



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 3/PUU-XXIII/2025**

Concerning

**Criminal Sanctions for Violations of Neutrality
by Indonesian National Army/Police Members**

- Petitioner** : **Syukur Destieli Gulo**
- Type of Case** : Judicial Review of Law Number 30 of 2002 concerning Corruption Eradication Commission (Law 30/2002) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : The phrase “House of Representatives” and the word “President” in Article 30 paragraph (1) and the word “Government” in Article 30 paragraph (2) of Law 30/2002 is contrary to Article 1 paragraph (3), Article 28D paragraph (1), and Article 28I paragraph (4) of the 1945 Constitution
- Verdict** : **On preliminary injunction:**
To dismiss the Petitioner’s petition for preliminary injunction
On the merits:
To dismiss the Petitioner’s petition in its entirety
- Date of Decision** : Thursday, April 29, 2025
- Overview of Decision** :

Whereas the Petitioner is an individual Indonesian citizen who possesses constitutional rights in a “state based on law,” including the right to the administration of the state and government in accordance with the law and the Constitution, and the right to legal certainty and to the protection, advancement, enforcement, and fulfillment of human rights by the state. Whereas the legal norms submitted by the Petitioner concern the phrase “House of Representatives” and the word “President” in Article 30 paragraph (1), and the word “Government” in Article 30 paragraph (2) of Law 30/2002, which, according to the Petitioner, are contrary to Article 1 paragraph (3), Article 28D paragraph (1), and Article 28I paragraph (4) of the 1945 Constitution of the Republic of Indonesia, and therefore fall within the authority of the Constitutional Court as regulated in Article 24C paragraph (1) of the 1945 Constitution, Article 10 paragraph (1) letter a of the Constitutional Court Law, and Article 29

paragraph (1) letter a of Law 48/2009.

With respect to the Court's authority, the Petition concerns a petition to review the constitutionality of statutory norms, *in casu*, the phrase "House of Representatives" and the word "President" in Article 30 paragraph (1), and "Government" in Article 30 paragraph (2) of Law 30/2002, against the 1945 Constitution, accordingly, the Court has the authority to examine the petition *a quo*.

Furthermore, with regard to the legal standing of the Petitioner, the Court considers that the Petitioner has fulfilled the qualifications as an individual Indonesian citizen and a member of civil society who plays a role in assisting efforts to prevent and eradicate criminal acts of corruption, as stipulated in Article 41 of Law 30/2002. In addition, the Petitioner has been able to explain the existence of constitutional rights as guaranteed under Article 28D paragraph (1) and Article 28I paragraph (4) of the 1945 Constitution of the Republic of Indonesia. Therefore, the alleged loss of constitutional rights as described by the Petitioner, according to the Court, constitutes a specific and at least potential constitutional loss arising from the petition concerning the phrase "House of Representatives" and the word "President" in Article 30 paragraph (1), and the word "Government" in Article 30 paragraph (2) of Law 30/2002, which has the potential to disrupt the independence of the Corruption Eradication Commission in carrying out its duties, functions, and authority in eradicating criminal acts of corruption. Therefore, there is a causal relationship (*causal verband*) between the alleged loss of constitutional rights described by the Petitioner and the enactment of the statutory norms being reviewed, if the petition is granted, the potential loss of constitutional rights as described will not occur. Therefore, regardless of whether or not the unconstitutionality of the phrase "House of Representatives" and the word "President" in Article 30 paragraph (1), and the word "Government" in Article 30 paragraph (2) of Law 30/2002, 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*.

With respect to the Petitioner's petition for preliminary injunction, which in principle petitions for the Court to prioritize the examination of the petition *a quo* and for the Court to order that the Corruption Eradication Commission leadership shall not issue any decisions and shall not carry out its duties, functions, and authorities until the Court renders a decision on the petition *a quo*. The Court considered that the petition *a quo* was not to be proceeded to the examination stage of the trial, with the agenda of hearing statements from the parties as referred to in Article 54 of the Constitutional Court Law. Therefore, the petition *a quo* will be decided immediately with a final decision and the legal norms that are being reviewed will immediately receive legal certainty. In addition, if the Petitioner's petition *a quo* for preliminary injunction were to be granted, after the Court examined the Petitioner's *posita* and *petitum* of the said petition for preliminary injunction, this would in fact result in a vacancy in the leadership of the Corruption Eradication Commission as well as a legal vacuum (*rechtsvacuum*) with respect to the Corruption Eradication Commission in carrying out its duties and authorities. Consequently, such a condition would be counterproductive to efforts to prevent and eradicate criminal acts of corruption in Indonesia, one of which is carried out by the Corruption Eradication Commission. Moreover, the Petitioner's petition

for preliminary injunction is substantively related to the main subject matter of the case. Therefore, Court is of the opinion that the Petitioner's petition for preliminary injunction must be declared legally unjustifiable.

Furthermore, with respect to the subject matter of the Petitioner's petition, since the subject matter or the substance of the Petitioner's petition is clear, the Court is of the opinion that there is no urgency and relevance in hearing the statements of the parties as intended in Article 54 of the Constitutional Court Law.

