



CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION
FOR CASE NUMBER 61/PUU-XXII/2024

Concerning

**Deadline for Submission of Requirements
for Independent Candidate Pairs
in Elections for Governors, Regents, and Mayors**

Petitioner	: Terence Cameron
Type of Case	: Judicial Review of Law Number 8 of 2015 concerning Amendments to Law Number 1 of 2015 concerning Elections for Governors, Regents, and Mayors into Law (Law 8/2015) and Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning Elections for 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 48 paragraph (4) of Law 8/2015 and Article 49 paragraph (8) and paragraph (9), and Article 50 paragraph (8) and paragraph (9) of Law 10/2016 against Article 18 paragraph (4), Article 22E paragraph (1), Article 28D paragraph (1) and paragraph (3) of the 1945 Constitution.
Verdict	: On the Preliminary Injunction: To dismiss the Petitioner's preliminary injunction On the Merits: To dismiss the Petitioner's petition entirely
Date of Decision	: Tuesday, 20 August 2024
Overview of Decision	:

The Petitioner is an individual Indonesian citizen currently pursuing education as a law student at the Faculty of Law, University of Indonesia, an active member of the Golkar Party, and a voter in the 2024 Regional Elections who has expressed interest in running as a regent or mayor in regions where only a single candidate is present.

Regarding the Court's authority, because the Petitioner's petition is a judicial review of Article 48 paragraph (4) of Law 8/2015 and Article 49 paragraph (8) and paragraph (9), Article 50 paragraph (8) and paragraph (9) of Law 10/2016 against Article 18 paragraph (4), Article 22E paragraph (1), and Article 28D paragraph (1) and paragraph (3) of the 1945 Constitution, the Court has the authority to hear the Petitioner's petition.

Regarding the Petitioner's legal standing, the Petitioner essentially argues that he potentially experiences constitutional loss in receiving fair treatment to run as a regional head candidate, as guaranteed by the 1945 Constitution, due to differences in treatment between independent candidates and candidates nominated by political parties. This could lead to the phenomenon of a single candidate because of the enforcement of the norms of Article 48 paragraph (4) of Law 10/2016, Article 49 paragraph (8) and paragraph (9), and Article 50 paragraph (8) and paragraph (9) of Law 8/2015. The Petitioner is of the opinion that the enactment of the norms of the *a quo* articles does not clearly stipulate the deadline for submitting requirements for independent candidacies support, including whether independent candidates can register after a phase postponement. The ambiguity of these provisions could hinder independent candidates who intend to run, thereby creating opportunities for a single candidate, and undermining the democratic election of regional heads as guaranteed by the 1945 Constitution. Therefore, the Court is of the opinion that the Petitioner has specifically explained the alleged constitutional loss caused by the enactment of the norms of the law being petitioned for review. Consequently, the Petitioner has the legal standing to act as a Petitioner in the *a quo* petition.

Whereas the Petitioner submits a provisional petition for a prioritized examination of the *a quo* case to be decided before the registration period for regional head candidates in the 2024 Simultaneous Regional Elections and to declare the Court's decision applicable to the 2024 Simultaneous Regional Elections. Regarding this petition, since the Petitioner's *a quo* petition is decided without a Plenary Session of Court Examination involving hearings of the parties as stipulated in Article 54 of the Constitutional Court Law, the Court is of the opinion that it is irrelevant to consider the Petitioner's *a quo* provisional petition further. Consequently, the Petitioner's provisional petition is legally unjustifiable.

Whereas regarding the subject matter of the petition, the Petitioner argues that the *a quo* case does not constitute *ne bis in idem* as defined in Article 60 of the Constitutional Court Law and Article 78 of CCR 2/2021. The Petitioner argues that Article 48 paragraph (4) of Law 10/2016 only regulates the deadline for submitting documents as requirements for independent candidacies support for factual verification, namely a maximum of 28 days, without addressing the deadline for submitting documents as requirements for independent candidacies support in cases of phase postponement caused by fewer than two candidates meeting the requirements. Article 49 paragraph (8) and Article 50 paragraph (8) of Law 8/2015 regulate an election phase postponement for a maximum of 10 days if fewer than two candidate pairs meet the requirements after the registration and verification periods. However, the phrase "a maximum of" in the *a quo* articles fails to provide fair legal certainty, as the General Election Commission (KPU) as the election organizer could set the postponement period as short as one day, leaving insufficient time for independent candidates to register. Furthermore, Article 49 paragraph (9) and Article 50 paragraph (9) of Law 8/2015 only stipulate that the KPU shall reopen candidate registration for a maximum of three days after the election phase postponement but do not clearly state whether independent candidates may register after this election phase postponement to ensure fair legal certainty for independent candidates intending to run for regional head positions. Regarding the Petitioner's argument, the Court essentially considers as follows:

