



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 160/PUU-XXII/2024**

Concerning

**Authority to Establish the Selection Committee for the Leadership
and the Supervisory Board Members of the Corruption Eradication Commission**

Petitioner	: Boyamin Bin Saiman
Type of Case	: Judicial review of Law Number 30 of 2002 concerning Corruption Eradication Commission as lastly amended by Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning Corruption Eradication Commission (KPK Law) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
Subject Matter	: The phrase “the President” in Article 30 paragraph (1) and the phrase “the Government” in Article 30 paragraph (2) of the KPK Law are considered contrary to the 1945 Constitution
Verdict	: To dismiss the Petitioner’s petition entirely
Date of Decision	: Thursday, January 2, 2025
Overview of Decision	:

The Petitioner is an individual citizen of the Republic of Indonesia who wishes to register as a member of the Supervisory Board of the KPK (Corruption Eradication Commission) to the Selection Committee established by President Prabowo Subiyanto, and afterwards, if he passes the selection, his name will be submitted to the DPR-RI (House of Representatives of the Republic of Indonesia) for the 2024-2029 period under the applicable provisions and mechanisms. The Petitioner believes that Article 30 paragraph (1) and paragraph (2) of the KPK Law should be interpreted so that only President Prabowo has the legal authority to establish the KPK Selection Committee and submit the results to the DPR-RI.

Regarding the Court’s authority, since the Petitioner’s petition is a review of the constitutionality of statutory norms, *in casu* Article 30 paragraph (1) and paragraph (2) of the KPK Law against the 1945 Constitution, which is one of the Court’s authorities, the Court has the authority to hear petition *a quo*.

Regarding the Petitioner’s legal standing, in the Court’s opinion, the Petitioner has clearly explained the alleged constitutional loss, which is specific and actual, or at least potential, due to the

enactment of the norms being petitioned for review. In addition, the Petitioner has also clearly described that the alleged constitutional loss has a causal relationship (*causal verband*) with the enactment of the statutory norms being petitioned for review, namely due to the lack of legal certainty regarding the provisions providing the President and Government with the right to establish the selection committee for candidates for leadership and candidates for the KPK Supervisory Board members. Therefore, regardless of whether the unconstitutionality of the norms being petitioned for review is proven or not, the Court is of the opinion that the Petitioner has the legal standing to act as a Petitioner in the petition *a quo*.

Whereas since the Petitioner's petition *a quo* is evident, there is no urgency or relevance in hearing the statements of the parties as referred to in Article 54 of the Constitutional Court Law.

Regarding the Petitioner's argument *a quo*, the Court needs to reaffirm the legal considerations in Constitutional Court Decision Number 112/PUU-XX/2022, pronounced in a plenary session open to the public on May 25, 2023, and Constitutional Court Decision Number 68/PUU-XXII/2024, pronounced in a plenary session open to the public on September 12, 2024. The considerations in both decisions, although they do not review and decide on the constitutionality of the norms of Article 30 paragraph (1) and paragraph (2) of the KPK Law as in the petition *a quo*, are, however, closely related to the constitutionality issues raised by the Petitioner. Pursuant to the citation of the legal considerations of these decisions, it should be noted that, for the sake of the independence of the KPK Leadership and the KPK Supervisory Board, it would be preferable if the two positions were selected, proposed, and approved by the government of a different period from the term period of the positions *a quo*. In other words, the selection and appointment processes for candidates for the KPK Leadership and candidates for the KPK Supervisory Board involve the government of the previous period, so that the selection process carried out by the selection committee is not repeated by the government in the same period as the period of KPK Leadership and KPK Supervisory Board resulted from the selection. This understanding differs from the interpretation petitioned by the Petitioner in his *petitum*, who wishes that the entire process be carried out by the President and the government of the same period as the KPK Leadership and the KPK Supervisory Board.

