



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 68/PUU-XXII/2024**

Concerning

**Minimum Age Requirement
for Leaders of Corruption Eradication Commission**

- Petitioners** : **Novel Baswedan, et al.**
- Type of Case** : Judicial Review of Law Number 19 of 2019 concerning Second Amendment to Law Number 30 of 2002 concerning Eradication of Criminal Acts of Corruption (Law 19/2019) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : According to the Petitioners, Article 29 letter e of Law 19/2019 is contrary to the 1945 Constitution of the Republic of Indonesia because it prevents the Petitioners from registering as candidates for leaders of the Corruption Eradication Commission.
- 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** : Thursday, 12 September 2024
- Overview of Decision** :

The Petitioners are individual citizens of the Republic of Indonesia whose age range is above 40 (forty) years but below 50 (fifty) years, and who have worked as employees of the Corruption Eradication Commission.

Regarding the Court's Authority, because the Petitioners petition for a review of the constitutionality of statutory norms, *in casu* Article 29 letter e of Law 19/2019 against the 1945 Constitution, the Court has the authority to hear the *a quo* petition.

Regarding the legal standing of the Petitioners, the Court is of the opinion that the Petitioners have been able to prove that they are Indonesian citizens, within the age range of more than 40 (forty) years but under 50 (fifty) years as proven by evidence marked as Exhibit P-7 to Exhibit P-18. The Petitioners have also proven that they have worked as employees of the Corruption Eradication Commission. In addition, the Petitioners have also been able to describe their constitutional rights as guaranteed in Article 1 paragraph (3), Article 27 paragraph (1), Article 28D paragraph (1), Article 28D paragraph (3), and Article 28I

paragraph (2) of the 1945 Constitution of the Republic of Indonesia, and they believe that their constitutional rights are violated by the enactment of the norm of Article 29 letter e of Law 19/2019 as interpreted in the Constitutional Court Decision Number 112/PUU-XX/2022. The alleged constitutional loss referred to by the Petitioners has a causal relationship (causality) and is specific to the norm for which the review is being petitioned, where the *a quo* norm has changed the age requirements for the candidates of leaders of the Corruption Eradication Commission which is actually considered to cause the constitutional loss of the Petitioners because they cannot nominate themselves as the leaders of the Corruption Eradication Commission. Therefore, if the petition of the Petitioners is granted, the alleged constitutional loss of the Petitioners' will no longer occur. Therefore, regardless of whether the unconstitutionality issue of the norms being petitioned for review as argued by Petitioners is proven or not, the Court concludes that the Petitioners have the legal standing to act as Petitioners in the *a quo* petition.

Regarding the Petitioners' petition for preliminary injunction, the Court believes that to decide on the petition/case, there is no need to hear/request statements from the parties in the follow-up trial with a verification agenda, in other words without exercising the Court's authority as regulated or intended in Article 54 of the Constitutional Court Law. Therefore, the Court is of the opinion that the Petitioners' petition for a preliminary injunction is irrelevant for further consideration and therefore it must be declared legally unjustifiable.

Whereas the Petitioners are substantially questioning the constitutionality of the norm of Article 29 letter e of Law 19/2019 because the norm causes discrimination against the Petitioners and clearly harms and violates the constitutional rights of the Petitioners to nominate themselves and be elected as the leaders of the Corruption Eradication Commission at the age of under 50 (fifty) years for the 2024-2028 period. This is because the provisions of Article 29 letter e of Law 19/2019, as interpreted in the Constitutional Court Decision Number 112/PUU-XX/2022, stipulate that the requirements for becoming a leader of the Corruption Eradication Commission are a minimum of 50 (fifty) years of age or having an experience as a leader of the Corruption Eradication Commission, and a maximum of 65 (sixty-five) years of age.

The Petitioners petition for the provisions of Article 29 letter e of Law 19/2019 as interpreted in the Constitutional Court Decision Number 112/PUU-XX/2022 to be declared contrary to the 1945 Constitution of the Republic of Indonesia and have no binding legal force if they are not reinterpreted as "A minimum of 50 (fifty) years of age or having an experience as a leader of the Corruption Eradication Commission or having an experience as an employee of the Corruption Eradication Commission who carries out the main function of the Corruption Eradication Commission, namely prevention or prosecution of the criminal acts of corruption for at least 1 (one) term of office of the leadership position of the Corruption Eradication Commission, or a maximum of 65 (sixty-five) years of age".

