



CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION  
FOR CASE NUMBER 151/PUU-XXII/2024

Concerning

Obligation to Appoint Personal Data Protection Officers/Officials

- Petitioners** : Eric Cihanes and Garin Arian Reswara
- Type of Case** : Judicial Review of Law Number 27 of 2022 concerning Clean and Free from Corruption, Collusion and Nepotism State Administrators (Law 27/2022) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : The word “and” in Article 53 paragraph (1) letter b of Law 27/2022 is contrary to Article 28D paragraph (1) of the 1945 Constitution
- Verdict** : 1. To grant the entire Petitioners’ petition  
2. To declare the word “and” in Article 53 paragraph (1) letter b of Law Number 27 of 2022 concerning Personal Data Protection (State Gazette of the Republic of Indonesia of 2022 Number 196, Supplement to the State Gazette of the Republic of Indonesia Number 6820) is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force if it is not interpreted as “and/or”  
3. To order this decision to be published in the State Gazette of the Republic of Indonesia as appropriate
- Date of Decision** : Wednesday, July 30, 2025
- Overview of Decision** :

The Petitioners are individual Indonesian citizens who believe their constitutional rights guaranteed in Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia are violated by the use of the word “and” in Article 53 paragraph (1) letter b of Law 27/2022, because it narrows the criteria for the obligation to appoint Personal Data Protection Officers (*Petugas Pelindungan Data Pribadi* or PPDT).

Regarding the Court’s authority, because the Petitioners petition for a judicial review, *in casu*, for Law 27/2022 against the 1945 Constitution of the Republic Indonesia, which is under the Court’s authority, pursuant to Article 24C paragraph (1) of 1945 Constitution, Article 10 paragraph (1) letter a of the Constitutional Court Law, and Article 29 paragraph (1) of the Judicial Power Law, the Court has the authority to hear the petition *a quo*.

With respect to the legal standing, Petitioner I and Petitioner II have been able to describe their qualifications as individual Indonesian citizens who believe they have

suffered a loss of constitutional rights due to the enactment of the statutory norm for which a judicial review is being petitioned. The assumed loss of constitutional rights is specific, actual or at least potential in nature, arising from the enactment of the norm of Article 53 paragraph (1) of Law 27/2022, which has been formulated cumulatively by using the word “and” at the end of the sentence in letter b, as a result, supervision is weakened because data controllers and processors are not obliged to appoint Personal Data Protection Officers if they meet only one or two of the three conditions that trigger this obligation. Therefore, the assumed loss of constitutional right as described by Petitioner I and Petitioner II has a causal relationship (*causal verband*) with the enactment of the legal norm being petitioned for review. Therefore, if the petition *a quo* is granted, the assumed loss of constitutional right as described by Petitioner I and Petitioner II will not or will no longer occur. Thus, regardless of whether or not the unconstitutionality of the norm being petitioned for review is proven, the Court is of the opinion that Petitioner I and Petitioner II (hereinafter referred to as the Petitioners) have the legal standing to act as Petitioners in the petition *a quo*.

Upon careful examination by the Court of the Petitioners’ petition, the statement of the House of Representatives, the statement of the President, the statement of experts appointed by the President, the evidence submitted by the Petitioners and the President, the written conclusions of the Petitioners, and the written conclusions of the President, the constitutionality issue of the norm that must be answered by the Court is whether it is true that the formulation of the word “and” in the norm of Article 53 paragraph (1) letter b of Law 27/2022 it narrows the criteria for requiring data controllers and processors to appoint Personal Data Protection Officers for high-risk personal data processing, thereby undermining the Petitioners’ constitutional right to personal protection as guaranteed in Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

The Petitioners questioned the word “and” in Article 53 paragraph (1) of Law 27/2022 because it narrows the criteria for the obligation to appoint Personal Data Protection Officers. As a result, data controllers and processors who meet only one or two of the criteria regulated in Article 53 paragraph (1) of Law 27/2022 for high-risk personal data processing, criteria that would normally require the appointment of Personal Data Protection Officers to supervise compliance, are not obliged to appoint Personal Data Protection Officers, raising concerns that they may fail to ensure personal protection guaranteed in Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Regarding the argument *a quo* of the Petitioners, the Court considers the following:

