



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 126PUU-XXII/2024**

**Concerning**

**Ballot Paper Design and Next Election Deadline  
in Regional Head Elections with One Candidate Pair**

- Petitioners** : **Wanda Cahya Irani and Nicholas Wijaya**
- 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 Regulation 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
- Subject Matter** : Article 54C paragraph (2) and Article 54D paragraph (3) of Law 10/2016 are contrary to Article 18 paragraph (4), Article 22E paragraph (1) and Article 28D paragraph (1) of the 1945 Constitution
- Verdict** : **On Preliminary Injunction:**  
To dismiss the petition for preliminary injunction of the Petitioners.
- On the Merits:**
1. To grant the Petitioners' petition in part.
  2. 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 has no 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".

3. 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".
4. To order this decision to be published in the State Gazette of the Republic of Indonesia as appropriate.
5. To dismiss the remainder of the Petitioners' petition.

**Date of Decision** : 14 November 2024

**Overview of Decision** :

The Petitioners are individual Indonesian citizens who are students, they believe that their constitutional rights guaranteed in Article 18 paragraph (4), Article 22E paragraph (1) and Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia have been violated due to the enactment of the provisions of Article 54C paragraph (2) and Article 54D paragraph (3) of Law 10/2016.

Whereas regarding the authority of the Court, because the Petitioners petition for a review of the constitutionality of statutory norms, *in casu* material review of Article 54C paragraph (2) and 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 (Law 10/2016) against the 1945 Constitution of the Republic of Indonesia, the Court has the authority to hear the *a quo* petition.

Whereas regarding the legal standing of the Petitioners, the Court is of the opinion that the Petitioners have been able to describe a specific causal relationship (*causal verband*) between the alleged constitutional loss of the Petitioners and the enactment of the provisions of Article 54C paragraph (2) and Article 54D paragraph (3) of Law 10/2016 for which a judicial review is being petitioned. The alleged constitutional loss is potential in nature and if the Petitioners' petition is granted, the alleged constitutional loss of the Petitioners will not occur. Thus, regardless of whether or not the unconstitutionality of the norm being petitioned for review is proven, the Court is of the opinion that the Petitioners have the legal standing to act as Petitioners in the *a quo* Petition;

Whereas regarding the Petitioners' petition for preliminary injunction, the Court is of the opinion that the *a quo* petition will be decided without holding an examination hearing with an evidentiary agenda which includes hearing the statements from the parties as referred to in the provisions of Article 54 of the Constitutional Court Law, therefore the *a quo* petition will immediately obtain legal certainty. Thus, there is no relevance to consider the Petitioners' petition for preliminary injunction. Therefore, the Court is of the opinion that, the Petitioners'

petition for preliminary injunction is legally unjustifiable.

Whereas before further considering the arguments of the *a quo* petition of the Petitioners, the Court first considers whether the norm of Article 54D paragraph (3) of Law 10/2016 may be resubmitted for review pursuant to the provisions of Article 60 of the Constitutional Court Law and Article 78 of the Constitutional Court Regulation 2/2021, since the Court has decided on a petition which is similar to the *a quo* case, namely Case Number 14/PUU-XVII/2019 which uses Article 18 paragraph (4), Article 28D paragraph (1) of the 1945 Constitution as the legal basis. Since the Petitioners include Article 22E paragraph

(1) of the 1945 Constitution of the Republic of Indonesia as the legal basis for review and use different constitutional reasons, namely regarding the deadline for holding the next election if the regional head and deputy regional head election which only has 1 (one) candidate pair is won by a blank column. Therefore, regardless of whether or not the Petitioners' petition is legally justifiable, since there is a different legal basis for review and/or reasons for the petition, the Court is of the opinion that 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, so that the *a quo* norm may be resubmitted for review.

