



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 121/PUU-XXII/2024**

Concerning

**Supervision of the Merit System, Principles, Fundamental Values,
and Code of Ethics and Code of Conduct for State Civil Apparatus**

- Petitioners** : **Perkumpulan untuk Pemilu dan Demokrasi (Perludem) represented by Khoirunnisa Nur Agustyati as Chairperson of the Perludem Foundation, et al.**
- Type of Case** : Judicial Review of Law Number 20 of 2023 concerning State Civil Apparatus (Law 20/2023) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Judicial Review of Article 26 paragraph (2) letter d and Article 70 paragraph (3) of Law 20/2023 against Article 1 paragraph (3) and Article 28D paragraph (1) and paragraph (3) of the 1945 Constitution
- Verdict** : **On Preliminary Injunction**
To dismiss the Petitioners' petition for preliminary injunction

On the Merits

1. To grant the Petitioners' petition in part
2. To declare that Article 26 paragraph (2) letter d of Law Number 20 of 2023 concerning State Civil Apparatus (State Gazette of the Republic of Indonesia of 2023 Number 141, Supplement to the State Gazette of the Republic of Indonesia Number 6897) is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force if it is not interpreted as, "the implementation of supervision of the Merit System, including supervision of the implementation of principles, fundamental values, code of ethics and code of conduct of State Civil Apparatus, is carried out by an independent institution." The said independent institution must be established no later than 2 (two) years from the date of the Decision *a quo*
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 Petitioners' petition

Date of Decision : Thursday, October 16, 2025

Overview of Decision :

Whereas the Petitioners are private legal entities, the Petitioners argue that their constitutional rights have been violated by the enactment of the articles for which this judicial review is being petitioned because the article *a quo* has the potential to disrupt the implementation of free and fair regional head elections, as it does not ensure that State Civil Apparatus are protected from being mobilized for partisan interests, given the absence of an independent oversight mechanism capable of preventing, responding to, and acting upon such violations.

Whereas with respect to the Court's authority, because this petition is submitted for a review of the constitutionality of norms of law, *in casu* Article 26 paragraph (2) letter d and Article 70 paragraph (3) of Law 20/2023 against the 1945 Constitution, the Court has the authority to hear the petition *a quo*.

Whereas with respect to the legal standing of the Petitioners, Petitioner I, Petitioner II, and Petitioner III have been able to describe their constitutional rights guaranteed by the 1945 Constitution of the Republic of Indonesia which they believe are violated by the enactment of the statutory norms for which a judicial review is being petitioned. Such assumption of loss by Petitioner I, Petitioner II and Petitioner III arises because the enactment of the article *a quo* has the potential to disrupt the implementation of free and fair regional head elections, which Petitioner I, Petitioner II, and Petitioner III have consistently advocated for in order to uphold the neutrality of the State Civil Apparatus as a key pillar of democracy. Therefore, Petitioner I, Petitioner II, and Petitioner III have been able to describe the existence of a causal relationship (*causal verband*) between the assumption of loss of constitutional rights and the enactment of the norms of Article 26 paragraph (2) letter d and Article 70 paragraph (3) of Law 20/2023 which is being petitioned for review. Thus, regardless of whether or not the arguments of Petitioner I, Petitioner II, and Petitioner III regarding the unconstitutionality of the norms being petitioned for review against the 1945 Constitution of the Republic of Indonesia are proven, the Court is of the opinion that Petitioner I, Petitioner II, and Petitioner III (hereinafter referred to as the Petitioners) have the legal standing to act as Petitioners in the judicial review of the norms of Article 26 paragraph (2) letter d and Article 70 paragraph (3) of Law 20/2023 *a quo*.

Whereas with respect to the Petitioners' petition for preliminary injunction, within the limits of reasonable reasoning, determining the constitutionality issues raised in the petition *a quo* requires an evidentiary hearing, rather than proceeding without hearing the parties as intended in Article 54 of the Constitutional Court Law. Moreover, from December 2024 to March 2025, the Court is in the process of resolving the 2024 Regional Election dispute, so it is temporarily unable to hold preliminary examination hearings or trial hearings regarding petition for judicial review of the law. This is in accordance with the provisions of Article 82 of Constitutional Court Regulation Number 2 of 2021 concerning Procedures in Judicial Review Cases, which states, "If the Court exercises any other authority concurrently with the trial stages of a judicial review case, the trial stages of the judicial review case will be adjusted to accommodate the implementation of such other authority." With respect to the petition for the Court to order State Civil Apparatus Commission to continue carrying out its duties and authority until a Court decision is made, the Court lacks the authority to do so. Pursuant to these legal considerations, the Court is unable to grant the Petitioners' petition *a quo* for preliminary injunction so it must be declared as legally unjustifiable.

