



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 70/PUU-XXII/2024**

**Concerning**

**Requirements for Regional Head Candidates;  
Minimum Age Requirements for Governor/Deputy Governor, Regent/Vice  
Regent, Mayor/Vice Mayor (Calculation Point); Determination of Candidates**

- Petitioners** : A. Fahrur Rozi and Anthony Lee
- Type of Case** : 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 (Law 10/2016) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution).
- Subject Matter** : Judicial Review of Article 7 paragraph (2) letter e of Law 10/2016 against Article 1 paragraph (3), Article 18 paragraph (4), and Article 28D paragraph (1) of the 1945 Constitution.
- Verdict** : **On Preliminary Injunction:**  
To dismiss the petition for preliminary injunction of the Petitioners.
- On the Merits**  
To dismiss the Petitioners' petition in its entirety.
- Date of Decision** : Tuesday, 20 August 2024
- Overview of Decision** :

Whereas the Petitioners are Indonesian citizens, university students, and the Petitioners explain that they are registered as voters in the 2024 Regional Head Elections.

Whereas regarding the Court's authority, because the Petitioners petition for a material review of the norms 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 Petitioners, the Petitioners have been able to specifically and actually describe the alleged constitutional loss and the enactment of the norm being petitioned for review, namely that the Petitioners are prevented from obtaining a democratic and legally certain Regional Head Elections since the provisions of the norm in the *a quo* article does not describe the "calculation point" in determining whether the minimum age requirements for regional head candidates are fulfilled, therefore it causes the nomination process to be uncertain and at same time it threatens the existence of

democratic elections. Furthermore, the Petitioners have been able to describe the causal relationship between the alleged constitutional loss and the enactment of the norm of Article 7 paragraph (2) letter e of Law 10/2016, namely that there is a legal uncertainty, which would not occur if the Petitioners' petition were granted.

Whereas regardless of whether the Petitioners' arguments are proven or not regarding the unconstitutionality of the norm for which a judicial review is petitioned against the 1945 Constitution, the Court is of the opinion that the Petitioners have the legal standing to act as Petitioners in the judicial review of the norm of Article 7 paragraph (2) letter e of Law 10/2016.

Whereas regarding the petition for Preliminary Injunction, since the norm of Article 7 paragraph (2) letter e of Law 10/2016 being petitioned for review is clear, the Court considers that it is not necessary to hold a trial to present the parties as stated in Article 54 of the Constitutional Court Law, the absence of trial is not due to considerations regarding the stages of the implementation of the regional head elections. Therefore, the *a quo* petition for preliminary injunction of the Petitioners must be declared legally unjustifiable.

Whereas in the Preliminary Examination Hearing with the agenda of revising the petition dated 25 July 2024, the Court states that in the previous Deliberation Meeting of Judges concerning the issue of minimum age requirements for regional head and vice regional head candidates, held on 17 July 2024, the Court was informed directly from the Constitutional Justice Anwar Usman that he would not participate in deciding any petition related to the said minimum age requirements. The Court is stating this so that all parties would have any suspicion against any examination process concerning the norm of Article 7 paragraph (2) letter e of Law 10/2016. Therefore, the petition of the Petitioners regarding the right to object the involvement of the Constitutional Justice Anwar Usman is no longer relevant to be considered and it must be declared legally unjustifiable.

Whereas the provisions of Article 7 paragraph (2) letter e of Law 10/2016 which had been submitted previously and had been decided in the Decision of the Constitutional Court Number 58/PUU-XVII/2019 declared in a plenary session open to the public on 11 December 2019 which verdict states that the petition of the Petitioner is entirely dismissed. However, there are differences in the legal basis for the constitutionality review between Case Number 58/PUU-XVII/2019 and the *a quo* petition, namely the norm of Article 1 paragraph (3) of the 1945 Constitution was not used as the legal basis for review in Case Number 58/PUU-XVII/2019. In addition, there are differences between the constitutional reasons contained in the petition for Case Number 58/PUU-XVII/2019 and the *a quo* petition, specifically regarding the determination of when to start calculating the minimum age requirement for regional head candidates in the implementation of regional elections. Therefore, regardless of whether substantially the *a quo* petition of the Petitioners is legally justifiable or not, pursuant to the provisions of Article 60 of the Constitutional Court Law and Article 78 of Constitutional Court Regulation 2/2021, since there are differences in the legal basis and/or reasons for review, the *a quo* petition may be re-submitted.