Then, in considering the subject matter of the Petitioner's petition, the Court is of the opinion that the constitutional issue to be examined is whether the absence of a determination or affirmation of the period during which the President and the House of Representatives may conduct the selection and election process for candidates for the leadership of the Corruption Eradication Commission in the norms of Article 30 paragraph (1) and paragraph (2) of Law 30/2002 renders the norms *a quo* unconstitutional. However, with regard to this matter, the Court has previously decided on a case concerning the constitutional review of the norms of Article 30 paragraph (1) and paragraph (2) of Law 30/2002, namely Constitutional Court Decision Number 160/PUU-XXII/2024, which was pronounced in a plenary session open to the public on January 2, 2025, with the verdict stating, "to dismiss the Petitioner's petition in its entirety." Therefore, before further considering the subject matter of the Petitioner's petition *a quo*, the Court will first examine whether the Petitioner's petition satisfies the provisions of Article 60 paragraph (2) of the Constitutional Court Law *juncto* Article 78 paragraph (1) of Constitutional Court Regulation Number 2 of 2021 concerning Procedure in Judicial Review Cases (Constitutional Court Regulation 2/2021), such that the norms *a quo* may be resubmitted for review. In this regard, after carefully examining the Petitioner's petition, the Court finds that there is a basis for review used in the petition *a quo*, namely Article 281 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, which has never previously been used as a basis for review in a petition that has been decided by the Court as referred to above. Due to the conditions referred to in Article 60 of the Constitutional Court Law *juncto* Article 78 of Constitutional Court Regulation Number 2/2021 being alternative in nature, the Court is no longer required to examine whether there are differences in the basis for review in the petition *a quo* compared to previous petitions. Thus, irrespective of whether the alleged unconstitutionality of the statutory norms argued by the Petitioner is ultimately proven, the Court is of the opinion that the petition *a quo* may be resubmitted.

Furthermore, in considering the subject matter of the Petitioner's petition, the Court reiterates and refers to the legal considerations set forth in Constitutional Court Decision Number 160/PUU-XXII/2024, which adjudicated the same issue as the case *a quo*, namely the legality of the leadership of the Corruption Eradication Commission for the 2024–2029 period resulting from the selection and nomination process conducted by the President for the 2019–2024 period (Joko Widodo) and subsequently elected by the House of Representatives for the 2024–2029 period. Pursuant to the legal considerations cited above, the Court has taken the position that the norms of Article 30 paragraph (1) and paragraph (2) of Law 30/2002 are sufficiently clear, such that there is no need to provide an additional

interpretation regarding which term of office of the President or the House of Representatives is entitled to apply or implement the norms *a quo*. In fact, by not specifying which term of office of the President or the House of Representatives is authorized to carry out the selection and election of candidates for the leadership of the Corruption Eradication Commission, the procedures for the selection process for candidates for the leadership of the Corruption Eradication Commission as regulated in Law 30/2002 may be applied in accordance with the sequence of time and the conditions arising from the transition of government during the relevant period.

Furthermore, without intending to assess the selection and election process for candidates for the leadership of the Corruption Eradication Commission for the 2024–2029 period, the Court is of the opinion that the implementation of the norms of Article 30 paragraph (1) and paragraph (2) of Law 30/2002, which took place during a transitional period or change of government involving two (2) Presidents and the House of Representatives in different terms of office, is in line with Constitutional Court Decision Number 112/PUU-XX/2022. In that decision, the Court did not at all stipulate that the President or the House of Representatives conducting the selection and election process for candidates for the leadership of the Corruption Eradication Commission must be in the same term of office, as understood and asserted by the Petitioner. Instead, the Court placed greater emphasis on the recruitment system for the leadership of the Corruption Eradication Commission with a term of office scheme of four (4) years as regulated in Article 34 of Law 30/2002, which results in, or at least has the potential to result in, the performance of the leadership of the Corruption Eradication Commission, representing the performance of the institution itself, being evaluated twice by the President and the House of Representatives within the same term of office, thereby having the potential to erode the independence of the Corruption Eradication Commission. Therefore, the Court is of the opinion that two (2) assessments by the President and the House of Representatives within the same term of office through the selection process for candidates for the leadership of the Corruption Eradication Commission for the subsequent period must be avoided, and this constitutes the fundamental reason why the Court changed the term of office of the leadership of the Corruption Eradication Commission to five (5) years from the original four (4) years. Thus, the Petitioner's concern that the selection of the leadership of the Corruption Eradication Commission should be carried out by the President and the House of Representatives whose term of office differs from that of the previous leadership of the Corruption Eradication Commission is, in fact, in line with the spirit embodied in the norm of Article 34 of Law 30/2002 and the Court's decisions concerning the constitutionality of that norm. Accordingly, the Court is of the opinion that there is no need for further clarification or interpretation of the phrase "House of Representatives" and the word "President" in Article 30 paragraph (1), and the word "Government" in Article 30 paragraph (2) of Law 30/2002, as petitioned for by the Petitioner.

Pursuant to all the legal considerations set forth above, it has been established that the phrase “House of Representatives” and the word “President” in Article 30 paragraph (1), and the word “Government” in Article 30 paragraph (2) of Law 30/2002, are not contrary to the principles of the rule of law and do not violate the right to fair legal certainty or the right to the administration of the state and government in accordance with the laws and the Constitution, as guaranteed under Article 1 paragraph (3), Article 28D paragraph (1), and Article 28I paragraph (4) of the 1945 Constitution of the Republic of Indonesia, contrary to the Petitioner’s arguments. Therefore, the Petitioner’s argument is entirely legally unjustifiable.

Accordingly, the Court subsequently passed down a decision, the verdict of which states as follows.

On preliminary injunction:

To dismiss the Petitioner’s petition for preliminary injunction.

On the Merits:

To dismiss the Petitioner’s petition in its entirety.