



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 127/PUU-XXII/2024**

**Concerning**

**Blank Box Column Applies to  
More Than One Regional Head Candidate Pairs**

- Petitioners** : Ichwan Setiawan, et al.
- Type of Case** : Judicial Review of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Determination of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law (Law 10/2016) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Article 54C paragraph (2), Article 54D paragraph (1), paragraph (2), paragraph (3), and Article 109 paragraph (1) and paragraph (3) of Law 10/2016 are contrary to Article 28C paragraph (2) of 1945 Constitution
- Verdict** : **On Preliminary Injunction:**  
To dismiss the petition for preliminary injunction of the Petitioners.  
**On the Merits:**  
To declare that the Petitioners' petition is inadmissible.
- Date of Decision** : Thursday, 14 November 2024
- Overview of Decision** :

The Petitioners are individual Indonesian citizens who are residents of Special Region of Jakarta Province as evidenced by their Residence Identity Card. The Petitioners explain that they wish for the blank box column to apply not only to region which only has a single candidate or one regional head candidate pair, but to also apply to region that has more than one regional head candidate pairs such as the Special Region of Jakarta Province, because according to the Petitioners, the fact that Anies Rasyid Baswedan is not registered as a Candidate for Regional Head of Special Region of Jakarta Province as determined by the General Election Commission of the Special Region of Jakarta Province, has resulted in the Petitioners not being able to fight for their collective rights to reject or not vote for the Special Region of Jakarta Province Regional Head Candidate by voting in the blank box column.

Regarding the Court's Authority, because the Petitioners petition for a review of the constitutionality of statutory norms, *in casu*, Article 54C paragraph (2), Article 54D paragraph (1), paragraph (2), paragraph (3) and Article 109 paragraph (1) and paragraph (3) of Law 10/2016 against the 1945 Constitution, the Court has the authority to hear the *a quo* petition; The legal standing of the Petitioners, the constitutional rights and/or authority of the Petitioners are violated by the enactment of Article 54C paragraph (2), Article 54D paragraph (1), paragraph (2), paragraph (3), and Article 109 paragraph (1) and paragraph (3) (Law 10/2016). The Petitioners have been able to describe, specifically and actually or at least potentially, their alleged constitutional loss. Therefore, it is evident that there is a causal relationship (*causal verband*) between the Petitioners' alleged constitutional loss and the enactment of the norms being petitioned for review. If the *a quo* norm is declared conditionally unconstitutional, namely that a blank box column must be included in the election which has more than one regional head candidate pairs, the constitutional rights of the Petitioners will not be violated. Therefore, regardless of whether or not the said conditional unconstitutionality is proven, Court is of the opinion that the Petitioners have the legal standing to act as Petitioners in the *a quo* petition.

Regarding the petition for preliminary injunction submitted by the Petitioners, upon careful examination by the Court, the *a quo* petition does not proceed with an examination hearing with the agenda of the hearing statements from the parties as intended in the provisions of Article 54 of the Constitutional Court Law. Therefore, the *a quo* petition will be decided immediately with a final decision and the legal norms that are being reviewed will immediately receive legal certainty. Therefore, the petition for preliminary injunction of the Petitioners requesting the General Election Commission to postpone the printing of ballot papers in order to guarantee the constitutional rights of the Petitioners in relation to the *a quo* petition is legally unjustifiable.

Whereas since the *a quo* petition of the Petitioners is clear, the Court is of the opinion that there is no urgency and relevance in hearing the statements of the parties as intended in Article 54 of the Constitutional Court Law.

Regarding the petition of the Petitioners, there are three legal issues in the main point of the Petitioners' petition. First, the blank box column only provides a choice for the voters who do not agree with one regional head candidate pair as stipulated in Article 54C paragraph (2) of Law 10/2016 and it does not apply to any election which has more than one regional head candidate pairs even though the existing candidate pairs are not preferred by the voters. Second, regarding the time and date of re-election in the event that the candidate pair loses to the blank box column as stipulated in Article 54D paragraph (1), paragraph (2) and paragraph (3) of the Regional Head Election Law. Third, regarding the mechanism of the blank box column getting more votes than the picture-filled column.

