CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION
FOR CASE NUMBER 130/PUU-XXIII/2025

Concerning

Inclusion of People with Chronic Illnesses in the Invisible Disability Category

Petitioners	:	**Raissa Fatikha and Deanda Dewindaru**
Type of Case	:	Judicial review of Law Number 8 of 2016 concerning Persons with Disabilities (Law 8/2016) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
Subject Matter	:	Judicial review of Elucidation Article 4 paragraph (1) letter a of Law 8/2016 against Article 28C paragraph (2), Article 28D paragraph (1), Article 28H paragraph (2), and Article 28I paragraph (2) of the 1945 Constitution
Verdict	:	1. To grant the Petitioners' petition in part; 2. To declare that the Elucidation to Article 4 paragraph (1) letter a of Law Number 8 of 2016 concerning Persons with Disabilities (State Gazette of the Republic of Indonesia of 2016 Number 69 and Supplement to the State Gazette of the Republic of Indonesia Number 5871) is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force conditionally if it is not interpreted as, "What is meant by Persons with Physical Disabilities is persons with impaired motor function, including those with amputations, paralysis or stiffness, paraplegia, cerebral palsy (CP), disabilities resulting from stroke, disabilities resulting from leprosy, and persons of short stature, and persons with other chronic diseases, following an assessment by medical personnel, where such assessment is undertaken voluntarily by the person with the chronic disease;" 3. To order the publication of this decision in the State Gazette of the Republic of Indonesia as appropriate; 4. To dismiss the remainder of the Petitioners' petition.
Date of Decision	:	Monday, March 2, 2026
Overview of Decision	:	

The Petitioners are individual Indonesian citizens suffering from chronic diseases of Thoracic Outlet Syndrome (TOS) and nerves/autoimmune Guillain-Barré Syndrome, Sjögren's Disease, and Inflammatory Bowel Disease.

With respect to the Courts authority, because Petitioners petition for a judicial review of the constitutionality of statutory norms, *in casu* Elucidation to Article 4 paragraph (1) letter a of Law 8/2016 against Article 28C paragraph (2), Article 28D paragraph (1), Article 28H paragraph (2) and Article 28I paragraph (2) of the 1945 Constitution of the Republic of Indonesia, the Court has the authority to hear the petition of the Petitioners.

With respect to the legal standing of the Petitioners, who essentially argue that the Elucidation to Article 4 paragraph (1) of Law 8/2016 does not recognize chronic illness as a disability, thereby resulting in factual losses in the form of difficulties in advocacy, access to services, and equal treatment before the law, the Court is of the opinion that the Petitioners have been able to describe the alleged losses of their constitutional rights specifically and actually, or at least potentially, as a result of the enactment of the norm for which they seek constitutional review. The Petitioners have also been able to demonstrate the existence of a causal relationship (*causal verband*) between the alleged loss of their constitutional rights and the enactment of the norm being petitioned for review, because the statutory norm for which review is sought directly or indirectly impairs the Petitioners' rights, in particular, the Elucidation to the article under review results in the Petitioners, as persons with chronic illnesses, not receiving equal treatment before the law compared to other persons with disabilities. As a consequence, the Petitioners experience difficulties in obtaining access to special services, including accessibility, reasonable accommodation, official registration, and protection from stigma. Accordingly, the Court is of the opinion that the Petitioners' explanation of the alleged loss of their constitutional rights demonstrates that the validity of the Elucidation affects not only the Petitioners themselves but also directly harms other persons suffering from chronic illnesses. Therefore, if the Petitioners' petition is granted, the specific and actual, or at least potential, alleged loss of constitutional rights will no longer occur or will not occur. Therefore, the Court is of the opinion that the Petitioners have the legal standing to act as Petitioners in the Petition *a quo*.

