



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 90/PUU-XXII/2024**

Concerning

**Constitutionality of Calculation of Minimum Age Requirement
for Regional Head Candidates**

- Petitioners** : **Syukur Destieli Gulo, 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 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** : The constitutionality of calculating the minimum age requirement for regional head candidates as regulated in Article 7 paragraph (2) letter e of Law 10/2016 is contrary to the principles of the rule of law as regulated in Article 18 paragraph (4), Article 1 paragraph (2), Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia
- Verdict** : To dismiss the Petitioner's petition in its entirety
- Date of Decision** : Tuesday, 20 August 2024
- Overview of Decision** :

The Petitioners are Indonesian citizens who have inherent constitutional rights to vote and be elected in the election of Governors, Regents, and Mayors in the 2024 Simultaneous Regional Elections. The Petitioners believe that their constitutional rights as protected by Article 18 paragraph (4), Article 1 paragraph (2), Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia have been violated due to the implementation of the norms of the article for which the judicial review is being petitioned;

Regarding the Court's authority, since the petition is submitted to review the constitutionality of norms of law, *in casu* Law 10/2016 against the of 1945 Constitution, the Court has the authority to hear the *a quo* petition of the Petitioner;

Regarding the legal standing of the Petitioners, the Court is of the opinion that in describing their legal standing and in the submitted evidence, regarding the review of Article 7 paragraph (2) letter e of Law 10/2016, the Petitioners have been able to prove the existence of a causal relationship (*causal verband*) between the alleged constitutional loss specifically and potentially and the enactment of the norm for which the petition is being submitted. The Petitioners have also been able to describe the alleged constitutional loss which has a causal relationship with the enactment of the statutory norm for which the

petition is being submitted. This is because the Petitioners are individual Indonesian citizens who have the right to vote as proven by being registered on the Permanent Voters List. The alleged constitutional loss of the Petitioners shall occur in the event that the calculation of the minimum age requirement for regional head and deputy regional head candidates is determined at the time of voting. In this case, there is a potential that at the time of voting, there may be a candidate pair who has not met the minimum age requirement. Therefore, regardless of whether the unconstitutionality of the norms being petitioned for review is proven or not, the Court is of the opinion that the Petitioners have the legal standing to act as Petitioners in the *a quo* petition.

On Preliminary Injunction

Regarding the *a quo* petition for preliminary injunction, the Court considers that it is not necessary to hold a trial to present the parties as referred to in Article 54 of the Constitutional Court Law because the norm of Article 7 paragraph (2) letter e of Law 10/2016 which is being petitioned for review is clear and not because of any consideration of the voting schedule. Therefore, the *a quo* petition for preliminary injunction of the Petitioners must be declared legally unjustifiable.

On the Merits

Before further considering the arguments of the petition of the Petitioners, the Court first considers the petition of the Petitioners in relation to the provisions of Article 60 of the Constitutional Court Law and Article 78 of the Constitutional Court Regulation Number 2 of 2021 concerning Procedures in Judicial Review Cases (Constitutional Court Regulation 2/2021), whether or not the *a quo* norms may be resubmitted for review. After the Court carefully read the material of the Petitioners' petition in the *a quo* case and compare it with the previous petition, namely Case Number 58/PUU-XVII/2019 which was pronounced in a plenary session open to the public on 11 December 2019 which reviewed the constitutionality of the norm of Article 7 paragraph (2) letter e of Law 10/2016 using 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. Meanwhile, in the *a quo* petition, the Petitioners use Article 18 paragraph (4), Article 1 paragraph (2), and Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia as the legal basis for review. Pursuant to this, it is evident that Article 1 paragraph (2) of the 1945 Constitution was not used as the legal basis for review in Case Number 58/PUU-XVII/2019. Therefore, due to these different legal bases, 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, so that the *a quo* norms may be resubmitted for review.

Furthermore, the Court considers the subject matter being questioned by the Petitioners, namely the absence of a calculation point in determining the minimum age requirement for the Candidates for Governor and Deputy Governor, Candidates for Regent and Deputy Regent or Candidates for Mayor and Deputy Mayor as regulated in Article 7 paragraph (2) letter e of Law 10/2016. In this regard, it turns out that the constitutional interpretation submitted by the Petitioners is similar to that which was being petitioned for review in the case that has been decided by the Court, namely the Constitutional Court Decision Number 70/PUU-XXII/2024. The Petitioner in the *a quo* case and in Case Number 70/PUU-XXII/2024 petitioned for the Court to declare that Article 7 paragraph (2) letter e of Law 10/2016 is contrary to the 1945 Constitution of the Republic of Indonesia and it does not have binding legal force to the extent that it does not provide an interpretation to determine the calculation point for the minimum age requirement. The Petitioners petition for the calculation point for the minimum age requirement for the regional head candidate pair be calculated from the registration of the candidate pair, while the Petitioners in Case Number 70/PUU-XXII/2024 petitioned for the calculation point for the minimum age requirement for the regional head candidate pair be calculated from 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, the considerations of which are quoted in the *a quo* decision, in principle the Court emphasizes that the calculation point or limit in determining the minimum age requirement is at the nomination process, which culminates in the determination of regional head candidates and deputy regional head candidates. In addition, Article 7 paragraph (2) letter e of Law 10/2016 is considered to be a clear norm, so it cannot and does not need to be given another or different interpretation other than the one considered in decision Number 70/PUU-XXII/2024. Pursuant to the consideration in the Constitutional Court Decision Number 70/PUU-XXII/2024 as quoted above, the Court states that the legal considerations of the Constitutional Court Decision Number 70/PUU-XXII/2024 *mutatis mutandis* also apply as the legal considerations in the *a quo* case. In this case, in accordance with the legal considerations of the Constitutional Court Decision Number 70/PUU-XXII/2024, the Court interprets that the point or limit in determining the minimum age requirement is at the time of determination of the candidate pair and not at the time of voting.

Therefore, it has been proven that the norm of Article 7 paragraph (2) letter e of Law 10/2016 has guaranteed the implementation of democratic regional elections as regulated in Article 18 paragraph (4) of the 1945 Constitution, it does not violate the principle of people's sovereignty as referred to in Article 1 paragraph (2) of the 1945 Constitution, and it has provided fair legal certainty as regulated 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, the Court subsequently passed down a decision which verdict states, as follows:

On Preliminary Injunction:

To dismiss the petition for preliminary injunction of the Petitioners

On the Merits:

To dismiss the Petitioners' petition in its entirety.