



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 80/PUU-XXII/2024**

**Concerning**

**Authority of Board of Governors  
of Bank Indonesia to Appoint Employees**

<b>Petitioner</b>	: Rega Felix
<b>Type of Case</b>	: Judicial Review of Law 23 of 1999 concerning Bank Indonesia (Law 23/1999) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
<b>Subject Matter</b>	: Article 44 paragraph (1) of Law 23/1999 is contrary to Article 27 of paragraph (2) and paragraph (3), Article 28D paragraph (3), and Article 28F of the 1945 Constitution.
<b>Verdict</b>	: To dismiss the Petitioner's petition in its entirety
<b>Date of Decision</b>	: Wednesday, 25 September 2024
<b>Overview of Decision</b>	:

The Petitioner is an individual Indonesian citizen who applied for a job at Bank Indonesia who believes that his constitutional rights as guaranteed in Article 27 paragraph (2) and paragraph (3), Article 28D paragraph (3), and Article 28F of the 1945 Constitution are violated by the implementation of Article 44 paragraph (1) of Law 23/1999 because the Law gives Bank Indonesia the authority to regulate its own employee selection mechanism.

Regarding the Court's authority, because the Petitioner petitions for a judicial review, *in casu*, for Law 23/1999 against the 1945 Constitution which is under the Court's authority, therefore pursuant to Article 24C paragraph (1) of 1945 Constitution, Article 10 paragraph (1) letter a of the Constitutional Court Law, and Article 29 paragraph (1) of the Judicial Power Law, the Court has the authority to hear the *a quo* petition;

Regarding the legal standing, regardless of whether or not the Petitioner's arguments regarding the unconstitutionality of the norm of Law 23/1999 for which the petition is being reviewed are proven, in his qualifications as an individual Indonesian citizen, he has described his constitutional rights which he believes are violated by the implementation of the norm of the law for which the petition is being reviewed, namely the norm of Article 44 paragraph (1) of Law 23/1999. The alleged constitutional loss as referred to is specific and actual or at least potential in nature and the alleged constitutional loss as described by the Petitioner has a causal relationship (*causal verband*) with the enactment of the statutory norms for which the judicial review is being petitioned. Therefore, if the *a quo* petition is granted, the constitutional loss or the alleged constitutional loss as described by the Petitioner will not or will no longer occur. Therefore, regardless of whether or not the unconstitutionality of the norm being petitioned for

review is proven, the Court is of the opinion that the Petitioner has the legal standing to act as a Petitioner in the *a quo* petition;

Regarding the constitutionality review of Law 23/1999 as argued by the Petitioner, upon careful examination of the petition of the Petitioner and the written/documentary evidence submitted by the Petitioner, the Court considers the Petitioner's petition as follows:

