Article 22E paragraph (1), Article 27 paragraph (1), and Article 28D paragraph (1) of the 1945 Constitution
- Verdict** : **On the Preliminary Injunction:**  
To dismiss the Petitioners' petition for preliminary injunction.
- On the Merits:**
1. To grant the Petitioners' petition in part.
  2. Article 201 paragraph (7) of Law 10/2016 in full reads, "The Governor and the Deputy Governor, the Regent and the Deputy Regent, as well as the Mayor and the Deputy Mayor who were the results of the 2020 Election shall hold office until the inauguration of the Governor and the Deputy Governor, the Regent and the Deputy Regent, as well as the Mayor and the Deputy Mayor who are the results of the 2024 national simultaneous Election to the extent that the term of office does not exceed 5 (five) years".

3. To dismiss the remainder of the Petitioners' petition.

**Date of Decision** : Wednesday, March 20, 2024

**Overview of Decision** :

Whereas the Petitioners are Indonesian citizens who were appointed and inaugurated as regional heads/deputy regional heads in their respective regions and directly elected during the holding of the national simultaneous voting on 9 December 2020 in the 2020 Election for the Governor and the Deputy Governor, the Regent and the Deputy Regent, as well as the Mayor and the Deputy Mayor.

Whereas the *a quo* petition submitted is a review of the constitutionality of the norms of law, *in casu* Article 201 paragraph (7), paragraph (8), and paragraph (9) of Law 10/2016 against the 1945 Constitution. Therefore, the Court has the authority to hear the *a quo* petition.

Whereas regarding the Petitioners' legal standing, in the Court's opinion, the issue in a judicial review case is a constitutional issue as an individual citizen who experiences constitutional injury. Moreover, in a judicial review case, the Constitutional Court's decision is final and binding on all citizens in accordance with the principle of *erga omnes*. Therefore, even though they were appointed and inaugurated at the same time as their pairs (deputy regional heads) as stated in one decision letter, in submitting a petition for judicial review *in casu* the *a quo* case, there is no requirement to submit a petition in pairs.

Whereas the Court can understand that there is a connection between the Petitioners' positions as the regional heads/deputy regional heads in accordance with the results of the 2020 Election for the Governor and the Deputy Governor, the Regent and the Deputy Regent, as well as the Mayor and the Deputy Mayor, each of whom were inaugurated at different times in 2021, with the provisions of Article 201 paragraph (7), paragraph (8), and paragraph (9) of Law 10/2016 which is petitioned for review. Therefore, the Petitioners have the legal standing to act as Petitioners in the *a quo* petition.

Whereas the Petitioners submitted a petition for Preliminary Injunction which basically asks the Court to prioritize the examination of the *a quo* petition in the Constitutional Court to provide protection of constitutional rights and minimize the constitutional injury of the Petitioners. According to the Petitioners, on 11 January 2024, the General Election Commission (KPU) presented a plan of the implementation schedule for the 2024 Election for the Regional Heads, which can be seen that from February to July 2024 there is a tight schedule for the stages of the 2024 Elections for the President and the Vice President and the Legislative Members with the 2024 Election for the Regional Heads. Regarding the reason for the Petitioners' petition for preliminary injunction, because the subject matter of the *a quo* case is decided without proceeding to the trial with an agenda of proof among others to hear statements from the parties as referred to in the provisions of Article 54 of the Constitutional Court Law, in the Court's opinion, it is not relevant to consider the Petitioners' petition for preliminary injunction. Thus, the Petitioners' petition for preliminary injunction is legally unjustifiable.

Whereas the Petitioners argue that Article 201 paragraph (7), paragraph (8), and paragraph (9) of Law 10/2016 is contrary to Article 1 paragraph (3), Article 18 paragraph (4), Article 22E paragraph (1), Article 27 paragraph (1), and Article 28D paragraph (1) of the 1945 Constitution because their constitutional rights have been injured because of not being able to hold a five (5) year term of office as regional heads.