Whereas Personal data refers to information about an individual who is identifiable, either directly or indirectly, alone or in combination with other data, through electronic or non-electronic means [vide General Provisions of Article 1 number 1 of Law 27/2022]. Personal data protection, including guarantees for data subjects in exercising their rights, is ensured through the processing of personal data in accordance with the principles set out in Article 16 paragraph (2) of Law 27/2022, as well as through the compliance of data controllers and data processors with their obligations under Law 27/2022 and other relevant regulations on personal data protection

Strong and clear personal data protection regulations enhance public trust in government institutions and foster a healthy social climate by ensuring that data management and protection are supported by a robust legal framework. Therefore, those who control personal data must ensure that all parties involved in its management act responsibly with respect to data-subject privacy and comply with the applicable standards.

Furthermore, given the consequences that high-risk personal data processing may have for data subjects, data controllers and data processors should be subject to stricter supervision. Therefore, for data controllers and data processors, it remains important to appoint an officer even if they meet only one of the three conditions set out in Article 53

paragraph (1) of Law 27/2022. In this regard, it is important for the Court to refer to the provisions of Article 34 paragraph (2) of Law 27/2022 which essentially provides that personal data processing with high potential risks includes: a) automated decision-making that has legal consequences or significant impacts on data subjects; b) processing of specific categories of personal data; c) large-scale personal data processing; d) processing for systematic evaluation, scoring, or monitoring of data subjects; e) processing for matching or combining data sets; f) the use of new technologies in personal data processing; and/or g) processing that restricts the exercise of data-subject rights. Pursuant to the criteria for personal data processing as set out in Article 53 paragraph (1) of Law 27/2022, it is evident that the norm of the article *a quo* falls into the category of high-risk personal data processing as referred to in Article 34 paragraph (2) of Law 27/2022.

In this regard, as a consequence of conducting high-risk personal data processing, it is important for data controllers and data processors to appoint Personal Data Protection Officers, even when they meet only one or two of the three requirements set out in Article 53 paragraph (1) of Law 27/2022, as argued by the Petitioners. In this regard, the Court is able to understand the Petitioners' intention wishing to require that personal data processing by data controllers and data processors be carried out in accordance with the principle of personal data protection, which ultimately aims to guarantee the rights of data subjects. Therefore, the compliance of data controllers and data processors in carrying out their obligations is in line with guaranteeing the rights of the data subjects. In addition, this forms part of the implementation of the principles of protection and confidentiality for personal data subjects, ensuring that their data is not misused and that their constitutional right to self-protection is upheld [*vide* Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia and Article 3 letter a of Law 27/2022 and its Elucidation].

Whereas with regard to the placement of the three elements/criteria in the norm of Article 53 paragraph (1) of Law 27/2022 their arrangement in a structured list is intended to facilitate the identification of activities, each of which independently forms a basis for the obligation to appoint Personal Data Protection Officers. The three elements/criteria in letters a, b, and c of Article 53 paragraph (1) of Law 27/2022 each stand as independent requirements. In this regard, the government stated that fulfilling just one of the elements/criteria is sufficient to trigger the obligation to appoint Personal Data Protection Officers. The provisions in Article 53 paragraph (1) letters a, b and c set out the activities or conditions that serve as the determining elements/criteria for whether personal data controllers or data processors must appoint Personal Data Protection Officers. In other words, Personal Data Protection Officers are not required for activities that fall outside the elements/criteria listed in Article 53 paragraph (1) of Law 27/2022 [*vide* Additional Government Statement p. 3]. Meanwhile, the House of Representatives, in its statement, clarified that the proper interpretation of Article 53 paragraph (1) of Law 27/2022 5 is that letters a, b, and c, which are arranged in a structured list, each constitute independent criteria that give rise to the obligation to appoint Personal Data Protection Officers. Therefore, the Petitioners' argument that letters a, b, and c must be cumulatively fulfilled in order to require the appointment of Personal Data Protection Officers constitutes an incorrect interpretation. [*vide* The House of Representatives Statement p. 16]. In addition, the use of the word "and" does not imply that the Petitioners' personal data is inadequately protected when their data is managed or processed by data controllers or data processors engaged in high-risk personal data processing. In addition, the inclusion of the word "and" does not diminish the supervision of compliance by personal data processors under the provisions of the Law 27/2022 [*vide* the House of Representatives' Statement p. 19- 20]. Essentially, the lawmakers implicitly acknowledge that the use of the word "and" in Article 53 paragraph (1) of Law 27/2022, regarding the fulfillment of the elements/criteria for the obligation to appoint Personal Data Protection Officers, is not cumulative. However, this formulation becomes problematic because the lawmakers chose to use the word "and". In statutory drafting, the word "and" is typically used to indicate cumulative elements/criteria, as regulated in Attachment II of Law Number 12 of 2011 concerning the Formation of

