



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 108/PUU-XXII/2024**

**Concerning  
Age Limit for Appointment of Advocates**

- Petitioners** : **Muhammad Mu'alimin, et al.**
- Type of Case** : Judicial Review of Law Number 18 of 2003 concerning Advocates (Advocates Law) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Material review of Article 3 paragraph (1) letter d of Advocate Law against Article 28D paragraph (1) of the 1945 Constitution.
- Verdict** : To dismiss the Petitioners' petition in its entirety
- Date of Decision** : Thursday, 26 September 2024
- Overview of Decision** :

Whereas the Petitioners are Indonesian citizens, submitting a petition for a material review of Article 3 paragraph (1) letter d of the Advocates Law which is considered to be contrary to Article 28D paragraph (1) of the 1945 Constitution, because the norm prevents young citizens from being appointed as advocates at the age of 23 years. In addition, the norm of Article 3 paragraph (1) letter d of the Advocates Law does not limit the age of appointment of advocates.

Regarding the authority of the Court, since the Petitioners petition for a review of Article 3 paragraph (1) letter d of Advocates Law 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 the existence of a causal relationship (*causal verband*) between the alleged constitutional loss, either actual or at least potential, and the enactment of the norm being petitioned for review. In this case, Petitioner I to Petitioner VI as individual Indonesian citizens who work as advocates have good intentions, they wish for the advocate profession as an honorable profession (*nobile official*) to be carried out professionally to handle legal issues experienced by the members of society. Likewise, Petitioner VII to Petitioner IX as individual Indonesian citizens who are currently studying at the faculty of law, they wish to immediately realize their dreams of becoming professional advocates from a young age without being hindered by the minimum age limit of 25 (twenty-five) years. Therefore, if the Petitioners' petition is granted, then the alleged constitutional loss as experienced or potentially experienced by the Petitioners would not occur or will no longer occur. Therefore, regardless of whether the arguments of the Petitioners which state that the norms of Article 3 paragraph (1) letter d of Advocates Law are unconstitutional 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.

Regarding the subject matter of the petition, the Petitioners substantially argued as follows:

1. Whereas according to the Petitioners, the phrase "to be appointed as an advocate, a person must be at least 25 (twenty-five) years of age" as regulated in Article 3 paragraph (1) letter d of the Advocates Law is a minimum age limit that is felt to be too high and therefore discriminating against young Petitioners who are able to complete their studies at the age of 21 (twenty-one) years. The said age limit is based on the opinion that law faculty graduates under the age of 25 (twenty-five) years are considered unfit to be appointed as advocates. When, in fact, with the addition of the mandatory internship of 2 (two) years, many law faculty graduates have not even yet reached the minimum age of 25 (twenty-five) years. Therefore, according to the Petitioners, the phrase "at least 25 (twenty-five) years of age" in Article 3 paragraph (1) letter d of the Advocates Law must be declared to have no binding legal force to the extent that the phrase is not interpreted as "to be appointed as an advocate, a person must be at least 23 (twenty-three) years of age".
2. Whereas according to the Petitioners, in comparison to the appointment of advocates in several countries such as Malaysia, Japan and the Netherlands, the minimum age requirement of 25 (twenty-five) years does not reflect a person's maturity to be appointed as an advocate. These three countries actually prioritize the fulfilment of academic requirements, experience and professionalism in the legal field in order to be appointed as an advocate.
3. According to the Petitioners, in addition to the minimum age requirement, the requirement on the appointment of advocates to a maximum of 45 (forty-five) years of age is very important because other law enforcers are required to learn, study and train before carrying out legal proceedings in the legal field. If other law enforcers, including the state apparatus, both civil and military, have reached the retirement age and they have networks built up through their previous work institutions, and they compete with young advocates who are just starting out and starting their careers as advocates, this will create social inequality among advocates.

Whereas, because the Court is of the opinion that the constitutionality issue disputed by the Petitioners is clear, there is no relevance in hearing the statements from the parties as referred to in Article 54 of the Constitutional Court Law.

