



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 22/PUU-XXIII/2025**

Concerning

Constitutionality of the Term of Office of Political Party Management and the Authority of Political Parties in the Interim Dismissal of Members of the House of Representatives

- Petitioners** : **Edward Thomas Lamury Hadjon and Zidane Azharian Kemalpasha**
- Type of Case** : Judicial Review of Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties (Law 2/2011) and Law Number 17 of 2014 concerning the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional People's Representative Assembly (Law 17/2014) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : The absence of a term limit for political party management in Article 23 paragraph (1) of Law 2/2011, together with the extensive authority of political parties in the process of dismissing members of the House of Representatives during their term of office as regulated in Article 239 paragraph (2) letter d and letter g, and the Elucidation of Article 239 paragraph (2) letter d of Law 17/2014, violate the principles of the rule of law, the principle of equality before the law, the right to develop oneself, and the right to fair legal certainty as guaranteed under Article 1 paragraph (1), Article 27 paragraph (1), Article 28C paragraph (1), and Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia
- Verdict** :
1. To declare that the petition of the Petitioners in relation to Article 27 paragraph (1) of Law Number 2 of 2011 concerning the Amendment to Law Number 2 of 2008 concerning Political Parties (State Gazette of 2011 Number 8, Supplement to the State Gazette of the Republic of Indonesia Number 5189) is inadmissible
2. To dismiss the remainder of the Petitioners' petition
- Date of Decision** : Wednesday, May 14, 2025
- Overview of Decision** :

Petitioner I and Petitioner II are Indonesian citizens. Petitioner I is a Lecturer in Constitutional Law Study, while Petitioner II is an active student at Universitas Achmad Yani, Faculty of Sharia and Law. Petitioner I and Petitioner II have the right to vote in the 2024 General Election, and believe that their constitutional rights have been violated due to the norms being petitioned for review.

With respect to the Court's authority, since the petition is submitted to review the constitutionality of statutory norm, *in casu* Law 2/2011 and the Law 17/2014 against the 1945 Constitution, the Court has the authority to hear the petition *a quo* of the Petitioners.

With respect to the legal standing of the Petitioners, the Court is of the opinion that the norm of Article 23 paragraph (1) of Law 2/2011, which specifically regulates the management of political parties, is only relevant to political parties as legal entities and/or to political party officials, or at least to members of political parties who have conveyed their aspirations to their respective political parties to propose the periodization of party management in the Articles of Association and Bylaws of the political party concerned. The limitation concerning the qualifications for legal standing in relation to the review of Article 23 paragraph (1) of Law 2/2011 constitutes the Court's established position, as reflected in Constitutional Court Decision Number 69/PUU-XXI/2023. Since Petitioner I and Petitioner II is a lecturer and a student, respectively, they do not represent political parties, nor are they political party officials or members of any political party, the Court is of the opinion that Petitioner I and Petitioner II do not possess the legal standing to submit a petition for the review of Article 23 paragraph (1) of Law 2/2011.

Meanwhile, with respect to the review of the norms of Article 239 paragraph (2) letter d and letter g of Law 17/2014, and the Elucidation of Article 239 paragraph (2) letter d of Law 17/2014, the Court is of the opinion that Petitioner I and Petitioner II have a close relationship with the substance of the norms *a quo*. This is because, as voters who elect people's representatives in general elections conducted under an open proportional system, Petitioner I and Petitioner II are able to directly elect legislative candidates to represent them in the House of Representatives. However, due to the existence of provisions concerning the interim dismissal of members of the House of Representatives as regulated in the norms being petitioned for review, according to the Petitioners, there is a potential for misuse by political parties, which in turn also has the potential to affect the elected candidates chosen by Petitioner I and Petitioner II. Therefore, the Court is of the opinion that Petitioner I and Petitioner II have the potential to suffer a loss of constitutional rights if the members of the House of Representatives elected by them are replaced through the mechanism of interim dismissal. Accordingly, the Court is of the opinion that Petitioner I and Petitioner II (hereinafter collectively referred to as the Petitioners) possess the legal standing to act as Petitioners in submitting the petition *a quo*, to the extent that it relates to the norms of Article 239 paragraph (2) letter d and letter g of Law 17/2014, and the Elucidation of Article 239 paragraph (2) letter d of Law 17/2014. Consequently, in examining the Subject Matter of the petition, the Court will only consider the review of the norms of Article 239 paragraph (2) letter d and letter g of Law 17/2014 and the Elucidation of Article 239 paragraph (2) letter d of Law 17/2014.

Whereas since the petition *a quo* 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.

With respect to the Subject Matter, the Court first considered whether it was possible to resubmit a judicial review of the norm of Article 239 paragraph (2) letter d of Law 17/2014, given that the constitutionality of the norm *a quo* had previously been reviewed and decided by the Court in Constitutional Court Decision Number 79/PUU-XII/2014. The Court found that Case Number 79/PUU-XII/2014 used Article 22C and Article 22D of the 1945 Constitution of the Republic of Indonesia as the basis for review. Meanwhile, the petition *a quo* of the Petitioners uses Article 1 paragraph (3), Article 27 paragraph (1), and Article 28C paragraph (1), Article 28D paragraph (1) of the 1945 Constitution as the legal basis for review. Thus, the basis for review used in the Petitioners' petition *a quo* is different. In addition, the constitutional

reason stated in the petition Number 79/PUU-XII/2014 is different from the one stated in the petition *a quo*. Petition Number 79/PUU-XII/2014 questioned the constitutionality of Article 239 paragraph (2) letter d of Law 17/2014, which does not provide sanctions for members of the House of Representatives who fail to attend plenary sessions for six (6) consecutive times, in contrast to the provisions applicable to members of the Regional Representative Council under Article 213 paragraph (2) letter d of Law 27/2009. 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.

