



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 84/PUU-XXII/2024**

**Concerning**

**Constitutionality of Extension of Notary Retirement Age**

- Petitioner** : **Anisitus Amanat, alias Anisitus Amanat Gaham**
- Type of Case** : Judicial Review of Law Number 30 of 2004 concerning the Notary Position, which has been amended by Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Position (Law 30/2004) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : The extension of the retirement age of only 2 years, as regulated in the provisions of Article 8 paragraph (2) of Law 30/2024, has violated the right to work to earn a decent income, the right to develop oneself through the fulfilment of basic needs and the right to improve the quality of one's life for the welfare of human beings, the right to live in physical and spiritual prosperity, has given rise to legal uncertainty, injustice and discrimination, and inconsistent with the provisions of Article 27 paragraph (2), Article 28C, Article 28D paragraph (1), 28H paragraph (1), and Article 28I paragraph (2) of the 1945 Constitution of the Republic of Indonesia
- Verdict** : 1. To grant the Petitioner's petition in part  
2. To declare that Article 8 paragraph (2) of Law Number 30 of 2004 concerning Notary Position (State Gazette of the Republic of Indonesia of 2004 Number 117, Supplement to the State Gazette of the Republic of Indonesia Number 4432) is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force if it is not interpreted as "The age limit under paragraph (1) letter (b) may be extended to 67 (sixty-seven) years, subject to the individual's health, and thereafter, it may be extended annually up to 70 (seventy) years based on the results of a regular annual medical examination conducted at a central government general hospital, a regional general hospital, or a hospital designated by the Minister responsible for legal affairs"

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

**Date of Decision** : Friday, January 3, 2025

**Overview of Decision** :

The Petitioner is an individual Indonesian citizen working as a Notary in Kendal Regency, Central Java.

With respect to the Court's authority, since the petition is submitted to review the constitutionality of norms of law, *in casu* Law 30/2024 against the of 1945 Constitution, the Court has the authority to hear the petition *a quo* of the Petitioner.

With respect to the legal standing of the Petitioner, the Court is of the opinion that the Petitioner has been able to specifically describe his constitutional rights guaranteed in the 1945 Constitution of the Republic of Indonesia, which in his opinion are actually or at least potentially violated by the enactment of the norms being petitioned for review. Therefore, it is evident that there is a logical connection and causal relationship between the assumed constitutional loss of the Petitioner and the enactment of the norm of the article being petitioned for review. Accordingly, if the petition of Petitioner is granted, the assumed constitutional loss as described will no longer occur. Therefore, regardless of whether or not the unconstitutionality of the norm of Article 8 paragraph (2) of Law 30/2004 being petitioned for review is proven, the Court is of the opinion that the Petitioner has the legal standing to act as a Petitioner in the petition *a quo*.

The Court first considers whether or not the norm of Article 8 paragraph (2) of Law 30/2004 may be resubmitted for review, because the *a quo* norm has previously been reviewed by the Constitutional Court as stated in Constitutional Court Decision Number 52/PUU-VIII/2010, which was pronounced in a Plenary Session open to the public on October 15, 2010 and Constitutional Court Decision Number 165/PUU-XXI/2023, which was pronounced in a Plenary Session open to the public on January 31, 2024, as it turned out, it includes the norm of Article 28I paragraph (2) of the 1945 Constitution of the Republic of Indonesia that forms the basis of the present review, and which has never before been used as a legal basis in a petition to review Article 8 paragraph (2) of Law 30/2004. Accordingly, the Court is of the opinion that the petition *a quo* 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 norms *a quo* may be resubmitted for review.

With respect to the subject matter of the petition, the Court emphasizes that, given the authority, duties, and significant responsibilities entrusted to Notaries under Law 2/2014, Notaries constitute an important legal profession because they carry out certain functions of the state. For that reason, the requirements to become a Notary are deliberately stringent. A Notary must hold a bachelor's degree in law, complete a master's program specializing in notarial law, and fulfill the requirement of having completed an internship or having worked as a notary employee for at least 24 consecutive months in a notary office [*vide* Article 3 of Law 2/2014]. Furthermore, a Notary must take an oath/pledge before assuming his/her duties [*vide* Article 4 of Law 2/2014]. Given the importance of the Notary position and its close connection to legal functions that relate to the state, particularly because Notaries are appointed and dismissed by the Minister responsible for legal affairs [*vide* Article 2 of Law 2/2014].

The Court then refers to its considerations in Constitutional Court Decision Number 52/PUU-VIII/2010 concerning the review of Article 8 paragraph (2) of Law

30/2004. In that decision, the Court held that any matters involving changes to the retirement age of state officials fall within the domain of legislative review, including with respect to the age limit for Notaries. However, with respect to the Petitioner's petition, the Court considers it necessary to re-examine the rationality of the age limit for Notaries, which may be extended up to 67 years. While not disregarding the Court's previous decisions recognizing that retirement age falls within the scope of an open legal policy, the Court has also held that such open legal policy may be set aside when it conflicts with morality, rationality, or results in intolerable injustice.