Regarding the petition for a new interpretation, namely by adding the phrase "calculated at the time the candidate pair is determined" so that the norm of Article 7 paragraph (2) letter e of Law 10/2016 is not contrary to the 1945 Constitution (constitutional), the Court considers the following:

Whereas the minimum age requirements for candidates have been regulated in four laws and one government regulation in lieu of law, namely Article 13 paragraph (1) letter e of Law 22/2014, Article 7 letter e of Government Regulation in Lieu of Law 1/2014, Article 7 letter e of Law 1/2015, Article 7 letter e of Law 8/2015, and Article 7 paragraph (2) letter e of Law 10/2016. Pursuant to these regulations, there has never

been a change in the minimum age requirements to become candidates for governors and vice governors [i.e. a minimum of 30 (thirty) years of age]; and to become candidates for regents and vice regents, as well as mayors and vice mayors [i.e. a minimum of 25 (twenty-five) years of age]. In addition, all norms that require a minimum age limit as regulated in the four laws and the government regulation in lieu of law have never explicitly or clearly stated/regulated the phrase "calculated at the time the candidate pair is determined" in determining the calculation point for the said minimum age requirements.

Whereas in addition to the above historical approach, in the context of systematic approach, the minimum age requirements to be nominated as candidates for governors and vice governors, and regents and vice regents, as well as mayors and vice mayors are always contained in the chapter that regulates the "candidate requirements". In this case, Law 22/2014 regulates the matter in Chapter IV "Election Participants and Candidate Requirements; Government Regulation in Lieu of Law 1/2014 regulates the matter in Chapter III "Candidate Requirements"; Law 1/2015 regulates the matter in Chapter III "Candidate Requirements"; Law 8/2015 regulates the matter in Chapter III "Candidate Requirements"; and Law 10/2016 regulates the matter in Chapter III "Candidate Requirements". Upon reading of the systematics of the 4 (four) laws and the government regulation in lieu of law, the minimum age requirements are always regulated or contained in the group of chapters that regulate matters regarding the candidate requirements, and not in any other chapters. It is insufficient for this systematic approach to simply contain the matter in the systematic structure of statutory provisions, but it should also be read and understood in the context of the stages of regional head elections as regulated in Article 5 paragraph (3) of Law 8/2015, it can also be read and understood that there is a sequence of series or stages of activities that are linked to each other, namely the registration stage, research into the fulfilment of requirements of the candidates, and determination of candidates for the regional heads and vice regional heads. Therefore, all requirements must be fulfilled before the determination of the candidates. This means that, within the limits of reasonable reasoning, the research into the fulfilment of these requirements must be carried out prior to entering the stage of determination of the candidate pairs. In this case, all requirements as stipulated in Article 7 of Law 10/2016 must be fulfilled before the General Election Commission determines the candidates for the regional heads and vice regional heads. This also means, the following stages, such as the voting; the vote counting and the recapitulation of the vote counting results; and the determination of the elected candidates are not the stages that may be used as the points or limits to assess and determine the fulfilment of requirements as candidates for regional heads and vice regional heads.

Whereas in practice so far, at least since the election of regional heads and vice regional heads has been carried out directly by the people, the point or limit to determine the fulfilment of the requirements has been carried out in a series of stages as stated above. This means that the point for the said determination of the fulfilment of the requirements is carried out at the stage of determining the candidate pairs for regional heads and vice regional heads. The empirical facts prove that the determination of the fulfilment of requirements is calculated/determined at this stage may be examined from the series of stages carried out by the organizers of the regional head elections so far.

Whereas in addition to the three approaches above, the Court needs to compare (comparative approach) the point or limit for determining the fulfilment of the requirements of the candidates for regional heads and vice regional heads and the point or limit for determining the fulfilment of the requirements of the candidates for legislative members and the presidential and vice presidential candidates. In this case, the determination of the fulfilment of the requirements as a candidate in the election for House of Representatives/Regional Legislative Council members is carried out at the stage of determining the general election candidates. Likewise, in the presidential and

vice presidential elections, the fulfilment of requirements is determined at the time a person is appointed as a candidate. This means that all requirements that must be fulfilled at the nomination stage must be completed when a person is appointed as a candidate and it must be completed before the next election stage is held.