Whereas, in the principal petition, the Petitioners essentially argue that the Elucidation to Article 4 paragraph (1) letter a of Law 8/2016, which defines "persons with physical disabilities" solely as persons with "impaired motor function," adopts a narrow interpretation and results in legal uncertainty and discrimination against persons with chronic illnesses, who often experience limited energy, pain, or decreased organ function that is not always manifested as a mobility impairment. With respect to the said arguments, the Court is of the following opinion:

a. Whereas, according to the Court, the provisions regarding medical assessments in Article 4 paragraph (2) of Law 8/2016 constitute an important instrument for maintaining a balance between the protection of rights and legal certainty, as they are intended to ensure that recognition of a person's status as a person with a disability is based on an objective professional assessment of the degree of functional limitations experienced by that person, rather than solely on subjective claims. In addition, the assessment mechanism is not intended to restrict access to legal protection, but rather to assess the extent of limitations in a person's bodily functions, the support required, and the impact of the condition on the individual's ability to carry out daily activities. Therefore, in order to prevent the misuse of the legal status of persons with disabilities, which may result in injustice to individuals who genuinely require protection and support from the State, verification of a person's medical condition through a professional assessment for the purpose of determining disability status must be conducted fairly and in a manner that does not give rise to negative perceptions in society toward persons with disabilities, accordingly, the determination of disability status through the assessment mechanism

can serve as the basis for the fulfillment of the rights of the individual concerned. Meanwhile, according to the Court, the existence of the medical assessment mechanism ensures that the State provides protection to individuals who genuinely experience long-term functional impairments, while at the same time anticipating the possibility of misuse of disability status that could undermine the very purpose of such protection. This is consistent with the State's obligation to guarantee access to health and rehabilitation services for its citizens, as mandated by Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Accordingly, where a long-term medical condition has implications for the fulfillment of a person's social rights and has undergone a professional assessment mechanism as provided for by law, such condition may, as provided by the law, be included within the category of physical disability and must be afforded appropriate and proportionate legal protection, therefore, an interpretation of physical disability that is limited solely to impaired motor function would result in an undue narrowing of its legal meaning, which is inconsistent with the direction of national policy on the protection of the rights of persons with disabilities. Such policy is essentially intended to move away from the traditional approach, which tends to regard disability solely as an individual medical problem, and instead adopts a human rights-based approach that recognizes persons with disabilities as legal subjects entitled to participate fully in community life. Therefore, conditions involving an inability to move or movement disorders experienced by individuals who clearly suffer from serious (chronic) impairments in bodily functions will not be excluded from the scope of legal protection.

b. Whereas disability status cannot be treated as an obligation imposed on every individual who satisfies the relevant medical criteria, because, objectively, a person may be eligible to receive protection as a person with a disability, while, subjectively, that person retains the right to determine how such person is identified in the social and legal spheres. In other words, disability status must be regarded as a right that may be exercised (*right to claim*), rather than as a status that must be accepted (*duty to accept*). Therefore, the issue is not merely one of providing facilities for persons with chronic illnesses, but also of ensuring that the State continues to preserve the freedom of choice for such persons with respect to disability status. Accordingly, all legal consequences arising from the recognition or rejection of disability status in the context of chronic illness must rest entirely with the person with the chronic illness as the holder of legal rights. In this context, the State provides an objective medical assessment mechanism, access to rights, and protection against discrimination, but ultimately, the decision whether or not to identify oneself as a person with a disability is an expression of free will protected by the principle of human dignity, the law therefore does not treat persons with chronic illnesses as mere objects of public policy, but rather as legal subjects entitled to determine their own identity and life choices.

Pursuant to the above legal considerations, the Court is of the opinion that it has been established that the Elucidation to Article 4 paragraph (1) letter a of Law 8/2016 is contrary to the principles of fair legal certainty, equality before the law, and freedom from discriminatory treatment as guaranteed under Article 28D paragraph (1) and Article 28I paragraph (2) of the 1945 Constitution of the Republic of Indonesia, as argued by the Petitioners, and the Court renders the following decision:

1. To grant the Petitioners' petition in part;

2. To declare that the Elucidation to Article 4 paragraph (1) letter a of Law Number 8 of 2016 concerning Persons with Disabilities (State Gazette of the Republic of Indonesia of 2016 Number 69 and Supplement to the State Gazette of the Republic of Indonesia Number 5871) is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force conditionally if it is not interpreted as, "What is meant by Persons with Physical Disabilities is persons with impaired motor function, including

those with amputations, paralysis or stiffness, paraplegia, cerebral palsy (CP), disabilities resulting from stroke, disabilities resulting from leprosy, and persons of short stature, and persons with other chronic diseases, following an assessment by medical personnel, where such assessment is undertaken voluntarily by the person with the chronic disease;"

3. To order the publication of this decision in the State Gazette of the Republic of Indonesia as appropriate;

4. To dismiss the remainder of the Petitioners' petition.