To assess the Petitioner's argument, the Court compared the age limit for Notaries with other similar positions or professions, one of which is the Advocate profession, which has no term limit, even though Advocates, same as Notaries, constitute a legal profession that is not paid a salary nor receives allowances from the state. Similarly, other professions that also do not receive salaries or allowances from the state, such as Receivers, Medical Personnel, and Public Accountants, are not subject to age limits, although they are required to renew their licenses every 5 (five) years. While these professions may continue to work without age restrictions, Notaries must cease practicing at the age of 67, thereby also losing their source of income, which should enable them to meet their basic needs.

Moreover, the Court is of the opinion that Notaries possess distinct characteristics when compared with the professions used by the Petitioner as comparators in his argument. A Notary holds a public office that performs certain state functions in the field of civil law, particularly the authority to draw up authentic deeds, including those relating to land and buildings, which are also connected to the state's right of control. A Notary's duties regarding the deeds he/she issues do not end once the deed is signed and the Notary has received an honorarium, he/she must not only store these deeds, but must also be able to identify them, verify their authenticity, and provide information concerning the deeds he/she has made. These duties are essential and directly relate to the authenticity of official legal documents. If a Notary forgets or is unable to explain a deed he/she created, the authentic deed may lose its function as perfect evidence. Worse, such circumstances could be exploited by irresponsible parties for purposes such as forgery or fraud. For this reason, Notaries are required to remain in optimal physical and mental condition, with strong memory and adequate overall health. Accordingly, the Court is of the opinion that age restrictions for Notaries are still necessary, and cannot be based solely on the condition that the Notary is physically and mentally healthy.

Furthermore, the Court examined the rationality of the age limit of 65 years for Notaries, which may be extended to 67 years subject to the individual's health as regulated in Article 8 paragraph (2) of Law 30/2004. With respect to this provision, the Court considers the retirement age of 65 to be appropriate, as each individual has varying physical and mental health conditions, memory capacity, and sharpness of thought, all of which affect a person's ability to perform their duties. The age of 65 is also consistent with the retirement age applied to several other professions, such as pilots, lecturers, and certain functional positions of state civil apparatus. However, the Court recognizes that senior Notaries are still needed, particularly in the regional areas, not only for the transfer of knowledge but also to ensure a smooth transition from the senior generation of Notaries to the younger generation, thereby preventing an excessive generational gap. For this reason, the Court considers that extending the term of office for Notaries remains necessary, subject to meeting the required standards of physical and mental health. The age limit for extending a Notary's term of office must also adhere to the principle of rationality. When compared to other professions, such as lecturers and judges, their retirement ages extend up to 70 years. For instance, lecturers generally retire at 65, but professors may serve until 70. Similarly, while District Court judges retire at 65, Supreme Court judges and Constitutional Court judges may serve until the age of 70. In addition, Indonesia's life expectancy has increased, reaching an average of 73.93 years according

to data from the Statistics Indonesia (BPS). Likewise, when compared with other countries, such as the Netherlands, Colombia, South Korea, Japan, Italy, and Spain, the retirement age for Notaries in those countries is 70 years or higher.

Furthermore, the Court is of the opinion that the lawmakers has already opened the possibility for extending the age limit beyond 65 years, provided certain conditions are fulfilled. Therefore, extending a Notary's term of office beyond 67 years would still be rational, and the Court is of the opinion that a maximum age of 70 is appropriate, in line with the retirement ages applied to comparable positions. However, the age limit of 70 must be accompanied by strict physical and mental health requirements, based on periodic medical examinations conducted at central government general hospitals, regional general hospitals, or hospitals designated by the Minister responsible for legal affairs. This differs from the extension from 65 to 67 years, which requires only a one-time health examination. For extensions beyond 67 to 70 years, a regular annual medical examinations are required. This means that after a Notary completes an extension up to age 67, he/she must fulfill the health examination requirements again to extend to age 68, and likewise for extensions from 68 to 69 and from 69 to 70.

Therefore, pursuant to the considerations above, the Court is of the opinion that the norm of Article 8 paragraph (2) of Law 30/2004 does not provide fair legal protection and certainty, in line with the Petitioner's argument. Accordingly, the norm of Article 8 paragraph (2) of Law 30/2004 must be declared contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force if it is not interpreted as, "The age limit under paragraph (1) letter (b) may be extended to 67 (sixty-seven) years, subject to the individual's health, and thereafter, it may be extended annually up to 70 (seventy) years based on the results of a regular annual medical examination conducted at a central government general hospital, a regional general hospital, or a hospital designated by the Minister responsible for legal affairs." Since the Petitioner's argument is legally justifiable, the Court has sufficient basis to alter its prior stance. However, because the interpretation provided by Court is different from the one petitioned by the Petitioner, the said argument of the Petitioner is legally justifiable in part.

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

1. To grant the Petitioner's petition in part;
2. To declare that Article 8 paragraph (2) of Law Number 30 of 2004 concerning Notary Position is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force if it is not interpreted as "The age limit under paragraph (1) letter (b) may be extended to 67 (sixty-seven) years, subject to the individual's health, and thereafter, it may be extended annually up to 70 (seventy) years based on the results of a regular annual medical examination conducted at a central government general hospital, a regional general hospital, or a hospital designated by the Minister responsible for legal affairs";
3. To order this decision to be published in the State Gazette of the Republic of Indonesia as appropriate;
4. To dismiss the remainder of the Petitioner's petition.