Statutory Regulations as last amended by Law Number 13 of 2022 concerning Amendments to the Formation of Statutory Regulations (Law 12/2011), specific words/phrases are prescribed for formulating elements or details in a structured list, as follows:

“88. If the elements or details in the structured list are intended as cumulative details, the word ‘and’ is added which is placed after the second to last detail.

89. If the details in the structured list are intended as alternative details, the word ‘or’ is added which is placed after the second to last detail.

90. If the details in the structured list are intended as cumulative and alternative details, the words ‘and/or’ is added which is placed after the second to last detail.”

However, because the formulation of the word “and” as a connecting word in Article 53 paragraph (1) letter b of Law 27/2022 which is placed after the end of the sentence “the core activities of the Personal Data Controller involve the nature, scope, and/or purpose of regularly and systematically monitoring Personal Data on a large scale;”, the Petitioners are concerned that if all the elements in letters a, b, and c are met, personal data controllers and data processors would be required to appoint Personal Data Protection Officers. However, if only one or two of these elements/criteria are met, no such obligation would arise. This concern stems from the use of the word “and”, which implies “cumulative” requirements. Due to the formulation that is *conditio interminus* in nature, the word “and” in the norm of Article 53 paragraph (1) of Law 27/2022 is inconsistent with the intent and purpose of the lawmakers who has emphasized that the provision is not intended to be cumulative, as referred to in point 88 of Attachment II of Law 12/2011. In this context, the word “and” indicates that the elements or criteria in the structured list are cumulative, meaning all must be met to trigger the obligation to appoint Personal Data Protection Officers. Thus, the lawmakers’ intention to protect personal data through Law 27/2022, by ensuring the security of personal data processing by data controllers and data processors, is not aligned with the formulation of the elements/criteria in letters a, b, and c of Article 53 paragraph (1), because these criteria, when they are fulfilled by data controllers or data processors, trigger the obligation to appoint Personal Data Protection Officers.

In relation to the above, and consistent with the lawmakers’ intent in formulating letters a, b, and c of Article 53 paragraph (1) of Law 27/2022, these provisions are meant to function as independent criteria, therefore, if one, two, or all of these criteria are fulfilled by personal data controllers or processors, they are required to appoint Personal Data Protection Officers. Accordingly, the Court is of the opinion that the correct formulation should be alternative-cumulative, using the phrase “and/or,” which is the standard expression in statutory drafting as regulated in number 90 of Attachment II of Law 12/2011. This effectively addresses the concerns of data subjects regarding high-risk personal data processing, it ensures that the protection and guarantee of their constitutional rights are upheld, recognizing that personal data protection is an integral part of the right to personal protection as referred to in Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Therefore, personal data, as a right inherent to every citizen, must be maximally protected so that it cannot be misused in ways that violate the principles of protection, prudence, and confidentiality, all of which are essential to preserving the exclusivity of personal data.

Pursuant to the description of the legal considerations above, the Petitioners’ argument questioning the constitutionality of the word “and” in the norm of Article 53 paragraph (1) letter b of Law 27/2022 is legally justifiable, accordingly, the word “and” in Article 53 paragraph (1) letter b of Law 27/2022 must be declared unconstitutional and has no binding legal force if it is not interpreted as “and/or” as stated in the Decision *a quo*. Therefore, the argument of the Petitioners is legally unjustifiable.

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

1. To grant the entire Petitioners' petition.
2. To declare the word "and" in Article 53 paragraph (1) letter b of Law Number 27 of 2022 concerning Personal Data Protection (State Gazette of the Republic of Indonesia of 2022 Number 196, Supplement to the State Gazette of the Republic of Indonesia Number 6820) is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force if it is not interpreted as "and/or."
3. To order this decision to be published in the State Gazette of the Republic of Indonesia as appropriate.