Whereas the Petitioners argue that substantially the existence of Article 26 paragraph (2) letter d and Article 70 paragraph (3) of Law 20/2023 has eliminated the role of State Civil Apparatus Commission which was established in accordance with Law 5/2014 to strategically maintain the neutrality of State Civil Apparatus in a healthy democratic system and to promote better and more integrated governance. Furthermore, the Petitioners questioned Article 26 paragraph (2) letter d and Article 70 paragraph (3) of Law 20/2023 which also eliminates the norms governing supervision of the Merit System, the code of ethics, the code of conduct, and the neutrality of the State Civil Apparatus by independent institutions. In turn, this would weaken the bureaucracy's professionalism, integrity, and adherence to meritocratic principles, thereby undermining efforts to achieve good governance that is professional and free from corruption, collusion, and nepotism, and therefore it is contrary to Article 1 paragraph (3) and Article 28D paragraph (1) and paragraph (3) of the 1945 Constitution of the Republic of Indonesia. With respect to the argument of the Petitioners *a quo*, the Court considers the following:

Whereas the principles are the basic reference that underlies all other components of the Merit System, while the fundamental values are the moral and ethical core that is embodied in the code of ethics and code of conduct. All of these are essentially components that strengthen the Merit System to ensure that State Civil Apparatus are able to act professionally, have integrity, and are accountable, and to provide protection for State Civil Apparatus careers from political intervention that may damage professionalism. Therefore, the principles, fundamental values, code of ethics, and code of conduct of the State Civil Apparatus are integral components of the Merit System, they are essential elements forming the foundation of moral conduct and professionalism, while also serving as key instruments for strengthening integrity and preventing abuse of authority. Therefore, the said components need must be supervised to prevent intervention, conflicts of interest, and violations of State Civil Apparatus Management that have the potential to damage bureaucratic reform and good governance. In the context of the principle of meritocracy, the absence of the phrase "principles, fundamental values, code of ethics and code of conduct of State Civil Apparatus" in the norm of Article 26 paragraph (2) letter d of Law 20/2023, does not indicate the clarity and integrity of the norm *a quo* as a holistic/comprehensive State Civil Apparatus monitoring system. Therefore, the Court is of the opinion that the phrase "principles, fundamental values, code of ethics and code of conduct of State Civil Apparatus" needs to be emphasized in detail (*expressis verbis*) in the norm of Article 26 paragraph (2) letter d of Law 20/2023 so that it is not interpreted as an incomplete norm. Such emphasis is essential to ensure that every State Civil Apparatus management policy and decision aligns with the principles of professionalism, neutrality, accountability, integrity, and justice, which must guide the implementation of a clean and just bureaucratic reform.

The framework for supervising the State Civil Apparatus was in fact introduced before the reform, but it was limited to monitoring neutrality and was carried out internally by each agency. The idea of establishing a State Civil Service Commission pursuant to Law 43/1999 was stipulated by a Presidential Decree, which has an independent position in carrying out its duties. The idea of forming a State Civil Service Commission was later refined in Law 5/2014 into the State Civil Apparatus Commission, a non-structural, independent institution free from interference by other bodies.

Whereas by looking at the history of the development of civil service in Indonesia until the enactment of Law 20/2023, State Civil Apparatus employees have been vulnerable to political and personal influence. Therefore, a clear separation of functions and authorities between policymakers, implementers, and supervisors is necessary to prevent overlapping roles and conflicts of interest. In this case, the policy supervisor does not only function as a supervisor *an sich*, but also as an external balancing mechanism to ensure that the Merit System operates effectively, accountably, and transparently, thereby supporting the creation

of a professional and efficient bureaucracy that is free from political intervention and able to protect the careers of State Civil Apparatus. Moreover, the norm of Article 26 of Law 20/2023 uses the phrase “ministry and/or institution” which lexically can be interpreted as referring not only to internal institutions within the government, but also allows for the establishment of external institutions as independent bodies to oversee the implementation of the Merit System. In this regard, as part of the design to maintain the independence of State Civil Apparatus and at the same time protect State Civil Apparatus careers, the Court considers it important to establish an independent institution that has the authority to oversee the implementation of the Merit System, including the implementation of the principles, fundamental values, code of ethics and code of conduct of State Civil Apparatus. Moreover, under Law 5/2014, an independent/non-structural institution was established to monitor and evaluate the implementation of State Civil Apparatus policies and Management in order to create professional and high-performing State Civil Apparatus employees and at the same time play a role in protecting State Civil Apparatus careers. The establishment and design of such an independent institution fall within the authority of the lawmakers, based on the need to ensure effective and accountable governance. It is essential that this independent institution be established promptly as an external supervisory body to ensure that the Merit System is implemented consistently, free from political intervention, and without creating conflicts of interest in the governance or management of the State Civil Apparatus.