1. Whereas the recruitment process for the employees of Bank Indonesia is carried out openly and transparently, it is intended to avoid interference from any internal and external parties of Bank Indonesia in an effort to carry out an open selection process and to avoid any corruption, collusion, and nepotism practices. In order to improve the capabilities of human resources that are professional, competent, and have strong leadership and good morals, Bank Indonesia stipulates the Regulation of the Board of Governors Number 22/6/PDG/2020 concerning Human Resource Management as last amended by the Regulation of the Board of Governors Number 24/8/PDG/2022 which is intended to regulate the scope of human resource management;
2. Whereas regarding the Petitioner's argument that the provision of Article 44 paragraph (1) of Law 23/1999 are too "simple" so that it seems to give the Board of Governors freedom to regulate the selection system without any specific boundaries, which results in the selection process being closed and even more it is revealed that the selection participants are thwarted by using physical instruments. The substance of the petition of the Petitioner is the implementing regulations of the authority of the Board of Governors to stipulate the Board of Governors Regulations to appoint Bank Indonesia employees pursuant to the provisions of Article 44 paragraph (1) of Law 23/1999, which provisions cannot be separated from the provisions of Article 44 paragraph (2) and paragraph (3) of Law 23/1999. Therefore, it is clear that the legislators have delegated the regulations regarding the recruitment of Bank Indonesia employees to the implementing regulations, namely in the form of a Board of Governors' Regulation, such matter is more relevant to the issue questioned by the Petitioner;
3. Whereas furthermore, upon careful examination, the Petitioner petitions for the provisions in Article 44 paragraph (1) of Law 23/1999 be interpreted by the Board of Governors in appointing employees by announcing the results of the selection to the public as a principle of fairness, openness, accountability, and non-discrimination. This is so that the Bank Indonesia employee recruitment process is the same as the selection process for Civil Servant Candidates as regulated in Article 58 paragraph (3) of Law 5/2014, which is carried out transparently and accountably. Regarding the interpretation as petitioned for by the Petitioner, in fact, it has been and will be automatically carried out in the selection process for prospective Bank Indonesia employees. Without intending to assess the legality of the Board of Governors' Regulation on Human Resource Management, the Court is of the opinion that the petition of the Petitioner should have been called for the implementing regulations of the *a quo* law. Therefore, Article 44 paragraph (1) of Law 23/1999 does not require a more explicit and detailed formulation, instead of as petitioned by the Petitioner. Because, if the Court accommodated the petition of the Petitioner, then Article 44 paragraph (1) of Law 23/1999 has the potential to cause disharmony with Article 44 paragraph (3) of Law 23/1999 because the *a quo* Article has delegated the matters relating to the recruitment of Bank Indonesia employees to the implementing regulations;

Pursuant to these legal considerations, the Petitioner's argument regarding Article 44 paragraph (1) of Law 23/1999 which states that the phrase "The Board of Governors appoints" should be interpreted as "The Board of Governors appoints Bank Indonesia employees after going through a selection process that upholds the principles of justice, the principle of openness, the principle of accountability and the principle of non-discrimination by announcing the results of the selection to the public," is legally unjustifiable.

Accordingly, the Court subsequently passed down a decision which verdict states to dismiss the Petitioner's petition in its entirety.

### **Dissenting Opinion**

Regarding the *a quo* decision of the Court, there is a dissenting opinion from the Constitutional Justice M. Guntur Hamzah, as follows:

Even though the selection process carried out by Bank Indonesia is quite strict and selective, in my opinion, the process is less open when compared to other *vis a vis* selection of CPNS (prospective civil servant) or PPPK (government employees under employment agreements), both of which are intended to recruit employees into a particular ministry or state institution. In the selection of CPNS and PPPK, the minimum qualification requirements are announced in detail and the selection results are announced in accordance with the scores and rankings at each selection stages and the said selections also provide the right to object (participatory) to the participants who believe they are disadvantaged. Likewise, the final announcement is made openly on the website so that the public can know it. This is different from the selection conducted by Bank Indonesia and most Government Owned Enterprises, they do not announce the minimum qualification requirements needed in detail and the recruitment process tends to be closed. In fact, by implementing the principles of openness, Bank Indonesia can ensure that the recruitment process runs fairly, transparently, participatively, and accountably, thus producing quality human resources with high integrity.

In relation with the principle of openness, state institutions including Bank Indonesia should strengthen the merit system to provide equal opportunities for all individuals to advance in accordance with their abilities and achievements, regardless of background or connections, and to minimize the potential for favoritism or nepotism. In a merit system, the employee selection process is a very crucial starting point because selection that is carried out objectively and transparently will produce employees who have the competencies and qualifications that match the needs of the organization.

Pursuant to the entire description above, I am of the opinion that the Petitioner's petition should have been partially granted, that Article 44 paragraph (1) of Law Number 23 of 1999 concerning Bank Indonesia is contrary to the 1945 Constitution and it does not have binding legal force to the extent that it is not interpreted as "the Board of Governors **transparently, participatively, fairly and accountably** appoints and dismisses the employees of Bank Indonesia."