- (1) The Petitioner's petition argues that the norms of Article 48 paragraph (4) of Law 10/2016 do not regulate the deadline for submitting documents as requirements for independent candidacies support in cases of phase postponement due to fewer than two candidate pairs meeting the requirements, as specified in Article 49 paragraph (8) and Article 50 paragraph (8) of Law 8/2015, leading to unequal treatment compared to candidates nominated by political parties. The factual verification of candidate pairs nominated by political parties or coalitions of political parties in elections seems straightforward. However, it is important to comprehensively understand that the process is not simple when viewed in its entirety in terms of the designation of a political party as a participant in an election, including administrative and factual verification requirements under applicable provisions for political parties, whether newly established, failing to meet parliamentary thresholds, or already represented in parliament. Moreover, the meeting of administrative requirements for candidacies as initial requirements is important. The election postponement aims to avoid a single-candidate scenario by reopening candidate registration for a maximum of three days after such postponement. This regulation applies solely to the nomination of candidate pairs by political parties, not the candidacies of independent candidates due to their differing nomination processes, which require support representing the public, factually verified through census-based methods. Even if an independent candidate registers after the postponement phase, it is only allowed for those who have already been declared meeting the support and distribution requirements but have not registered during the registration period. Thus, the Petitioner's argument that Article 48 paragraph (4) of Law 10/2016, Article 49 paragraph (8) and Article 50 paragraph (8) of Law 8/2015 are conditionally contrary to Article 18 paragraph (4), Article 22E paragraph (1), and Article 28D paragraph (1) and paragraph (3) of the 1945 Constitution, is legally unjustifiable.
- (2) Whereas the Petitioner argues that the norms of Article 49 paragraph (9) and Article 50 paragraph (9) of Law 8/2015 do not provide the opportunity to re-register due to an election phase postponement for independent candidate pairs who are declared meeting the support and distribution requirements after administrative and factual verification within three days following the phase postponement. The Court is of the opinion that the Petitioner's petition could potentially disrupt the phases in the regional head election process, particularly in regions where single-candidate scenarios are likely. Moreover, factual verification, conducted using a census-based method to verify support requirements for independent candidate pairs, is time-consuming and cannot feasibly be accommodated within the 10-day election phase postponement period. This could create new legal uncertainties because the schedule for document submission and factual verification phases, typically conducted before the registration phase, are shifted to the period after verification but before candidate determination. The Court argues that the petition would result in the reallocation of phases already completed, namely the factual verification of candidate pair support, thus causing delays in the established schedule of election phases. Furthermore, the Petitioner's intention to run as an independent candidate in regions with only a single candidate could lead to legal uncertainty in terms of the completion of phases in other regions where no single-candidate scenarios exist, providing opportunities for "new candidates" to enter the ongoing election phases. Therefore, the Petitioner's argument that Article 49 paragraph (9) and Article 50 paragraph (9) of Law 8/2015 are conditionally contrary to Article 18 paragraph (4), Article 22E paragraph (1), and Article 28D paragraph (1) and paragraph (3) of the 1945 Constitution, is legally unjustifiable.
- (3) Consequently, the Petitioner's argument that Article 48 paragraph (4) of Law 10/2016, Article 49 paragraph (8) and paragraph (9), and Article 50 paragraph (8) and paragraph (9) of Law 8/2015 are contrary to Article 18 paragraph (4), Article 22E paragraph (1), and Article 28D paragraph (1) and paragraph (3) of the 1945 Constitution, is legally unjustifiable entirely.

Thus, the Court subsequently passed down a decision in which the verdicts were:

On the Preliminary Injunction:

To dismiss the Petitioner's preliminary injunction.

On the Merits:

To dismiss the Petitioner's petition entirely.