Whereas the Court can understand the *a quo* Petitioners' intentions who only want to maximize their term of office until the inauguration of the Governor and the Deputy Governor, the Regent and the Deputy Regent, as well as the Mayor and the Deputy Mayor elected in accordance with the results of the 2024 national simultaneous election for the regional heads. In this regard, in assessing the *a quo* Petitioners' petition, the Court must consider the following matters:

- (i) whether the *a quo* Petitioners' petition may disrupt the agenda for the holding of the 2024 national simultaneous election for the regional heads and the deputy regional heads.
- (ii) how the inauguration of the regional heads and the deputy regional heads elected in the 2024 national simultaneous election for the regional head and the deputy regional heads shall be carried out?
- (iii) whether the Petitioners' petition can guarantee the transition process of regional government services and the development in their respective regions, namely the availability of good public services and the community still getting equal opportunities to enjoy the development in their regions.

Whereas regarding the 3 (three) matters above, the Court considers as follows:

Whereas substantially, the Court understands the intention of the Petitioners' petition regarding the norms of Article 201 paragraph (7) of Law 10/2016 which has caused the Petitioners as the Regional Heads and the Deputy Regional Heads who were the result of the 2020 election to be unable to serve for the full 5 (five) years that they should have been in accordance with Article 162 paragraph (1) and paragraph (2) of Law 10/2016, because they must end their positions in 2024. The Petitioners also argue that as the Regional Heads, they cannot implement the Regional Medium Term Development Plan (RPJMD) as an elaboration of the Regional Head's vision and mission which contains the direction of regional financial policies, regional development strategies, general policies, and programs of Regional Work Units, cross-Regional Work Units, and regional programs for a period of 5 (five) years [*vide* Law Number 25 of 2004 concerning the National Development Planning System]. Moreover, for a period of 3 (three) years the Petitioners as the Regional Heads were unable to work normally due to the Covid-19 pandemic.

Whereas despite this, on the other hand, the Court also considers that the Petitioners should have consciously known that *a quo* Article 201 paragraph (7) has been in effect since 2016, namely before the Petitioners ran for the Regional Heads and the Deputy Regional Heads in the 2020 election. This means that the Petitioners should also have understood that when they were elected as the Regional Heads and the Deputy Regional Heads they would not serve their full term for 5 (five) years. This also means that regarding the vision and mission promised by the candidates for regional heads as outlined in the RPJMD and the budget allocation, this should have been adjusted to the term of office as provided in Article 201 paragraph (7) of Law 10/2016.

Whereas despite this, in the Court's opinion, maximizing the term of office for the Regional Heads and the Deputy Regional Heads who were the result of the 2020 election without disrupting the agenda for holding the simultaneous election for the regional heads and the deputy regional heads is a form of balance between the constitutional rights of the Regional Heads and the Deputy Regional Heads who were the result of the 2020 election and the legal certainty regarding the holding of the simultaneous election for the regional heads and the deputy regional heads. In addition, setting the inauguration time as the term limit for the Regional Heads and the Deputy Regional Heads who were the result of the 2020 election can bring closer and at the same time realize the provisions of Article 162 paragraph (1) and paragraph (2) of Law 10/2016. In addition,

such a Court's stance is part of efforts to realize the simultaneous inauguration of the Governors and the Deputy Governors, the Regents and the Deputy Regents, and the Mayors and the Deputy Mayors.

Whereas the Transitional Provisions of Law 10/2016 only provide the schedule for the simultaneous national voting in November 2024 and do not at all provide the inauguration schedule which also should be carried out simultaneously. Therefore, if the inauguration is carried out simultaneously, this can prevent different terms of office among the regional heads and the deputy regional heads who are elected on the same simultaneous election schedule. Thus, the Court considers that the holding of simultaneous elections for the regional heads and the deputy regional heads must also be followed by the inauguration of the regional heads and the deputy regional heads who are elected simultaneously in order to create synergy between the regional government policies and the central government and synchronize the regional government governance with the central government, so as to create the same start and end times for the terms of office for the regional heads and the deputy regional heads simultaneously.