In examining the subject matter of the petition, the Court considered that the issue of the mechanism of interim dismissal for members of the House of Representatives had previously been reviewed and decided by the Court in Constitutional Court Decision Number 38/PUU-VIII/2010, which reviewed Article 213 paragraph (2) letter e and letter h of Law 27/2009 concerning the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional People's Representative Assembly. The substance of the norms contained in Article 213 paragraph (2) letter e and letter h of Law 27/2009 regulates matters that are substantively the same as those governed by the norms of Article 239 paragraph (2) letter d and letter g of Law 17/2014 that are being petitioned for review. Constitutional Court Decision Number 38/PUU-VIII/2010 reaffirmed the Court's position as previously expressed in Constitutional Court Decision Number 008/PUU-IV/2006, which reviewed Article 85 paragraph (1) letter c of Law 22/2003 concerning the Composition and Position of the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional People's Representative Assembly. In essence, the Court is of the opinion that interim dismissal, whether proposed by a political party or resulting from a member of the House of Representatives being dismissed from membership in a political party, is constitutional to the extent that it serves to uphold the authority and integrity of the political party. With respect to the said legal considerations, the Court does not find any fundamental reason to depart from the legal considerations set forth in Constitutional Court Decision Number 38/PUU-VIII/2010. Therefore, the Court is of the opinion that political parties continue to have an important and strategic role as pillars of democracy within Indonesia's representative democratic system through general elections, in which, under a modern democratic system, representation is generally carried out through political parties.

The legal considerations set forth in Constitutional Court Decision Number 38/PUU-VIII/2010 *mutatis mutandis* also apply as legal considerations in the decision *a quo*. The existence of the mechanism of interim dismissal constitutes part of an effort to maintain a balanced relationship between political parties, legislative candidates, and the constituents who elect them. Accordingly, the Court is of the opinion that there is no constitutionality issue with respect to the norms of Article 239 paragraph (2) letter d and letter g of Law 17/2014. Furthermore, with regard to the Elucidation of Article 239 paragraph (2) letter d of Law 17/2014, which states "Sufficiently clear," there is likewise no constitutional issue concerning the norm. In this context, members of political parties who are subject to interim dismissal and who object thereto retain the opportunity to seek justice through the available legal remedies provided by law.

With respect to the Petitioners' petition that a re-election be conducted in the electoral district where elected members of the House of Representatives were proposed for resignation by political parties, the Court is of the opinion that such a petition is inconsistent with the principles of representative democracy and is also technically impossible to implement, because in a closed voting process it cannot be determined who voted for whom. If the Petitioners intend that all voters listed in the Permanent Voters List (*Daftar Pemilih Tetap* or DPT) in the relevant electoral district be granted the right to express their opinion in the form of a "yes" or "no" vote, such a mechanism would, in substance, amount to holding a repeat election in the concerned electoral district. Moreover, the legislative election system currently applied is an open proportional system, which combines the role of political parties with the role of individual legislative candidates. This means that the general election system continues

to uphold party sovereignty, because pursuant to Article 22E paragraph (3) of the 1945 Constitution of the Republic of Indonesia, participants in general elections are political parties. In addition, the “plebiscite” model requested by the Petitioners in their *petitum*, within certain limits, may be interpreted as a repeat general election, whereas pursuant to Article 22E paragraph (1) of the 1945 Constitution of the Republic of Indonesia, general elections may only be held periodically once every five (5) years. By opening the possibility of holding a “plebiscite,” such a mechanism would also be inconsistent with the principle of one person, one vote, because it cannot be ascertained which voters originally elected the members of the House of Representatives who were subsequently subject to interim dismissal. Therefore, the argument of the Petitioners is legally unjustifiable.

Accordingly, pursuant to the considerations above, the Court is of the opinion that the provisions of Article 239 paragraph (2) letter d and letter g of Law 17/2014 and the Elucidation of Article 239 paragraph (2) letter d of Law 17/2014 do not violate the principles of the rule of law, do not violate the principle of equality before the law, do not violate the right to develop oneself, and also do not give rise to legal uncertainty as regulated in Article 1 paragraph (3), Article 27 paragraph (1), Article 28C paragraph (1), and Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, contrary to the arguments of the Petitioners. Therefore, the Petitioners’ arguments are entirely legally unjustifiable.

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

1. To declare that the Petitioners’ petition regarding the review of Article 23 paragraph (1) of Law Number 2 of 2011 concerning the Amendment to Law Number 2 of 2008 concerning Political Parties (State Gazette of the Republic of Indonesia Number 8 of 2011, Supplement to the State Gazette of the Republic of Indonesia Number 5189) is inadmissible.
2. To dismiss the remainder of the Petitioners’ petition.