Regarding the above issues as argued by the Petitioners, the Court considers that in relation to the determination of the age requirement, the Court has considered this matter in several previous decisions, including the Constitutional Court Decision Number 15/PUU-V/2007, Constitutional Court Decision Number 37-39/PUU-VIII/2010, Constitutional Court Decision Number 49/PUU-IX/2011, and Constitutional Court Decision Number 102/PUU-XIV/2016. The Court is of the opinion that the determination of the minimum or maximum age requirement for a particular position – in a law – is entirely within the authority of the legislators, or commonly known as an open legal policy. This is because the 1945 Constitution of the Republic of Indonesia as a guide and parameter for a judicial review does not specifically regulate the minimum or maximum age requirement for someone to be nominated as a candidate and/or to hold a certain position, *in casu* as a leader of the Corruption Eradication Commission.

However, the legislators should not neither easily nor too frequently change the age requirements to become a public official, for both the elected and appointed officials as contained in several legal norms. Such an affirmation by the Court is necessary considering

that changing the minimum age requirement or the maximum age requirement too frequently can give rise to legal uncertainty and injustice because it easily causes a shift in the reference parameters for a person's capability or competence to occupy a position in a public institution/organization. Frequent changes to the requirements are highly likely open up the possibility for the legislators to formulate an "age adjustment" policy to violate the constitutional rights of other citizens for the purpose of, among others, certain "political motive".

In their petition, the Petitioners connect and even equate the issues questioned by the Petitioners with the issue in the constitutionality review of the norm in Case Number 112/PUU-XX/2022 which was submitted by a Petitioner named Nurul Ghufron in his position as a Commissioner of the Corruption Eradication Commission or one of the leaders of the Corruption Eradication Commission. Regarding this argument, the Court is of the opinion that the most essential thing that is the legal consideration of the Court in case Number 112/PUU-XX/2022 is the existence of educational, expertise, and especially experience requirements, which are the requirements that are substantially more essential than age limit requirement which is merely formal in nature. The Court is of the opinion that the candidate for the leader of the Corruption Eradication Commission who has the experience of leading the Corruption Eradication Commission in one previous period has an added value which will be beneficial for the Corruption Eradication Commission institution because the said person understands the work system, the challenges faced by the institution, and the performance targets that the institution wishes to achieve.

Pursuant to the legal considerations of the Court in the *a quo* decision, a person's experience as a leader of the Corruption Eradication Commission is different and it cannot be equated with experience in other fields, even if such experience is serving or working at the Corruption Eradication Commission, considering that there are fundamental differences with the experience as a leader of the Corruption Eradication Commission.

Pursuant to such legal considerations, the Court considers that the Petitioners' arguments regarding the unconstitutionality of the norm of Article 29 letter e of Law 19/2019 as interpreted in the Constitutional Court Decision Number 112/PUU-XX/2022, it has not been proven to give rise to discrimination or fair legal uncertainty as regulated in Article 1 paragraph (3), Article 27 paragraph (1), Article 28D paragraph (1), Article 28D paragraph (3), and Article 28I paragraph (2) of the 1945 Constitution, and therefore the relevant norm is not as argued by the Petitioners.

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

On Preliminary Injunction:

To dismiss the petition for preliminary injunction of the Petitioners in its entirety;

On the Merits:

To dismiss the Petitioners' petition in its entirety.

Dissenting Opinion

Regarding the *a quo* decision of the Court, there is a dissenting opinion from 1 (one) of the Constitutional Justices, namely Constitutional Justice Arsul Sani who states as follows:

In order to guarantee the constitutional rights in the form of equal opportunities in the government as regulated in Article 28D paragraph (3) of the 1945 Constitution, in my opinion, the Petitioners' arguments are legally justified in part and the Petitioners' petition should have been granted in part, even though it is not as petitioned by the Petitioners. Therefore, the Court should have declared Article 29 letter e of the Law of the Republic of Indonesia Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission to be contrary to the 1945

Constitution of the Republic of Indonesia and has no binding legal force to the extent that it is not interpreted as *“or having an experience as an employee of the Corruption Eradication Commission working in the field of prevention or prosecution (law enforcement) of corruption crimes for at least 10 (ten) consecutive years”*. So that in full Article 29 letter e of the *a quo* Law reads *“To be appointed as the Leader of the Corruption Eradication Commission, the following requirements must be met: e. a minimum of 50 (fifty) years of age or having an experience as a Leader of the Corruption Eradication Commission **or having an experience as an employee of the Corruption Eradication Commission working in the field of prevention or prosecution (law enforcement) of corruption crimes for at least 10 (ten) consecutive years** or a maximum of 65 (sixty five) years of age.”*