



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 157/PUU-XXII/2024**

**Concerning**

**Limitation on the Term of Office of Legislative Members**

<b>Petitioner</b>	: <b>Muhamad Zainul Arifin</b>
<b>Type of Case</b>	: Judicial review of Law Number 17 of 2014 concerning the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional Legislative Council (Law 17/2014) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
<b>Subject Matter</b>	: Material review of Article 76 paragraph (4), Article 252 paragraph (5), Article 318 paragraph (4), and Article 367 paragraph (4) of Law 17/2014 against Article 1 paragraph (3), Article 28D paragraph (1), and Article 28D paragraph (3) of the 1945 Constitution
<b>Verdict</b>	: To dismiss the Petitioner's petition entirely
<b>Date of Decision</b>	: Thursday, January 2, 2025
<b>Overview of Decision</b>	:

Whereas the Petitioners are individual Indonesian citizens. In addition, the Petitioner was also a candidate for legislative member of the House of Representatives of the Republic of Indonesia (DPR-RI), Electoral District Jakarta II from the Partai Persatuan Pembangunan (PPP). In this regard, under General Election Commission Decree Number 360 of 2024 dated March 20, 2024, the Petitioner has been stated to have failed to become a DPR-RI member and ranked only third among legislative candidates from the PPP Party with 2,923 votes. The Petitioner explains that the enactment of the provisions of Article 76 paragraph (4), Article 252 paragraph (5), Article 318 paragraph (4), and Article 367 paragraph (4) of Law 17/2014 has caused the Petitioner experiences constitutional loss in the form of legal uncertainty as contained in the provisions of Article 28D paragraph (1) of the 1945 Constitution, because the provisions of the articles *a quo* do not regulate the matter of the period limitation on the nomination of legislative candidates to hold the same office in subsequent terms. Furthermore, the enactment of the provisions of the articles *a quo* narrows access to electability for legislative candidates of "new faces" or non-

incumbents, thereby causing the Petitioner to not pass the election for candidates for DPR-RI members, and this is contrary to the provisions of Article 28D paragraph (3) of the 1945 Constitution;

Regarding the Court's Authority, since the Petitioner's petition is a review of the constitutionality of material norms of Article 76 paragraph (4), Article 252 paragraph (5), Article 318 paragraph (4), and Article 367 paragraph (4) of Law 17/2014 against the 1945 Constitution, the Court has the authority to hear the petition *a quo*.

Regarding legal standing, the Court is of the opinion that the Petitioners have clearly described his constitutional rights which, according to him, have been violated by the enactment of the norms being petitioned for review, namely the norms of Article 76 paragraph (4), Article 252 paragraph (5), Article 318 paragraph (4), and Article 367 paragraph (4) of Law 17/2014. Within the limits of reasonable reasoning, the Court is of the view that the alleged constitutional loss is specific and actual or at least may potentially occur. In addition, the alleged constitutional loss has a causal relationship (*causal verband*) with the enactment of the statutory norms being petitioned for review. The Petitioner failed to win the competition in the legislative election among member candidates, who were dominated by long-standing incumbents, due to the absence of term limits. Therefore, if the petition *a quo* is granted, the Petitioner's alleged constitutional loss will not occur or no longer occur. Thus, regardless of whether the unconstitutionality of the norms being petitioned for review is proven or not, the Court is of the view that the Petitioner has the legal standing to act as a Petitioner in the petition *a quo*.