Regarding the Petitioners' petition which questions the constitutionality of the norm of Article 54C paragraph (2) of Law 10/2016, the Court considers that in order to provide balance so that the principles of elections as mandated in the 1945 Constitution of the Republic of Indonesia are properly reflected in the regional head and deputy regional head election which only has 1 (one) candidate pair, the Court in this case remains in its position as previously stated in the Constitutional Court Decision Number 100/PUU-XIII/2015 which requires that the contestation for the regional head and deputy regional head election which only has 1 (one) candidate pair returns to using the plebiscite model which asks the voters to choose either "agree" or "disagree" to the single candidate pair. The said model also provides an opportunity for the registered election observers to represent the voters who voted "disagree" to the single candidate pair to file a dispute at the Constitutional Court. However, this choice may still leave several problems, for example, if there are prospective voters who does not have or have limited reading and writing skills. Therefore, a more intensive socialization is needed to be carried out by the election organizers so that the voters understand the true meaning of the words "agree" or "disagree" in the plebiscite-style ballot paper. Even though the Court is of the opinion that the ballot paper model in the regional head and deputy regional head election which only has 1 (one) candidate pair needs to return to the plebiscite model, however, because the process and stage of printing the ballot papers for the 2024 nationwide simultaneous regional elections, including the regional head election which only has a single candidate pair, have approached the voting stage, it is not possible to implement such model in the 2024 nationwide simultaneous regional head elections. Therefore, the new ballot paper design/model with a plebiscite model in the regional head and deputy regional head election which only has 1 (one) candidate pair will be implemented in the 2029 Nationwide Simultaneous Regional Head and Deputy Regional Head Elections.

Whereas therefore, the norm of Article 54C paragraph (2) of Law 10/2016 must be declared 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". Therefore, other norms affected by the intended interpretation must comply with/adjust in accordance with this decision. Since the Court's interpretation of the *a quo* Article 54C paragraph (2) of Law 10/2016 is not as petitioned for by the Petitioners, the *a quo* argument of the Petitioners is legally justifiable in part.

Whereas regarding the Petitioners' petition which questions the constitutionality of the norm of Article 54D paragraph (3) of Law 10/2016, the Court considers that the time for the next election as regulated in Article 54D paragraph (3) of Law 10/2016 was formulated by the

legislators and they did not formulate it in a nationwide simultaneous regional head election model, the time for the "next election" is confirmed to be repeated in the following year. This is because in addition to containing the phrase the "next election", the norm of Article 54D paragraph (3) of Law 10/2016 also contains the phrase the "following year". Therefore, the Court must interpret both phrases the "next election" and the "following year" to be in line with each other without ignoring the essence of the next election in the context of implementing the 2029 nationwide simultaneous regional head elections and not allowing any regional heads or acting regional heads who have exceeded their term of office from the previous simultaneous regional head elections. Therefore, the Court is of the opinion that the meaning of the phrases the "next election" and the "following year" in the norm of Article 54D paragraph (3) of Law 10/2016 should be "the next election will be held within a maximum of 1 (one) year from the 27 November 2024 voting". However, as the organizer, the General Election Commission should try to hold the next election as quickly as possible. This is intended so that the regional heads and deputy regional heads elected from the subsequent elections do not lose many of their rights to serve during their term of office since inauguration.

Also, in order to maintain the model of nationwide simultaneous regional head elections which has been decided to be constitutional in several Court decisions, it is necessary to accept the fact that regional head and deputy regional head elected from the repeated election, including as a consequence of dispute resolution in the Court, must accept term of office that is less than 5 (five) years. In this case, the term of office of the regional head and deputy regional head which will not reach 5 (five) years is a logical consequence of the existence of the said "next election". Regarding the reduction in the term of office, it is necessary to establish a legal protection for the regional head and deputy regional head whose term of office does not reach 5 (five) years. For example, the said legal protection may be provided in the form of compensation as regulated in Article 202 of Law 8/2015, or such compensation may be formulated in another form. Normatively, such compensation has been considered as justifiable and declared to be constitutional by the Court [*vide* Constitutional Court Decision Number 18/PUU-XX/2022]. Therefore, regarding the *a quo* argument which states that the norm of Article 54D paragraph (3) of Law 10/2016 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". Since the *a quo* interpretation is not as petitioned for by the Petitioners, the Petitioners' argument is legally justifiable in part.

Accordingly, the Court subsequently passes down a decision which verdict states, as follows:

**On Preliminary Injunction:**

To dismiss the petition for preliminary injunction of the Petitioners

**On the Merits:**

1. To grant the Petitioners' petition in part.
2. 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 has no 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”.

3. 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".
4. To order this decision to be published in the State Gazette of the Republic of Indonesia as appropriate.
5. To dismiss the remainder of the Petitioners' petition.