Regarding the constitutionality of the *a quo* norms of Article, the Court considers the following:

1. Whereas since the norms of Article 54D paragraph (2) and paragraph (3) of Law 10/2016 may be resubmitted, the Court will then review the constitutionality issue of the *a quo* norms. Since the petition not only disputes the norm of Article 54D paragraph (2) and paragraph (3) of Law 10/2016, in this *a quo* petition, the Court will also review the constitutionality of the norms of Article 54C paragraph (2), Article 54D paragraph (1) and Article 109 paragraph (1) and paragraph (3) of Law 10/2016 as submitted by the Petitioners;
2. Whereas before further considering the norms being submitted for review, the norm of Article 54C paragraph (2) of Law 10/2016 has been decided by the Court in the Constitutional Court Decision Number 126/PUU-XXII/2024 which was previously pronounced in a plenary session open to the public on 14 November 2024. In the legal considerations of the *a quo* Constitutional Court Decision Number 126/PUU-XXII/2024, the

Court grants the Petitioners' petition in part whose verdict is as follows.

- 1) To declare that Article 54C paragraph (2) of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Determination of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law (State Gazette of the Republic of Indonesia of 2016 Number 130, Supplement to the State Gazette of the Republic of Indonesia Number 5898) is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force to the extent that it is not interpreted as "Any election which only has 1 (one) candidate pair is carried out using ballot papers containing the names and photos of the candidate pair and 2 (two) blank columns at the bottom containing the choices to state "agree" or "disagree" to the 1 (one) candidate pair for Governor and Deputy Governor, Regent and Deputy Regent, or Mayor and Deputy Mayor".

Whereas with the granting of the substance of the norm of Article 54C paragraph (2) of Law 10/2016 and since it has been declared to be contrary to the 1945 Constitution of the Republic of Indonesia and it has no binding legal force conditionally, then the norm of Article 54C paragraph (2) of Law 10/2016 is no longer as petitioned for by the Petitioners, therefore the object of petition submitted by the Petitioners regarding the *a quo* norm of Article 54C paragraph (2) of Law 10/2016 has been amended and the applicable normative provisions having binding legal force are the ones stated in the Constitutional Court Decision Number 126/PUU-XXII/2024, instead of the ones used as objects in the *a quo* petition. Therefore, the object of the *a quo* petition regarding the norms of Article 54C paragraph (2) of Law 10/2016 has a new interpretation that has been in effect since the Constitutional Court Decision Number 126/PUU-XXII/2024 is pronounced [*vide* Article 47 of the Constitutional Court Law]. Therefore, the Petitioners' petition regarding the *a quo* norms must be declared to have lost its object.

3. Whereas in addition to the norm of Article 54C paragraph (2) of Law 10/2016, the norm of Article 54D paragraph (3) of Law 10/2016 has also been decided by the Court in the Constitutional Court Decision Number 126/PUU-XXII/2024 which was previously pronounced in a plenary session open to the public on 14 November 2024. In the legal considerations of the *a quo* Constitutional Court Decision Number 126/PUU-XXII/2024, the Court grants the Petitioners' petition in part whose verdict is as follows:

- 2) To declare that Article 54D paragraph (3) of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Determination of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law (State Gazette of the Republic of Indonesia of 2016 Number 130, Supplement to the State Gazette of the Republic of Indonesia Number 5898) is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force to the extent that it is not interpreted as "The next election will be held within a maximum of 1 (one) year from the voting day, and the regional head/deputy regional head elected pursuant to the results of the next election will hold a term of office until the inauguration of the regional head and deputy regional head elected in the next simultaneous election, provided that it does not exceed a period of 5 (five) years from the inauguration".

Whereas with the granting of the substance of the norm of Article 54D paragraph (3) of Law 10/2016 and since it has been declared to be contrary to the 1945 Constitution of the Republic of Indonesia and it has no binding legal force conditionally, then the norm of Article 54D paragraph (3) of Law 10/2016 is no longer as petitioned for by the Petitioners, therefore the object of petition submitted by the Petitioners regarding the *a quo* norm of Article 54D paragraph (3) of Law 10/2016 has been amended and the applicable normative provisions having binding legal force are the ones stated in the Constitutional Court Decision Number 126/PUU-XXII/2024, instead of the ones used as objects in the *a*

*quo* petition. Therefore, the object of the *a quo* petition regarding the norms of Article 54D paragraph (3) of Law 10/2016 has a new interpretation that has been in effect since the Constitutional Court Decision Number 126/PUU-XXII/2024 is pronounced [*vide* Article 47 of the Constitutional Court Law]. Therefore, the Petitioners' petition in relation to the *a quo* norms must be declared to have lost its object;