Whereas regarding the subject matter of the Petitioners' petition, the Court is of the opinion that the constitutionality of the norm of Article 3 paragraph (1) letter d of the Advocates Law has been decided by the Court, namely the Constitutional Court Decision Number 019/PUU-I/2003 which was pronounced in a plenary session open to the public on 18 October 2004, the Constitutional Court Decision Number 84/PUU-XIII/2015 which was pronounced in a plenary session open to the public on 7 December 2015, the Constitutional Court Decision Number 79/PUU-XVI/2018 which was pronounced in a plenary session open to the public on 26 November 2018, and the Constitutional Court Decision Number 83/PUU-XVIII/2020 which was pronounced in a plenary session open to the public on 25 November 2020. Upon careful examination by the Court, even though the *a quo* petition uses Article 28D paragraph (1) of the 1945 Constitution as the legal basis, which has also been used in Case Number 019/PUU-I/2003, Case Number 84/PUU-XIII/2015, Case Number 79/PUU-XVI/2018, and Case Number 83/PUU-XVIII/2020 so that the legal basis for review of these cases is the same, but the *a quo* petition provides a different reason from the four previous petitions, namely by describing that in order to be appointed as an advocate, a person must be at least 23 (twenty-three) years old because appointment as an advocate should prioritize academic requirements, experience and professionalism in the legal field. Meanwhile, the maximum age requirement to be appointed as an advocate is 45 (forty-five) years, which is very important because other law

enforcers must first learn, study and train before carrying out legal proceedings in the legal field. If other law enforcers, including the state apparatus, both civil and military, have reached the retirement age and they have networks built up through their previous work institutions, and they compete with young advocates who are just starting out and starting their careers as advocates, this will create social inequality among advocates. Therefore, regarding the *a quo* petition of the Petitioners, even though it uses the same legal basis for review, namely Article 28D paragraph (1) of the 1945 Constitution, there is a different reason for review compared to the previous petitions. Therefore, regardless of whether the substance of the petition is justifiable or not, formally 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, thus, it may be resubmitted.

In examining the subject matter of the Petitioners' petition, the Court is of the opinion that the substance of the reason for the Petitioners' petition which is used as the legal basis for the petition is similar to the previous Court decisions, namely the Constitutional Court Decision Number 019/PUU-I/2003, the Constitutional Court Decision Number 84/PUU-XIII/2015, and the Constitutional Court Decision Number 83/PUU-XVIII/2020, which in principle consider that age limits are commonly held in laws. The Court also considers that it is reasonable and proper to set a minimum age of 25 years for advocates because to become an advocate, a person must have emotional (psychological) maturity in addition to academic ability. Moreover, to strengthen the abilities of an advocate, a person needs to be equipped with experience and practice to combine and perfect the theoretical knowledge he/she has acquired in educational institutions. Additional practical knowledge and experience is gained during an internship which may take several years. Therefore, Article 3 paragraph (1) letter d of the Advocates Law does not discriminate against the Petitioners.

By referring to the legal considerations of the Court in the Constitutional Court Decision Number 019/PUU-I/2003, the Constitutional Court Decision Number 84/PUU-XIII/2015, and the Constitutional Court Decision Number 83/PUU-XVIII/2020 above, even though in the constitutionality review of the norm of Article 3 paragraph (1) letter d of the Advocates Law the Petitioners uses a different reason from the previous petitions, however, because the substance being reviewed is considered similar to the previous reviews, the Court does not yet have a strong reason to shift from the legal stance and opinion in the said decisions. Therefore, the legal considerations of the Court in the Constitutional Court Decision Number 019/PUU-I/2003, the Constitutional Court Decision Number 84/PUU-XIII/2015, and the Constitutional Court Decision Number 83/PUU-XVIII/2020 *mutatis mutandis* also applies to the legal considerations in the *a quo* decision. Moreover, regarding the age limits, both minimum and maximum age requirements, several Court decisions have emphasized that this matter is within the authority of the legislators. In relation to any statutory norms which are within the area of open legal policy of the legislators, the Court has thus far positioned itself not to provide an assessment of such norms, provided that the open legal policy meets the following requirements: it does not violate morality; it does not violate rationality; it does not constitute an intolerable injustice; it does not exceed the authority of the legislators; it does not constitute an abuse of authority; it does not contrary to the 1945 Constitution; it does not negate the principles of the 1945 Constitution; it is not contrary to any political rights; it is not contrary to the sovereignty of the people; it is not carried out arbitrarily (*willekeur*); and it does not exceed and/or abuse any authority (*detournement de pouvoir*). In the *a quo* case, upon careful examination by the Court of the age requirements for advocates as stipulated in Article 3 paragraph (1) letter d of the Advocates Law, the Court does not find that this norm violates the requirements of an open legal policy.

Therefore, the petition of the Petitioners is legally unjustifiable, and subsequently the Court passed down a decision which verdict states to dismiss the Petitioners' petition in its entirety.