



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 113/PUU-XXII/2024**

Concerning

**Allocation of Seats for Members of the Regional Legislative Council of
Regencies/Municipalities**

- Petitioners** : **H. Usep Syaefulloh and Defa Asyafa Saefullah**
- Type of Case** : Judicial review of Law Number 7 of 2017 concerning General Elections (Law 7/2017) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Article 191 paragraph (1) and Article 191 paragraph (2) letter h of Law 7/2017 are contrary to Article 1 paragraph (2), Article 28D paragraph (1), and Article 22E paragraph (1) of the 1945 Constitution
- Verdict** : To dismiss the Petitioners' petition entirely
- Date of Decision** : Thursday, 31 October 2024
- Overview of Decision** :

The Petitioners are individual Indonesian citizens. Petitioner I is a candidate for the Regional Legislative Council of Bogor Regency, Electoral District Bogor 4, from the Partai Amanat Nasional (PAN) in the 2024 General Election, ranked eighth. Petitioner II is a voter/constituent residing in Dapil Bogor 4 who cast the vote for Petitioner I during the election. The Petitioners argue that the provisions of Article 191 paragraph (1) and Article 191 paragraph (2) letter h of Law 7/2017 are contrary to Article 1 paragraph (2), Article 22E paragraph (1), and Article 28D paragraph (1) of the 1945 Constitution.

Regarding the Court's authority, as the Petitioners' petition is a review of Law *in casu* Law 7/2017 against the 1945 Constitution which falls within the Court's authority, under Article 24C paragraph (1) of the 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 legal standing, concerning the constitutional issue of the limitation related to the number of Regional Legislative Council seats in each regency/municipality to a maximum of 55 (fifty-five) seats as stipulated in Article 191 paragraph (1) of Law 7/2017, and the limitation related to the allocation of 55 (fifty-five) seats for Regional Legislative Council regencies/municipalities with populations exceeding 3,000,000 (three million) as stipulated in Article 191 paragraph (2)

letter h of Law 7/2017, which are petitioned for review by the Petitioners in the judicial review of Article 191 paragraph (1) dan Article 191 paragraph (2) letter h of Law 7/2017, according to the Court, the Petitioners have been able to explained the causal relationship (*causal verband*) between the alleged constitutional loss and the enactment of the norms of Article 191 paragraph (1) and Article 191 paragraph (2) letter h of Law 7/2017 which are petitioned for review. The constitutional loss is actual and would not occur if the Petitioners' petition is granted. Thus, the Court is of the opinion that the Petitioners have the legal standing as Petitioners to submit the judicial review of the norms of Article 191 paragraph (1) and Article 191 paragraph (2) letter h of Law 7/2017.

Whereas regarding the judicial review of the norms of Article 191 paragraph (1) and Article 191 paragraph (2) letter h of Law 7/2017, which, according to the Petitioners, are contrary to the sovereignty of the people, honest and fair elections, as well as recognition, guarantee, protection, and fair legal certainty, and equal treatment before the law [Article 1 paragraph (2), Article 22E paragraph (1), and Article 28D paragraph (1) of the 1945 Constitution], due to violating the principles of rationality and justice and causing institutional problems for the Regional Legislative Council of Bogor Regency as the *a quo* norms limit the number of Regional Legislative Council members in regencies/municipalities to a maximum of 55 (fifty-five) seats for regions with populations exceeding 3,000,000 (three million), after thoroughly examining the Petitioners' petition and the documentary evidence submitted, the Court considers the Petitioners' petition as follows:

1. Whereas the arrangement and determination of electoral districts and seat allocation cannot be separated from the legal considerations in Constitutional Court Decision Number 80/PUU-XX/2022, pronounced in a plenary session open to the public on 20 December 2022. Under the excerpts from the legal considerations of Constitutional Court Decision Number 80/PUU-XX/2022, the Court has emphasized that: (1) The General Election Law sufficiently regulates the principles of determining electoral districts, the minimum and maximum number of seats for each electoral district, as well as the total number of seats for the House of Representatives and Regional Legislative Council; (2) The determination of electoral districts and seat allocation must be rational and adhere to the principles for the arrangement of electoral districts; (3) Details regarding the stages of election administration are delegated to the General Election Commission (KPU) to be regulated through KPU Regulations in accordance with the provisions of Article 167 paragraph (8) of Law 7/2017; (4) In formulating such KPU Regulations, the KPU must still consult with the House of Representatives and the government [vide Article 75 paragraph (4) of Law 7/2017 and Constitutional Court Decision Number 92/PUU-XIV/2016].
2. Whereas regarding the number of seats in Dapil Bogor 4 for the election of members of the Regional Legislative Council of Bogor Regency, which in the previous election amounted to 9 (nine) seats but decreased to 7 (seven) seats in the 2024 General Election due to the potential regional divisions of East Bogor and West Bogor, highlighting the uniqueness of Bogor Regency in terms of area size and population as argued by the Petitioners, by referring to the legal considerations in Constitutional Court Decision Number 80/PUU-XX/2022 Sub-paragraph **[3.15.3]**, the Court has affirmed that the General Election Law only stipulates general boundaries, whereas more detailed matters, including the determination of the number of seats for each electoral district, fall under the authority of the election administrators. Furthermore, in the administration of the 2024 General Election, specifically regarding the determination of the number of seats for each electoral district in regencies/municipalities, the KPU has rearranged the number of seats for several electoral districts, including the number of Regional Legislative Council seats for Dapil Bogor 4.

