



**THE CONSTITUTIONAL COURT
REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
ON CASE NUMBER 98/PUU-XVIII/2020
Concerning
The Rights of Collective Self-development**

- Petitioner** : Alamsyah Panggabean
- Case** : Judicial Review Number 39 of 1999 concerning Human Right (Law 39/1999) against the 1945 Constitution of the Republic of Indonesia (UUD 1945).
- Case of Lawsuit** : Article 15 Law 39/1999
- Injunction** : Declare the petitioner's petition is not able to be accepted
- Date of Decision** : Thursday, January 14, 2021.
- Decision overview** :

The Petitioner postulates that he is an Indonesian citizen who has the right to work and self-development. However, he is disadvantaged by the enactment of Article 15 of Law 39/1999 because he is not appointed as a member of the Padang Lawas DPRD for the 2019-2024 period.

Regarding the authority of the Court, because what the Petitioner is asking for is the review of Law in casu Law 39/1999 as one of the powers of the Court, based on Article 24C paragraph (1) of the 1945 Constitution, Article 10 paragraph (1) letter a of the Constitutional Court Law, and Article 29 paragraph (1) of the Law on Judicial Power, the Court has the

authority to hear a quo petition.

Regarding the legal standing and subject matter of the petition, before being considered further, the Court needs to first consider the rest of the Petitioner's petition. Despite the format for the revision of the Petitioner's petition has met 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 Constitutional Court Rules Number 6/PMK/2005. Yet, after the Court examined carefully, it turned out that the descriptions of each of the systematic sections do not meet the formal requirements of the petition, as follows.

1. In the legal position, the Petitioner did not specifically describe the existence of a causal relationship that with the entry into force of the article requested for review, it is considered detrimental to the Petitioner as an Indonesian citizen who has the right to work and self-development with the Petitioner's participation in building the community, nation and state because it is not designated as members of the Padang Lawas Regional People's Representative Assembly for the 2019-2024 period;
2. In the reason for the petition, the Petitioner stated that the phrase "personally" in Article 15 of Law 39/1999 is constitutional [vide petition p. 11 and 2 pp. 15-16]. In fact, according to the Petitioner, the legal norms contained in Article 15 of Law 39/1999 are very clear legal norms [vide petition p. 13]. However, in a subsequent statement, the Petitioners stated that the phrase "collectively" in Article 15 of Law 39/1999 was contrary to the 1945 Constitution without elaborating further arguments on the contradiction between this phrase and Article 28C paragraph (1) of the 1945 Constitution which became one of the testing grounds used. application video p. 13]. In fact, at the end of the main point of the petition, the Petitioners actually stated the phrase "personally" which was previously declared constitutional to be unconstitutional and by providing an interpretation of the phrase [vide petition p. 17]. Therefore, apart from not providing adequate arguments regarding the unconstitutionality of the norms being tested, there were also ambiguities and inconsistencies in posita of the Petitioners' petition;
3. In the petition section, number 2 of the petition is inconsistent with the petition posita which at the end asked for the interpretation of the phrase "personally" in Article 15 of Law 39/1999. Moreover, if the petition number 2 was granted, It means Article 15 of Law 39/1999 becomes unclear because in the norm of the article a quo only the phrase

“private and” remains. Thus, such a petition is contradictory and inconsistent with the position of the Petitioner's petition;

Furthermore, besides the fact that the Petitioner's petition is unclear (fuzzy), the Court affirms that what the Petitioner wants is the determination of the membership of the Padang Lawas Regency DPRD for the 2019-2024 period which does not include the Petitioner as argued by the Petitioner. In this regard, in the preliminary examination panel session, the panel of judges advised and at the same time reminded that the Court is not the place to determine a person can become a member of the People's Representative Assembly as desired by the Petitioner. Moreover, the issue raised by the Petitioner is not related to the constitutionality of Article 15 of Law 39/1999 which in fact provides a guarantee of self-development for everyone including the Petitioner to participate in building the community, nation and state as stated in Article 28C paragraph (1) of the 1945 Constitution;

Based on the entire description of the considerations above, because the application does not meet the formal requirements of the application as referred to in Article 31 paragraph (1) of the Constitutional Court Law, the Petitioner's application is unclear (fuzzy). Thus, although the Court is authorized to hear a quo petition, the Court does not consider more further application of the Petitioner. Accordingly, the Court subsequently issued a decision which declared that the Petitioner's petition can't not be accepted.