Whereas regarding the agenda for the holding of the 2024 national simultaneous election for the regional heads and the deputy regional heads, Article 201 paragraph (8) of Law 10/2016 states, "The national simultaneous voting in the election for the Governors and the Deputy Governors, the Regents and the Deputy Regents, as well as the Mayors and the Deputy Mayors in all regions of the Unitary State of the Republic of Indonesia shall be held in November 2024". With this provision, the voting will be held in November 2024 so that the inauguration can be carried out after the dispute regarding the results of the election for the regional heads is resolved at the Constitutional Court. The period for resolving disputes regarding the results of the election for the regional heads is provided in Article 157 paragraph (8) of Law 10/2016 which stipulates that the Constitutional Court decides cases of disputes regarding the results of the election for the regional heads no later than 45 (forty-five) working days from the receipt of a petition of dispute regarding the results of election for the regional heads. However, it does not rule out the possibility for the Constitutional Court, in its decision on disputes regarding the results of the election for the regional heads, to order a re-election, re-voting, or re-counting of votes. Therefore, for the sake of legal certainty and so as not to hinder the transition of regional government leadership and the running of the regional government, in the Court's opinion, the simultaneous inaugurations of the regional heads and the deputy regional heads are excluded for regions that carry out re-elections, or re-voting, or re-counting vote in accordance with the decision of the Constitutional Court in the dispute cases regarding the results of election for the regional heads. In addition, the inauguration may not be held simultaneously due to *force majeure* factors in accordance with the provisions of statutory regulations. Thus, before the inauguration of the regional heads and the deputy regional heads who are the results of the 2024 national simultaneous election, the Governors and the Deputy Governors, the Regents and the Deputy Regents, as well as the Mayors and the Deputy Mayors who were the result of the 2020 election and are still in office can continue to carry out their duties and positions until the inauguration of the regional heads and the deputy regional heads who are the results of the 2024 national simultaneous election. Within the limits of reasonable reasoning, the Court's considerations in question will not interfere with the transitional process of regional government leadership resulting from the results of the 2024 national simultaneous election.

Whereas pursuant to the entire description of the legal considerations mentioned above, the Court needs to emphasize and give meaning to the norms of Article 201 paragraph (7) of Law 10/2016 which enable the regional heads and the deputy regional heads who were the results of the 2020 election to continue carrying out their duties and positions until the inauguration of the regional heads and the deputy regional heads who are the results of the 2024 national simultaneous election to the extent that the term of office does not exceed 5 (five) years.

Whereas regarding the Petitioners' argument regarding Article 201 paragraph (8) of Law 10/2016, the Court needs to relate it to the Petitioners' *petitum* which petitions the Court to interpret the norms of Article 201 paragraph (8) of Law 10/2016 as "The simultaneous voting for the 276 Governors and Deputy Governors, Regents and Deputy Regents, as well as Mayors and Deputy Mayors who end their terms of office in 2022 and 2023 shall be held in November 2024, and the Simultaneous Voting for the 270 Governors and Deputy Governors, Regents and Deputy Regents, as well as Mayors and Deputy Mayors who were the results of the 2020 Election for the Regional Heads shall be held in December 2025." In the Court's opinion, such a *petitum* would actually eliminate the meaning of simultaneity that has been designed by the legislators. This is because the national simultaneous election for the regional heads and the deputy regional heads has actually been prepared for a transition implementation design consisting of several batches, namely the holding of simultaneous elections in 2015, 2017, 2018, 2020, and November 2024. Moreover, in its previous decision, the Court has emphasized that the national simultaneous voting schedule for the simultaneous election for the Governors and the Deputy Governors, the Regents and the Deputy Regents, and the Mayors and the Deputy Mayors shall still be implemented in accordance with the provisions of Article 201 paragraph (8) of Law 10/2016, namely in November 2024. Through the *a quo* decision, the Court needs to emphasize that the legal considerations of the Court's decision also have binding legal force because legal considerations are *ratio decidendi* of the whole decision. Thus, the Petitioners' petition regarding the norms of Article 201 paragraph (8) of Law 10/2016 which results in changes to the national simultaneous voting schedule is legally unjustifiable.

