



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 158/PUU-XXII/2024**

Concerning

Prohibitions for the Leadership of the Corruption Eradication Commission

Petitioners	:	1. Alexander Marwata as Petitioner I 2. Lies Kartika Sari as Petitioner II 3. Maria Fransiska Petitioner III
Type of Case	:	Judicial review of 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	:	Article 36 letter a of the KPK Law is contrary to Article 28D paragraph (1) and Article 28I paragraph (2) of the 1945 Constitution
Verdict	:	1. To dismiss the petition of Petitioner I entirely 2. To declare that the petition of Petitioner II and Petitioner III is inadmissible
Date of Decision	:	Thursday, January 2, 2025
Overview of Decision	:	

The Petitioners are Indonesian citizens, submitting a petition for review of the constitutionality of the norm of Article 36 letter a of Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning Corruption Eradication Commission, which states: “establishing direct or indirect relations with suspects or other parties related to corruption cases being handled by the Corruption Eradication Commission for any reason.”

Whereas regarding the Court’s authority, since the Petitioners’ petition is a review of the constitutionality of statutory norms, *in casu*, Material Review of Article 36 letter a of the KPK Law against the 1945 Constitution, the Court has the authority to hear the petition *a quo*.

Whereas, regarding the Petitioners’ legal standing, in the Court’s opinion, only Petitioner I has clearly explained that his constitutional rights as an individual Indonesian citizen have been violated by the enactment of the norm of the article being petitioned for review. The alleged constitutional loss is actual and specific and has a causal relationship (*causal verband*) with Article 36 letter a of the KPK Law, which is being petitioned for review. Therefore, if the petition of Petitioner I is granted, then the

alleged constitutional loss will no longer occur. Thus, regardless of whether the unconstitutionality issue of the norm being petitioned for review is proven or not, the Court is of the view that Petitioner I has the legal standing to act as a Petitioner in the petition *a quo*. Meanwhile, regarding Petitioner II and Petitioner III, they do not correlate their petition, including the *petitum*, to the constitutionality of the norm of Article 37 of the KPK Law, which actually serves as the basis for the connection between Petitioner II and Petitioner III with the provisions of the norm of Article 36 letter a of the KPK Law in explaining the alleged constitutional loss due to the enactment of the norm of the law being petitioned for review. Therefore, the Court is of the view that Petitioner II and Petitioner III have no legal standing to act as Petitioners in submitting the petition *a quo*.

Regarding the subject matter of the petition of Petitioner I, in the Court's opinion, the argument of Petitioner I that Article 36 letter a of the KPK Law has discriminatively curtailed, truncated, abolished, and discarded human rights as social beings is an assumption established by Petitioner I. Regarding this argument, in the Court's opinion, the argument and evidence presented by Petitioner I, particularly the screenshot evidence of news reports concerning concrete cases experienced by the commissioners of the Corruption Eradication Commission (KPK), do not correlate with the constitutionality issue of the norm. On the contrary, given the KPK's independent nature as an institution with special authority, the existence of Article 36 letter a of the KPK Law can actually serve as an instrument that guarantees the continuous preservation of the special and "extraordinary" nature, as well as the dignity, of the KPK institution.

In the context of the institutional framework of the KPK, which was born from an urgent need due to the suboptimal functioning of other law enforcement institutions despite their authority to eradicate criminal acts of corruption, the KPK, as an institution with special authority in eradicating criminal acts of corruption, "extraordinary" characteristics, and extraordinary function, should be administered by the leadership that has high-level integrity, loyalty, and dedication, even higher than the average of other law enforcement elements. Therefore, in the Court's opinion, the norm of Article 36 letter a of the KPK Law is an important, fundamental reference for the KPK's leadership, can be an instrument for an early warning system for all members of the KPK's leadership regarding all matters that may potentially influence them to engage in violations, and to ensure that all members of the KPK's leadership remain within the corridor of eradicating criminal acts of corruption. In addition, regarding the time from which the KPK's leadership is prohibited from establishing direct or indirect relations with a suspect or another party related to corruption cases being handled by the KPK, which is also questioned by Petitioner I, in the Court's opinion, even though the formulation of the elucidation of the norm of Article 36 letter a of the KPK Law states that it is clear, however, to avoid the potential for multiple interpretations, through the decision *a quo*, it is important to emphasize, within the limits of reasonable reasoning, that the starting point of the potential occurrence of an alleged criminal act of corruption is when a public report/complaint (*dumas*) is submitted or reported to the KPK's leadership. In other words, the point when a public complaint regarding an alleged criminal act of corruption has been received by the KPK and conveyed and/or reported to the KPK's leadership, is the starting point of the prohibition for the KPK's leadership from establishing direct or indirect relations with a suspect or another party related to corruption cases that has been complained about/reported by the public.

Regarding the argument of Petitioner I that the prohibition that, on one hand, applies for the KPK's Leadership from establishing relations with suspects or other parties related to corruption cases handled by the KPK as regulated in Article 36 letter a of the KPK Law, but on the other hand, does not apply for other Indonesian law enforcement officers, clearly shows that the norm of this article is discriminatory against the KPK's leadership compared to other law enforcement officers. Regarding this argument, in the Court's view, the KPK institution and its leadership cannot be compared "apple-to-apple" to other law enforcement officers. In other words, despite the same nature of the KPK and other law enforcement institutions, each legal institution has distinct characteristics due to unique institutional professional ethics for law enforcement officers. However, whatever the differences in the KPK's leadership, as considered in the previous legal considerations, the stricter prohibitions stem

from the KPK's institutional nature, with its relatively special and "extraordinary" authority compared to other law enforcement institutions. Therefore, in this regard, the argument of Petitioner I that this differential treatment constitutes discrimination against the KPK's leadership cannot be justified.

Whereas the different prohibitions for the KPK's leadership, compared to those for other law enforcement officers, are an inevitability. Different prohibitions may be applied to the heads of these institutions, taking into account each institution's characteristics, primary duties, and functions. Therefore, in the Court's opinion, pursuant to the legal considerations cited in the decision above, discrimination occurs only when different treatments are applied without any reasonable grounds as the basis for the difference. Moreover, discrimination means treating the same matters differently. On the contrary, no discrimination arises when different issues are treated differently.

Pursuant to the description of the legal considerations above, the argument of Petitioner I that the norm of Article 36 letter a of the KPK Law provides no legal certainty and is discriminatory and contrary to Article 28D paragraph (1) and Article 28I paragraph (2) of the 1945 Constitution is unfounded, and therefore the argument of Petitioner I argument is entirely legally unjustifiable.

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

1. To dismiss the petition of Petitioner I entirely;
2. To declare that the petition of Petitioner II and Petitioner III is inadmissible.