

**CONSTITUTIONAL COURT OF**

**THE REPUBLIC OF INDONESIA**

**SUMMARY OF LAWSUIT VERDICT**

**NUMBER 25/PUU-XVII/2019**

**REGARDING**

**CONSTITUTIONALITY OF THE QUICK COUNT AND SURVEYS**

**DURING QUIET PERIODS IN THE 2019 SIMULTANEOUS ELECTIONS**

**Petitioner** : PT. Television Transformasi Indonesia, PT. Media Televisi Indonesia, PT. Rajawali Citra Televisi Indonesia, PT. Lativi Mediakarya, PT. Indosiar Visual Mandiri, PT. Indonesian Political Indicators, PT. Cyrus Nusantara

**Type of Lawsuit** : Judicial Review of Law Number 7 of 2017 regarding General Elections against the 1945 Constitution of the Republic of Indonesia (UUD 1945)

**Case of Lawsuit** : Judicial Review of the Constitutionality of Article 449 paragraph (2), paragraph (5), and paragraph (6), Article 509, Article 540 paragraph (1) and paragraph (2) of the Election Law or 7/2017 and Article 197 paragraph (2) of the Regional Election Law or Law 1/2015 of the 1945 Constitution

**Injunction** : In the Provision

 Rejecting the petition for provision of Petitioner I through Petitioner VI;

 In the Principal Petition

1. Declaring the Petitioner VII's petition is unacceptable;

2. Rejecting the Petitioner I through Petitioner VI's petition in their entirety.

**Date of Verdict** : Tuesday, April 16, 2019

**Verdict Summary** :

Whereas the Petitioners in a quo petition are legal entities engaged in television media and survey institutions, namely PT. Television Transformasi Indonesia, PT. Media Televisi Indonesia, PT. Rajawali Citra Televisi Indonesia, PT. Lativi Mediakarya, PT. Indosiar Visual Mandiri, PT. Indikator Politik Indonesia, and PT. Cyrus Nusantara.

Regarding the authority of the Court, because the Petitioners' petition is a constitutionality review of the legal norms, in this case Article 449 paragraph (2), paragraph (5) and paragraph (6), Article 509, as well as Article 540 paragraph (1) and paragraph (2 ) Law Number 7 of 2017 regarding General Elections (State Gazette of the Republic of Indonesia of 2017 Number 182, Supplement to the State Gazette of the Republic of Indonesia Number 6109, hereinafter referred to as Law 7/2017) and Article 197 paragraph (2) of Law Number 1 of 2015 regarding Determination of Government Regulation in Lieu of Law Number 1 of 2014 regarding the Election of Governors, Regents and Mayors to Law (State Gazette of the Republic of Indonesia Number 245 of 2014, Supplement to the State Gazette of the Republic of Indonesia Number 5588, hereinafter referred to as Law 1/2015) on 1945 Constitution, then the Court has the authority to hear a quo petition;

Related to the legal standing of the Petitioners, the Court in its legal consideration only gave the legal standing to the Petitioners which consisted of five broadcasting institutions and one survey institute which was Petitioner I to Petitioner VI, while for Petitioner VII, which is also a survey institute, the Court decided it had no legal standing because the evidence presented was not sufficient to prove that the Petitioner VII has no legal standing.

Whereas in relation to the principal petition, basically the Petitioners file Constitutionality Review related to the prohibition of Announcement of the results of surveys or opinion polls of the General Election conducted during the Quiet Period and Announcement of forecasts for the results of the quick count of the General Election which may only be conducted no sooner than 2 (two) hours after the voting is finished in the western Indonesia region which results in the occurrence of election criminal offenses as provided for in Article 449 paragraph (2), paragraph (5) and paragraph (6), Article 509 and Article 540 paragraph (1) and paragraph (2) of Law 7/2017. According to the Petitioners for the norms of a quo articles, in addition to being contrary to Article 28D paragraph (1), Article 28E paragraph (3) and Article 28F, Article 28G paragraph (1), Article 28I paragraph (4) of the 1945 Constitution, also by the Constitutional Court has been declared as having no binding legal force as decided by the Court in the Decision case Number 9/PUU-VII/2009, dated March 30, 2009 in conjunction with Decision Number 98/PUU-VII/2009, dated July 3, 2009 in conjunction with Decision Number 24/PUU -XII/2014, dated April 3, 2014.