Whereas regarding the Petitioners' argument regarding the provisions of Article 201 paragraph (9) of Law 10/2016, in the Court's opinion, the *a quo* provisions are related to the interests of the Governors and the Deputy Governors, the Regents and the Deputy Regents, as well as the Mayors and the Deputy Mayors whose terms of office ended in 2022 and 2023. The *a quo* Petitioners in their petition describe themselves as the regional heads and the deputy regional heads who were the results of the 2020 election. Thus, in the Court's opinion, there is no relevance between the Petitioners' position and the formulation of the provisions of Article 201 paragraph (9) of Law 10/2016. Therefore, in the Court's opinion, the Petitioners' argument regarding Article 201 paragraph (9) of Law 10/2016 is irrelevant for further consideration and therefore legally unjustifiable.

Accordingly, the Court passed down a decision in which the verdict is as follows:

**On the Preliminary Injunction:**

To dismiss the Petitioners' petition for preliminary injunction.

**On the Merits:**

1. To grant the Petitioners' petition in part.
2. To declare that Article 201 paragraph (7) of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning Elections for Governors, Regents and Mayors to Become a Law (State Gazette of the Republic of Indonesia of 2016 Number 130, Supplement to the State Gazette of the Republic of Indonesia Number 5898) which originally reads, "The Governor and the Deputy Governor, the Regent and the Deputy Regent, as well as the Mayor and the Deputy Mayor who were the results of the 2020 Election shall hold office until 2024" is contrary to the 1945 Constitution of the Republic of Indonesia and conditionally does not have binding legal force to the extent that it is not interpreted as, "The Governor and the Deputy Governor, the Regent and the Deputy Regent, as well as the Mayor and the Deputy Mayor

who were the results of the 2020 Election shall hold office until the inauguration of the Governor and the Deputy Governor, the Regent and the Deputy Regent, as well as the Mayor and the Deputy Mayor who are the results of the 2024 national simultaneous Election to the extent that the term of office does not exceed 5 (five) years". Thus, the norms of Article 201 paragraph (7) of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning Elections for Governors, Regents and Mayors to Become a Law in full reads, "The Governor and the Deputy Governor, the Regent and the Deputy Regent, as well as the Mayor and the Deputy Mayor who were the results of the 2020 Election shall hold office until the inauguration of the Governor and the Deputy Governor, the Regent and the Deputy Regent, as well as the Mayor and the Deputy Mayor who are the results of the 2024 national simultaneous Election to the extent that the term of office does not exceed 5 (five) years".

3. To order the publication of this decision in the State Gazette of the Republic of Indonesia as appropriate.
4. To dismiss the remainder of the Petitioners' petition.

#### **DISSENTING OPINION**

Regarding the *a quo* Constitutional Court's decision, there is a dissenting opinion of 1 (one) Constitutional Justice, namely Constitutional Justice Daniel Yusmic P. Foekh, as follows:

Whereas pursuant to a series of arguments regarding the legal standing and previous decisions as described above, the Court should carry out a further examination into the *a quo* case, at least hearing the Government's statement regarding the evaluation of the implementation of filling in the position of acting regional heads after Constitutional Court Decision Number 37/PUU-XX/2022 and the new interpretation of Article 201 paragraph (5) of Law 10/2016 in Constitutional Court Decision Number 143/PUU-XXI/ 2023. In addition, the Minister of Home Affairs of the Republic of Indonesia has submitted Letter Number 100.4.8/875/SJ, dated 19 February 2024, regarding the Request to Submit Government Information, which in principle requests the Chief Justice of the Constitutional Court of the Republic of Indonesia to be allowed to submit Government Information in the trial of Case Number 27/PUU-XXII/2024. Therefore, I am of the opinion that the Court should proceed with the examination of the *a quo* case to a plenary session to obtain more comprehensive and accurate information.