Whereas textually, the norm of Article 7 paragraph (2) letter e of Law 10/2016 is correct in not explicitly including the phrase "calculated at the time the candidate pair is determined". Even though it is not explicitly stated, historically, systematically, current practice, and in comparison with other elections, the determination of the minimum age limit to become a regional head and vice regional head is always calculated at the time the candidate is determined. Such calculation point or determination point has become some sort of a postulate in the implementation of elections so that no exceptions may be made in the regional head and vice regional head elections. This means that if the regional head and vice regional head elections are excluded, namely the determination point for the minimum age requirements for regional head and vice regional head candidates is justified to be set at any other the stage after the determination of the candidates, it would mean the Court justifies an anomaly in the general election law. In the context of harmonization and synchronization of general election law, the opportunity or possibility of anomalies in the regional head elections must be prevented because there is no longer any differences in the election regime, namely no difference between the regional government regime and the general election regime.

Whereas Pursuant to the Elucidation of Appendix II of Law 12/2011, the chapter concerning "Candidate Requirements" contains the same material, namely regarding the requirements that must be fulfilled if a person wishes to nominate himself/herself or be nominated as a regional head candidate and vice regional head candidate. After the research is conducted, these minimum requirements must be fulfilled when a person is determined as a candidate. Not only the minimum age, all the requirements in Article 7 paragraph (2) of Law 10/2016 must be fulfilled at the nomination stage. In this case, the provisions of Article 7 paragraph (2) letter e of Law 10/2016 concerning the minimum age requirements for regional head candidates must be fulfilled if a person registers to nominate himself/herself or is nominated as a regional head candidate and vice regional head candidate.

Whereas the nomination shall be the calculation point or limit for determining the fulfilment of the minimum age requirements, which culminates in the determination of candidates for regional head and vice regional head. In this regard, in the position as the organizer, if the General Election Commission requires technical regulations to organize the material in the norms of Article 7 paragraph (2) letter e of Law 10/2016, the said technical regulations are made in accordance with the material in the *a quo* norms. In addition, in accordance with the principle of *erga omnes*, the legal consideration and interpretation of the Court regarding the norm of Article 7 paragraph (2) letter e of Law 10/2016 are binding on all organizer, election contestants and all citizens. Therefore, if the organizer does not adhere to the consideration contained in the *a quo* decision of the Court, as the holder of judicial power authorized to resolve any election result disputes, any regional head and vice regional head candidates who do not fulfil the requirements and conditions are potentially declared invalid by the Court.

Whereas upon complete and comprehensive consideration of the Court in accordance with the historical approach, systematic approach, current practice and in comparison with other elections, Article 7 paragraph (2) letter e of Law 10/2016 is a norm that is clear and obvious, *bak basuluh matohari* (already clear, undisputable), *cetho welo-welo* (already very clear), that any other interpretation cannot or does not need to be given or added other than the one considered in the *a quo* decision, namely the said requirements must be fulfilled in the nomination process which culminates in the determination of the candidates. Within the limits of reasonable reasoning, adding a new

interpretation to Article 7 paragraph (2) letter e of Law 10/2016, including as petitioned by the Petitioners, will actually make the *a quo* norm to be different (an anomaly) among all other norms within the scope of requirements for regional head candidates and vice regional head candidates.

Pursuant to the entire description of the above legal considerations, it is evident that the norm of Article 7 paragraph (2) letter e of Law 10/2016 which regulates the minimum age requirements for regional head candidates and vice regional head candidates has provided fair legal certainty as stated in Article 28D paragraph (1) of the 1945 Constitution, instead of as argued by the Petitioners. Therefore, the Petitioners' arguments are entirely legally unjustifiable.

Accordingly, Court passes down a decision which verdicts are as follows:

**On Preliminary Injunction:**

To dismiss the petition of preliminary injunction of the Petitioners.

**On the Merits**

To dismiss the Petitioners' petition in its entirety.