



CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION  
FOR CASE NUMBER 89/PUU-XXII/2024

Concerning

Minimum Age Requirement for Regional Head Nomination

<b>Petitioner</b>	: Arkaan Wahyu Re A
<b>Type of Case</b>	: Judicial Review of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Determination of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
<b>Subject Matter</b>	: Article 7 paragraph (2) letter e of Law 10/2016 against Article 27 paragraph (1) of the 1945 Constitution
<b>Verdict</b>	: To dismiss the Petitioner's petition in its entirety
<b>Date of Decision</b>	: Tuesday, 20 August 2024
<b>Overview of Decision</b>	:

The Petitioner is an individual Indonesian citizen holding a status of a student at Universitas Sebelas Maret who believes that his constitutional rights guaranteed in Article 27 paragraph (1) of the 1945 Constitution have been violated due to the implementation of the provisions of Article 7 paragraph (2) letter e of Law 10/2016.

Whereas regarding the Court's authority, because the Petitioner petitions for a review of the constitutionality of the statutory norms, *in casu* Material Review of Article 7 paragraph (2) letter e of Law 10/2016 against the 1945 Constitution, the Court has the authority to hear the *a quo* petition.

Whereas regarding the legal standing of the Petitioner, the Court is of the opinion that the Petitioner has been able to describe a specific causal relationship (*causal verband*) between the alleged constitutional loss of the Petitioner and the implementation of the provisions of Article 7 paragraph (2) letter e of Law 10/2016 for which a judicial review is being petitioned. The alleged constitutional loss is of a potential nature, where the Petitioner acts as a voter in the 2024 Simultaneous Regional Head Elections and he believes that the provision of Article 7 paragraph (2) letter e of Law 10/2016 is contrary to the principle of the rule of law and it does not provide legal certainty regarding the determination of minimum age requirement for the nomination of regional heads and deputy regional heads. Therefore, regardless of whether or not the unconstitutionality of the norms being petitioned for review is proven, the Court is of the opinion that the Petitioner has the legal standing to act as a Petitioner in the *a quo* petition.

Whereas the Petitioner argues that there is no clarity regarding when or at what stage the minimum age requirement must be met for regional head candidates and deputy regional head candidates. The provision of Article 7 paragraph (2) letter e of Law 10/2016 opens a room for multi-interpretation in understanding the minimum age requirement that must be met by the regional head and deputy regional head candidate pairs, and this has caused legal uncertainty and has the potential to violate the principle of equality before the law and in the government as regulated in the 1945 Constitution. In addition, the inconsistency of the General Elections Commission in implementing the regulation regarding the minimum age requirement for regional heads and deputy regional heads has made the Supreme Court take a stance and provide legal certainty through Supreme Court Decision Number 23 P/HUM/2024 by interpreting that the minimum age requirement for the regional head and deputy regional head candidates is calculated at the time of the inauguration of the elected candidate pair. The Petitioner believes that it is the obligation of all Indonesian citizens to respect and submit to the Supreme Court's decision Number 23 P/HUM/2024 and the Constitutional Court cannot argue that the provision of the norms of the *a quo* article is open legal policy, because in fact the Constitutional Court has interpreted the minimum age requirement for the constitutional judges in Constitutional Court Decision Number 7/PUU-XI/2013 and the minimum age requirement for the leaders of the Corruption Eradication Commission in the Constitutional Court Decision Number 112/PUU-XX/2022. Therefore, the Petitioner in his *petitum* petitions for the Court to declare that the norm of Article 7 paragraph (2) letter e of Law 10/2016 is contrary to the 1945 Constitution and it does not have binding legal force to the extent that it is not interpreted as "at least 30 (thirty) years of age for the Candidates for Governor and Deputy Governor and 25 (twenty-five) years of age for the Candidates for Regent and Deputy Regent or the Candidates for Mayor and Deputy Mayor which shall be calculated at the Inauguration of the elected Candidate Pair".

Whereas before further considering the arguments of the *a quo* petition of the Petitioner, The Court first considers whether the norm in Article 7 paragraph (2) letter e of Law 10/2016 may be resubmitted for review pursuant to the provisions of Article 60 of the Constitutional Court Law and Article 78 of the Constitutional Court Regulation 2/2021, since that the Court has decided on a petition which is similar to the *a quo* case, namely Case Number 58/PUU-XVII/2019 which uses Article 18 paragraph (4), Article 28D paragraph (1) and paragraph (3), and Article 28I paragraph (2) of the 1945 Constitution as the legal basis for review; Because the petition of the Petitioner uses a different legal basis for review and such legal basis has never been used before, namely Article 27 paragraph (1) of the 1945 Constitution, the Court is of the opinion that the *a quo* petition is not hindered by the provisions of Article 60 of the Constitutional Court Law and Article 78 of the Constitutional Court Regulation 2/2021, therefore the *a quo* norm may be resubmitted for review.

Regarding the petition of the Petitioner in relation to the constitutionality of the norms of Article 7 paragraph (2) letter e of Law 10/2016, it is evident that the constitutional interpretation proposed by the Petitioner is similar to what has been proposed in the previous case that has been decided by the Court namely in the Constitutional Court Decision Number 70/PUU-XXII/2024. Both the Petitioner in the *a quo* case and the Petitioner in the Case Number 70/PUU-XXII/2024 petition for the Court to declare that Article 7 paragraph (2) letter e of Law 10/2016 is in contrary to the 1945 Constitution, and it has no binding legal force to the extent that it does not provide an interpretation of the calculation point for the minimum age requirement. The Petitioner in the *a quo* case petitions that the calculation point for the minimum age requirement is at the time of the inauguration of the elected candidate pair, while the Petitioner in Case Number 70/PUU-XXII/2024 petitions that the calculation point for the minimum age requirement for regional heads and deputy regional heads is at the time of the determination of the candidate pair.

Regarding the constitutionality issue of the norm of Article 7 paragraph (2) letter e of

Law 10/2016, the Court has considered this in the Constitutional Court Decision Number 70/PUU-XXII/2024 and has provided the legal considerations as stated in paragraph [3.15] to paragraph [3.17]. Since the constitutionality issue of the *a quo* petition is substantially the same as the one in Case Number 70/PUU-XXII/2024, the legal considerations of the Constitutional Court Decision Number 70/PUU-XXII/2024 *mutatis mutandis* also apply in reviewing the constitutionality of the norm of Article 7 paragraph (2) letter e of Law 10/2016 being petitioned for review by the Petitioner in the *a quo* case.

In this case, pursuant to the legal considerations of the Constitutional Court Decision Number 70/PUU-XXII/2024, the Court interprets that the calculation point or limit for determining the said minimum age requirement is at the time of the determination of the candidate pair and not at the time of inauguration of the elected candidate pair. In addition, it is evident that the norm of Article 7 paragraph (2) letter e of Law 10/2016 has provided fair legal certainty as regulated in Article 28D paragraph (1) of the 1945 Constitution and it has provided equal opportunities before the law and in the government as regulated in Article 27 paragraph (1) of the 1945 Constitution, instead of as argued by the Petitioner. Accordingly, the Petitioner's argument regarding the conditional unconstitutionality of Article 7 paragraph (2) letter e of Law 10/2016 against Article 27 paragraph (1) of the 1945 Constitution is entirely legally unjustifiable.

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