In addition, according to the Petitioners, automatically the legal considerations of the Court in the three previous Court decisions related to a quo articles should also be considered will apply mutatis mutandis for a quo petition. According to the Petitioners, the existence of the act of copying whole articles that have been declared unconstitutional by the Court is an act of disregarding the constitution that is maintained by the Court through its decisions and therefore easily and as soon as possible the Court should remedy the constitutional rights of citizens that has been taken away by a quo articles by quickly deciding this petition in accordance with legal considerations that have been set forth by the Court in previous decisions;

In its legal considerations, the Court principally declares as follows:

a. Whereas the Petitioners' petition in essence questioning the constitutionality issue regarding the prohibition of the announcement of the results of surveys or opinion polls of the General Election conducted during the Quiet Period and the announcement of forecasts for the results of the quick counts of the General Election which may only be conducted no sooner than 2 (two) hours after the completion of the voting in western Indonesia region which results in the occurrence of Election criminal offenses as provided for in Article 449 paragraph (2), paragraph (5) and paragraph (6), Article 509 and Article 540 paragraph (1) and paragraph (2) of Law 7/2017, the substance or principal petition of a quo articles has been previously decided by the Court on April 16, 2019 as set forth in Decision Number 24/PUU-XVII/2019, so a quo case decision refers to such decision relating to the review of norms of Article 449 paragraph (2), paragraph (5 ), and paragraph (6), Article 509 and Article 540 paragraph (1) and paragraph (2) of Law 7/2017.

b. Whereas in substance the issue of constitutionality of petition for review filed by a quo’s Petitioners is the same as the issue of constitutionality in case Number 24/PUU-XVII/2019 which is related to the prohibition of announcement of the results of surveys or opinion polls of the General Election conducted during the Quiet Period and Announcement of forecasts for the results of the quick count of the General Election which may only be conducted no sooner than 2 (two) hours after the completion of the voting in the western Indonesia region which results in the occurrence of Election criminal offenses as provided for in Article 449 paragraph (2), paragraph (5) and paragraph (6), Article 509 and Article 540 paragraph (1) and paragraph (2) of Law 7/2017. So therefore, the Court's legal considerations in assessing the constitutionality of Article 449 paragraph (2), paragraph (5) and paragraph (6), Article 509 and Article 540 paragraph (1) and paragraph (2) of Law 7/2017 will also apply mutatis mutandis as legal considerations of a quo petition.

c. Whereas related to the norms of Article 197 paragraph (2) of Law 1/2015, the Petitioners have submitted a letter to the Court which was received by the Registrar's Office on April 12, 2019 regarding the petition for revocation of Article 197 paragraph (2) of Law 1/2015 as one of the object of the case petition Number 25/PUU-XVII/2019. Therefore, the Court will not further consider the norms of a quo article and declare that the norms of Article 197 paragraph (2) of Law 1/2015 no longer form part of petition number 25/PUU-XVII/2019.

d. Whereas with regard to the Petitioners' arguments in addition to and the rest of them are not considered by the Court because both the arguments and the basis of testing used by the Petitioners are irrelevant.

Whereas based on all the legal considerations above, the argument of the Petitioners' petition has no legal grounds in their entirety. Furthermore, the Court handed down the following decisions:

In the Provision

Rejecting the petition for provision of Petitioner I through Petitioner VI;

In the Principal Petition

3. Declaring the Petitioner VII's petition is unacceptable;

4. Rejecting the petition of Petitioner I through Petitioner VI in their entirety.

This document is translated from Indonesian into English by me, **Drs. EMIL SUSANTO**,

the Authorized and Sworn Translator in Jakarta - Indonesia

JAKARTA, June 24, 2020