After outlining the stages of selection and appointment of the KPK leadership and the KPK Supervisory Board as provided in the KPK Law, namely in Article 30 and Article 37E of the KPK Law, the Court is of the opinion that the President is bound by the provisions in the law and is also bound by the end of the term of office of the leadership and members of the KPK Supervisory Board. To avoid vacancies in the KPK leadership and the Supervisory Board, the President in office at that time must immediately begin the succession process for the KPK leadership and the KPK Supervisory Board, starting with the establishment of a selection committee. Within the limits of reasonable reasoning, apart from not being in accordance with the Court's considerations in Constitutional Court Decision Number 68/PUU-XXII/2024, the time specified by the statutory regulations does not allow this process to await the establishment of the selection committee by the next government because it could result in vacancies in the positions of the KPK Leadership and the Supervisory Board members.

In addition, if the selection process for candidates for the KPK Leadership and candidates for the KPK Supervisory Board until the inauguration of the KPK Leadership and the KPK Supervisory Board for the 2024-2029 Period, which was around mid-December 2024, is placed in a timeline and connected to the inauguration time of the DPR-RI for the 2024-2029 Period and the inauguration of the President for the 2024-2029 Period, the logic used by the Petitioner, when implemented, would make it impossible to inaugurate the KPK Leadership and the KPK Supervisory Board on-time around mid-December 2024. This happens because the DPR members for the 2024-2029 Period were inaugurated on October 1, 2024, and the President for the 2024-2029 Period was inaugurated on October 20, 2024. If the selection process, which includes the nomination of candidates for the KPK Leadership and candidates for the KPK Supervisory Board, is carried out by the DPR and the President of the same period as the KPK Leadership and the KPK Supervisory Board, then the selection process would begin only after October 20, 2024. With the timeline outlined above, within the limits of reasonable reasoning, the selection committee would not select leaders of the KPK and

members of the KPK Supervisory Board to be inaugurated around mid-December 2024. If the Petitioner's logic were implemented, a vacancy in the KPK Leadership and the KPK Supervisory Board would certainly happen for a while. In this regard, without intending to examine the implementation of the selection process for the KPK Leadership and the KPK Supervisory Board for the 2024-2029 Period, the process of selection until appointment of the KPK Leadership and the KPK Supervisory Board for the 2024-2029 Period occurred during a transitional period or the government transition, and thus, in this process, the situation where the selection process for candidates for the KPK Leadership and candidates for the KPK Supervisory Board involving two different government periods cannot be avoided. However, as described in the timeline, the selection process *a quo* had been initiated by the government of the period before the change of President and DPR members, and had selected candidates who were then submitted to the subsequent DPR members, namely the DPR for the 2024-2029 Period, to be chosen and designated by the DPR. In this regard, the candidates selected by the DPR and appointed by the President remain candidates of the selection committee established by the previous government, and the new government neither initiated nor repeated the selection process. These facts, in the Court's opinion, are still in accordance with the Court's view as considered in Constitutional Court Decision Number 68/PUU-XXII/2024 and are different from the Petitioner's understanding in his petition.

If the Petitioner's petition is granted, it will actually give rise to a narrow interpretation of the application of Article 30 paragraph (1) and paragraph (2) of the KPK Law, and the norms will be difficult or even impossible to be implemented adaptively, and unable to adapt to the situation and timeline available when the selection and confirmation of candidates for the KPK Leadership and candidates for the KPK Supervisory Board are carried out. Therefore, in the Court's opinion, the norms of Article 30 paragraphs (1) and (2) of the KPK Law are sufficiently clear that there is no need to provide another interpretation regarding which of the President or the government has the right to apply the norms *a quo*. By referring to the considerations in Constitutional Court Decision Number 112/PUU-XX/2022 and Constitutional Court Decision Number 68/PUU-XXII/2024, as well as the considerations of this decision, the norms of Article 30 paragraphs (1) and (2) of the KPK Law and the norms of other Articles relating to the procedures for the selection process for the KPK Leadership and the KPK Supervisory Board may be applied in accordance with the timeline and conditions arising from the government transition. Therefore, the Petitioner's argument is entirely legally unjustifiable.

Accordingly, the Court subsequently passes down a decision, the verdict of which states to dismiss the Petitioner's petition entirely.