3. Whereas within the limits of reasonable reasoning, without the limitations stipulated in the *a quo* articles, protection, and legal certainty in the administration of General Elections, in this context including the determination of the number of seats for each regency/municipality, would not be achieved. Moreover, changes in the allocation of seats for the Regional Legislative Council in regencies/municipalities, both the minimum and maximum number of seats as petitioned by the Petitioners, fall under the authority of the legislators. Regarding legal norms that constitute an open legal policy of the legislators, the Court has consistently positioned itself to refrain from evaluating such norms to the extent that the open legal policy meets the following conditions: not violating morality; not violating rationality; not constituting intolerable injustice; not exceeding the authority of the legislators; not an abuse of power; not being contrary to the 1945 Constitution; not negating the principles in the 1945 Constitution; not infringing on political rights; not being contrary to the popular sovereignty; not being carried out arbitrarily (*willekeur*); and not exceeding and/or abusing authority (*detournement de pouvoir*). Meanwhile, the allocation of seats for each electoral district is regulated through KPU Regulations [vide Constitutional Court Decision Number 80/PUU-XX/2022 and Article 192 paragraph (4) of Law 7/2017]. As stipulated in the legal considerations of Constitutional Court Decision Number 80/PUU-XX/2022, regarding the fulfillment of the proportionality principle in the number of seats for each electoral district, the Court has stated that it is within the authority of the election administrators to determine. Nevertheless, as emphasized in Article 185 of Law 7/2017, the principles of electoral district determination, including the principles of vote value equality, adherence to a proportional electoral system, proportionality, territorial integrity, being within the same territorial scope, cohesion, and continuity, must be fulfilled by election administrators when determining electoral districts and the allocation of seats in each district, including districts for electing members of the Regional Legislative Council of regencies/municipalities.
4. Whereas in the context of the *a quo* case, after examining the upper limit of the seat allocation for the Regional Legislative Council of regencies/municipalities, which is set at a maximum of 55 (fifty-five) seats for regencies/municipalities with populations exceeding 3,000,000 (three million) people, the Court does not find that the norms violate the conditions of open legal policy, nor does such policy create institutional problems. In other words, aside from no violations of the principles of open legal policy being found, the Court assesses that so far the provisions for the allocation of Regional Legislative Council seats in regencies/municipalities do not render such provisions or norms unenforceable or unable to be implemented. At the very least, the Court does not find any strong potential for the provisions on Regional Legislative Council seat allocation to result in a legal deadlock or hinder the duties execution of the Regional Legislative Council of regencies/municipalities, particularly in carrying out their legislative, budgetary, and supervisory functions. Furthermore, regarding the Petitioners' argument comparing the number of seats in the provincial Regional Legislative Council for regions with populations exceeding 5,000,000 (five million) people with regencies/municipalities having populations exceeding 5,000,000 (five million) people, those things are not comparable. In the context of the number of Regional Legislative Council members for regencies/municipalities, the comparison should also be made with other regencies/municipalities, not with provincial Regional Legislative Council members. Moreover, in determining electoral districts for regencies/municipalities, factors such as aggregate population data, regional data, and territorial maps of each regency/municipality are considered. Additionally, when viewed in the provincial context, both normatively and factually, the province has authority to and encompasses the territories of regencies/municipalities.

5. Whereas the Petitioners also petition the Court to apply a new interpretation of the norms of Article 191 paragraph (1) and Article 191 paragraph (2) letter h of Law 7/2017 to the results of the 2024 General Election. Regarding such a petition, within the limits of reasonable reasoning, the Court is of the opinion that this would be impossible to implement or fulfill because the allocation of the number of seats in each electoral district, including Dapil Bogor 4, has been determined prior to the results of the 2024 General Election being known to the election participants. If the Court were to grant such a petition, it would effectively create uncertainty in the stages of election administration, which would ultimately lead to legal uncertainty in the election process and simultaneously threaten the principles of election administration as stipulated in the 1945 Constitution. Moreover, before the election results were known, the Petitioners were already certain about the number of seats allocated for the Regional Legislative Council in Electoral District Bogor 4. Thus, if the Petitioners' petition were granted to be applied to the results of the 2024 General Election, it would jeopardize the legal certainty of the 2024 election results, particularly concerning the allocation of Regional Legislative Council seats in regencies/municipalities. Meanwhile, if such a petition were to be applied to the 2029 elections and beyond, the allocation of seats in each regency/municipality falls within the legislative policy of legislators, while the allocation of seats for each electoral district is within the authority of election administrators, *in casu* the KPU.

Accordingly, the Court subsequently passed down a decision in which the verdict was to dismiss the Petitioners' petition entirely.