Whereas after the Court has carefully read the Petitioner's petition, examined the evidence submitted, and considered the Petitioner's arguments, the Court will then consider the subject matter of the Petitioner's petition as follows:

1. Whereas, regarding the Petitioner's argument that the limitation on the term of office period has been implemented for several offices elected through the general election process (elected officials). Regarding this matter, one of the Court's legal considerations related to the Petitioner's argument *a quo* is Constitutional Court Decision Number 108/PUU-X/2012 pronounced in a plenary session open to the public on March 13, 2013. Furthermore, according to the Court, the provisions regarding the President's term of office period limitation have been expressly regulated in the provisions of Article 7 of the 1945 Constitution. However, this is different from the provisions regarding the term of office of legislative members, *in casu* DPR (House of Representatives) members, DPD (Regional Representative Council) members, Provincial DPRD (Regional Legislative Council) members, and Regency/Municipal DPRD members, where the constitution does not regulate any limitation on the term of office period of legislative members, because the 1945 Constitution only stipulates that general elections are held periodically every five years [*vide* Article 22E paragraph (1) of the 1945 Constitution]. Furthermore, general elections are held to elect DPR members, DPD members, the President and Vice President, and DPRD members [*vide* Article 22E paragraph (2) of the 1945 Constitution]. In line with this, the provisions regarding the term of office of legislative members are regulated again in Article 76 paragraph (4), Article 252 paragraph (5), Article 318 paragraph (4), and Article 367 paragraph (4) of Law 17/2014 which, in essence, stipulate that the term of office of legislative members is 5 (five) years. This means that the matter of the limitation on the term of office period of legislative members is not regulated either in the provisions of the 1945 Constitution or at the level of law, *in casu* Law 17/2014, whereas only provisions related to the term of office are regulated.
2. Meanwhile, in terms of nature, the office of the president and that of legislative members have different decision-making authority structures. The office of the President is a single office

with full authority to exercise government power. Likewise, the office of the regional head is also a single office with independent executive decisions. Meanwhile, legislative offices, *in casu*, DPR members, DPD members, Provincial DPRD members, and Regency/Municipal DPRD members, are collective offices, where every decision-making in the context of carrying out duties and authorities is carried out using a collective work mechanism. This means that every decision-making process should prioritize deliberation and consensus to the extent possible. Therefore, decisions are made collectively.

3. Whereas, therefore, even though the offices of President and regional head are the same as the offices of legislative members elected through a general election process (elected officials), however, the provisions regarding the term of office and the period limitation cannot be equated those attached to the offices of the president and regional head since each office has different characteristics and nature. Moreover, the provisions regarding limitations on the term of office period of legislative members are not regulated in the 1945 Constitution or in laws;
4. Whereas the Petitioner further argues that the absence of limitation on the term of office period of legislative members results in legislative members potentially utilizing any means to win legislative election contests to maintain their power to the extent possible. Regarding the Petitioner's argument *a quo*, the Court has decided on Petition Number 114/PUU-XX/2022 concerning the practice of money politics in the nomination process for the DPR/DPRD members. In this regard, at least, the correlation can be traced to the legal considerations contained in sub-paragraph **[3.31.4]** of Constitutional Court Decision Number 114/PUU-XX/2022. Furthermore, in the Court's opinion, the practice of money politics to win legislative election contests has the potential to occur in all election categories. However, at least in the election of the DPR/DPRD members, the role of political parties is an important factor in realizing democratic elections. The intended role of political parties is to increase their commitment to avoid, fight, and support law enforcement in combating the practice of money politics in election contests. This is in accordance with the provisions of Article 22E paragraph (3) of the 1945 Constitution, stating that "the participants in general elections for the election of members of the House of Representatives and members of the Regional Legislative Council are political parties". This means that the constitution has given political parties a role to ensure that the process of nominating DPR/DPRD members is carried out through democratic elections. In this context, political parties are expected to have ideal institutional designs for recruitment and cadre development mechanisms that are measurable, structured, and systematic to produce candidates for DPR/DPRD members who are of integrity and capacity, while still prioritizing the principles of democratic elections. This is in line with the provisions of Article 29 paragraph (1) and paragraph (1a) of Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties (Law 2/2011), which, in essence, requires political parties to recruit Indonesian citizens to become, among others, candidates for DPR/DPRD members, and this recruitment is carried out through democratic cadre development;
5. Whereas regarding the nomination process, political parties are also expected to participate in providing political education for the community, under Pancasila Democracy and the 1945 Constitution. The political education carried out by political parties is expected to increase public understanding of citizens' rights and obligations and to form individuals who assume responsibilities in national and state life [*vide* Article 1, point 4, of Law 2/2011]. In other words, political education is expected to increase community participation and social control over the implementation of elections, *in casu*, the election of DPR/DPRD members. In addition, political education by political parties can increase public understanding of their vision and mission, as well as their future policy priorities. In line with this, it is also important for

candidates for DPD members to provide political education to share with voters the vision and mission of each of them in fighting for regional interests in the policy process at the national level in the future;