4. Whereas regarding the norms of Article 54D paragraph (1) and paragraph (2) of Law 10/2016 being petitioned for by the Petitioners, after the Court carefully read the *a quo* petition, it has been proven that the interpretation requested in the *petitum* of the petition is related to the *petitum* of the petition for Article 54C paragraph (2) of Law 10/2016. Pursuant to these legal facts, since Article 54C paragraph (2) of Law 10/2016 has been interpreted conditionally constitutional in the Constitutional Court Decision Number 126/PUU-XXII/2024 as considered above and in the legal considerations of the Constitutional Court Decision Number 126/PUU-XXII/2024, it is emphasized that the norms affected by the Constitutional Court Decision Number 126/PUU-XXII/2024 must comply with/adjust to the said decision. Therefore, the Court is of the opinion that it is no longer relevant to consider the *a quo* argument of the Petitioners since it is based on the norm of Article 54C paragraph (2) of Law 10/2016 which has been declared to be contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force conditionally. Therefore, the Petitioners' argument regarding Article 54D paragraph (1) and paragraph (2) of Law 10/2016 must also be stated as having lost the object.
5. Whereas regarding the constitutionality issue of the norms of Article 109 paragraph (1) and paragraph (3) of Law 10/2016 which was added in the revision of the Petitioners' application and stated in number 6 and number 7 of the *petitum* requesting the following interpretation:

To declare that Article 109 paragraph (1) of Law 10/2016 is contrary to the 1945 Constitution and it has no binding legal force to the extent that it is not interpreted as:

"The Candidate Pair for Governor and Deputy Governor who obtain the most votes is determined as the elected Candidate Pair for Governor and Deputy Governor, they must also win against the blank box."

To declare that Article 109 paragraph (3) of Law 2/2024 is contrary to the 1945 Constitution and it has no binding legal force to the extent that it is not interpreted as:

"In the event that there is only 1 (one) candidate pair for Governor and Deputy Governor participating in an Election who obtain more than 50% (fifty percent) of the valid votes, they will be determined as the elected candidate pair for Governor and Deputy Governor and the votes on the blank box are counted as valid votes".

Upon careful examination by the Court of the above citation of the Petitioners' *petitum*, it is clear that the Petitioners do not explain in a complete and clear manner the contradiction between the norm whose constitutionality is being petitioned for review and the legal basis used for such review. The Court do not find a clear and sufficient description of the legal argument in the *posita* section explaining the reasons for Article 109 paragraph (1) and paragraph (3) of Law 10/2016 to be interpreted in accordance with the *petitum* of the Petitioners. In this regard, there is no description of the contradiction between the said norms and the articles in the 1945 Constitution which are used as the legal basis for review. Therefore, the Petitioners' argument do not have any basis in the *posita*. In this regard, Article 10 paragraph (2) letter b number 3 of the Constitutional Court Regulation 2/2021 states, "...the petition submitted by the Petitioner and/or his/her legal representative as referred to in paragraph (1) must at least contain: b. a clear description of: 3. The reasons for the petition, which include a description regarding the formation of law or government regulations in lieu of law that does not fulfil the requirements for the formation of law or government regulations in lieu of law in accordance with the 1945 Constitution and/or that the content of the paragraphs, articles, and/or parts of the law or government regulations in lieu of law is contrary to the 1945

Constitution of the Republic of Indonesia.”

Whereas pursuant to the above provision, the Court is of the opinion that the *posita* of the Petitioners' petition does not clearly contain the reasons for the petition which should become the basis for the *petitum* of the Petitioners' petition as referred to in Article 10 paragraph (2) letter b number 3 of the Constitutional Court Regulation 2/2021. Therefore, the Court is of the opinion that the *posita* and *petitum* of the Petitioners' petition regarding Article 109 paragraph (1) and paragraph (3) of Law 10/2016 are unclear or obscure (*obscur*) which results in the Petitioners' petition for both *a quo* norms does not meet the formal requirements for petition as regulated in Article 10 paragraph (2) letter b number 3 of the Constitutional Court Regulation 2/2021.

Pursuant to the legal considerations above, the Court is of the opinion that since the *posita* and *petitum* of the Petitioners and the norm of Article 109 paragraph (1) and paragraph (3) of Law 10/2016 are unclear, it has caused the *a quo* petition to be unclear or obscure (*obscur*).

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

**On Preliminary Injunction:**

To dismiss the petition for preliminary injunction of the Petitioners.

**On the Merits:**

To declare that the Petitioners' petition is inadmissible.