Whereas pursuant to the description of the legal considerations above, the Court is of the opinion that the norm of Article 26 paragraph (2) letter d of Law 20/2023 is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force if it is not interpreted as “the implementation of supervision of the Merit System, including supervision of the implementation of principles, fundamental values, code of ethics and code of conduct of State Civil Apparatus, is carried out by an independent institution”. In this case, the said independent institution must be formed no later than 2 (two) years from the date of the Decision *a quo*. Therefore, the Petitioners’ argument is legally unjustifiable in part.

Whereas the interpretation of the norm of Article 26 paragraph (2) letter d of Law 20/2023 as stated in the Decision *a quo* has an impact on Article 70 paragraph (3) of Law 20/2023, including the general provisions and other norms regarding supervision of the Merit System. Meanwhile, with respect to Article 70 paragraph (3) of the Law *a quo*, the Court is of the opinion that it has considered the establishment of an independent institution that is authorized to supervise the implementation of principles, fundamental values, codes of ethics and codes of conduct of the State Civil Apparatus as part of the supervision of the implementation of the Merit System in Article 26 paragraph (2) letter d of Law 20/2023 as interpreted by the Court in the Decision *a quo*. Therefore, the Petitioners’ petition regarding Article 70 paragraph (3) of Law 20/2023 is no longer relevant to be considered further because the independent institution referred to by the Petitioners has been accommodated in the interpretation of Article 26 paragraph (2) letter d of Law 20/2023. Therefore, the Petitioner’s argument regarding the review of Article 70 paragraph (3) of Law 20/2023 is legally unjustifiable.

Whereas pursuant to the above legal considerations, it has been proven that the norm of Article 26 paragraph (2) letter d of Law 20/2023 is contrary to the principles of state of law, it does not provide legal protection, legal certainty and equal treatment in just government as regulated in Article 1 paragraph (3) and Article 28D paragraph (1) and paragraph (3) of the 1945 Constitution of the Republic of Indonesia, consistent with the argument of the Petitioners. Meanwhile, the Petitioners’ argument regarding Article 70 paragraph (3) of Law 20/2023 is not relevant to be considered and must be declared legally unjustifiable. However, since the Court’s interpretation is not the same as the one stated in the petition of the Petitioners, the Petitioners’ petition is legally justifiable in part.

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

On Preliminary Injunction:

To dismiss the Petitioners' petition for preliminary injunction.

On the Merits

1. To grant the Petitioners' petition in part.
2. To declare that Article 26 paragraph (2) letter d of Law Number 20 of 2023 concerning State Civil Apparatus (State Gazette of the Republic of Indonesia of 2023 Number 141, Supplement to the State Gazette of the Republic of Indonesia Number 6897) is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force if it is not interpreted as, "the implementation of supervision of the Merit System, including supervision of the implementation of principles, fundamental values, code of ethics and code of conduct of State Civil Apparatus, is carried out by an independent institution". The said independent institution must be established no later than 2 (two) years from the date of the Decision *a quo*.
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 Petitioners' petition.

Dissenting Opinion

With respect to the decision *a quo* of the Court, one (1) Constitutional Justice, namely Constitutional Justice Anwar Usman, submitted a dissenting opinion, stating that:

If the neutrality of State Civil Apparatus in the general election/regional election is a concern as described in the Petitioners' petition, it is clear that the issue of State Civil Apparatus neutrality does not concern the constitutionality of norms, moreover the issue has been followed up in accordance with applicable legal provisions pursuant to the data presented in the President's statement (*vide*: Table of Data on State Civil Apparatus Neutrality Violations). Therefore, the issue of State Civil Apparatus neutrality has no direct relationship to the overall supervision and development of State Civil Apparatus. Even if specific provisions are needed, particularly on the issue of State Civil Apparatus neutrality, these can be regulated separately in instruments that are not directly related to the supervision and development of the State Civil Apparatus.

Therefore, the Petitioners' petition *a quo* to review Article 26 paragraph (2) letter (d) and Article 70 paragraph (3) of Law Number 20 of 2023 concerning State Civil Apparatus against the 1945 Constitution, should have been **dismissed**.