6. Thus, the issue regarding the potential for legislative members to utilize any means to win legislative election contests to maintain their power is actually more due to its structural nature, and not simply due to the absence of limitation on the term of office period of legislative members. Therefore, it is necessary to strengthen political party institutions through cooperation among political parties and stakeholders to ensure the implementation of elections in line with democratic principles. Thus, the issue regarding the potential for legislative members to utilize any means to win legislative election contests to maintain their power cannot be used as a basis for directing accusations that this is due to the absence of limitations on the term of office period of legislative members;
7. Whereas the Petitioner also argues that there is a tendency for criminal acts of corruption involving DPR and DPRD members. Regarding the Petitioner's argument *a quo*, in the Court's opinion, addressing this problem requires cooperation among political parties and stakeholders to maintain and monitor the performance of elected DPR/DPRD members and prevent them from becoming entangled in practices that contravene statutory regulations. Meanwhile, if a legislative member is proven to have committed a crime, this is not necessarily due to the absence of limitation on the term of office period of legislative members, but is influenced by, among other things, the integrity of each legislative member. In this regard, when DPR/DPRD members are proven to have committed a crime and have been sentenced by a court with permanent legal force, and have completed serving their sentence, they will immediately be subject to provisions regarding temporary restriction of political rights in the form of disqualification from participating in elections, imposed for criminal offenses that have been proven and carry a statutory penalty of 5 (five) years' imprisonment or more. In this regard, the Court, in Constitutional Court Decision Number 87/PUU-XX/2022, pronounced in a plenary session open to the public on November 30, 2022, has declared its stance as outlined in Paragraph **[3.13]**. Cited from Paragraph **[3.13]** of the legal considerations in question, for prospective legislative candidates who have previously been convicted, a period of five (5) years must have elapsed after they have completed serving their term of imprisonment to allow for adaptation within society, to demonstrate that, upon completion of their sentence, the person concerned has genuinely reformed and will not repeat the offense. In addition to being subject to a five-year waiting period after a former convict has completed serving a prison sentence pursuant to a court decision having permanent legal force, the former convict is also required to fulfill requirements relating to the obligation to openly disclose to the public their identity and not to conceal their life background as a former convict. In this context, the Court needs to emphasize that the repeated election of a legislative member is also determined by voters' level of critical awareness in assessing the integrity and track record of candidates for DPR/DPRD membership. Moreover, the current use of a proportional election system with an open list certainly has an impact on providing more space for voters in electing candidates for DPR/DPRD members;
8. Whereas pursuant to all the legal considerations above, in the Court's opinion, until now there have been no new legal developments and needs, as well as strong and fundamental reasons, for the Court to change its stance regarding the constitutional issue of limitation on the term of office period of legislative members, as has been considered in Constitutional Court Decision Number 108/PUU-X/2012

Whereas pursuant to all the legal considerations above, it is evident that the provisions of the norms of Article 76 paragraph (4), Article 252 paragraph (5), Article 318 paragraph (4), and Article 367 paragraph (4) of Law 17/2014 have provided legal certainty and are not contrary to Article 1 paragraph (3), Article 28D paragraph (1), and Article 28D paragraph (3) of the 1945 Constitution, not as argued by the Petitioner. Thus, the Court is of the view that the Petitioner's arguments are entirely legally unjustifiable.

Accordingly, the Court passes down a decision in which the verdict is to dismiss the Petitioner's petition entirely.