



**THE CONSTITUTIONAL COURT
REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
ON CASE NUMBER 97/PUU-XVIII/2020**

**Concerning
Periodization of the Position of Judges of the Constitutional Court**

- Petitioner** : **Suhardi and Linda Yendrawati Puspa**
- Case** : Review of Law Number 7 of 2020 concerning the Third Amendment to Law Number 24 of 2003 concerning Constitutional Court (Constitutional Court Law) to the 1945 Constitution of the Republic of Indonesia (UUD 1945)
- Case of Lawsuit** : Review of Article 87 letter b of the Constitutional Court Law against Article 1 paragraph (3) and Article 28D paragraph (1) of the 1945 Constitution
- Injunction** : Declare the petition of the Petitioners cannot be accepted
- Date of Decision** : Thursday, January 14, 2021.
- Decision overview** :

The Petitioners are individual Indonesian citizens who work as advocates and have noble aspirations as Constitutional Justices. The Petitioners perceive that their constitutional rights have been impaired by the enactment of the provisions of Article 87 letter b of Law Number 7 of 2020 concerning the Third Amendment to Law Number 24 of 2003 concerning the Constitutional Court (Constitutional Court Law).

Whereas in relation to the authority of the Constitutional Court, because the petition for review is the law in casu of the Constitutional Court Law, the Court has the authority to adjudicate the a quo petition.

Whereas although the Court has the authority to adjudicate the a quo petition, before considering the legal standing of the Petitioners in filing the a quo petition and the subject of the petition, the Court will first consider the petition by the Petitioners as follows:

1. Whereas the Court has examined the a quo petition in the preliminary hearing session on November 19, 2020. In accordance with the provisions of Article 39 of the Constitutional Court Law, the Panel of Judges in accordance with their obligations has provided advice to the Petitioners to revise and clarify matters relating to the Petitioners and their petition in accordance with the systematic petition as regulated in Article 31 paragraph (1) of the Constitutional Court Law and Article 5 paragraph (1) letter a, letter b, letter c, and letter d of Constitutional Court Regulation Number 06/PMK/2005 concerning Guidelines for Proceeding in Cases of Judicial Review (hereinafter referred to as PMK Number 6/PMK/2005);
2. Whereas the Petitioners have revised their petition as received at the Registrar of the Court on November 30, 2020, and it has been examined in the hearing of the revision of the petition on December 15, 2020, and the Petitioners in the revision of their petition systematically

described: Title, Identity of the Petitioners, Authority of the Constitutional Court, The Legal Standing of the Petitioners, Reason for the Petition, and *Petitum*;

3. Whereas although the format for the revision of the Petitioners' petition is basically in accordance with the format of the petition for judicial review as regulated in Article 31 paragraph (1) of the Constitutional Court Law and Article 5 paragraph (1) letter a, letter b, letter c, and letter d of PMK Number 6/PMK/2005, however, after the Court carefully examined the *posita* and *petitum* of the Petitioners' petition, the Court found the fact that the subject of the petition did not at all describe the arguments or reasons regarding the importance of the conditions as determined by the Petitioners, which is the eligibility examination and supervision in physical and mental health is carried out every 5 (five) years by the Honorary Council of the Constitutional Court objectively. The Petitioners basically only explained that the Petitioners were advocates and had the potential to become constitutional judges as former constitutional judges Hamdan Zoelva and Patrialis Akbar, without further elaborating the arguments regarding the reasons for the importance of conducting eligibility examination and supervision in physical and mental health, as well as the reasons why this should be carried out every 5 (five) years. Besides, the Court also sees the ambiguity and redundancy of the petition's *petitum* so that it is difficult for the Court to understand the constitutional interpretation the Petitioners actually desire. The Court finds it increasingly difficult to understand when on the one side it demands: "Constitutional justices who are in office at the time this Law is enacted are considered to have fulfilled the requirements under this Law and end their term of office until the age of 70 (seventy) years as long as their total term of office does not exceed 15 (fifteen) years with the provision that the eligibility examination and supervision in Physical and Spiritual Health are carried out every (5) five years by the

Honorary Council of the Constitutional Court in an Objective manner,” while on the other hand, the Petitioners desired the conditional constitutional interpretation of the same *petitum*.

Because there is no interconnection between the *posita* and the *petitum*, as well as ambiguity and redundancy in the *petitum*, the a quo petition becomes unclear (unsettled).

Based on all of the above considerations, the Court subsequently issued a decision stating that the petition of the Petitioners cannot be accepted.