



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 6/PUU-XX/2022**

Concerning

Presidential Candidate Threshold

- Petitioner** : Tamsil Linrung, et al
Type of Case : Examination of Law Number 7 of 2007 concerning General Election (Law 7/2007) against the 1945 Constitution of the Republic of Indonesia (UUD 1945)
Subject Matter : Article 222 of Law 7/2007 is in contrary to Article 1 paragraph (2), Article 1 paragraph (3), Article 6 paragraph (2), Article 6A paragraph (1), Article 6A paragraph (2), Article 6A paragraph (5), Article 22E paragraph (1), Article 22E paragraph (2), Article 22E paragraph (6), Article 27 paragraph (1), Article 28D paragraph (1), Article 28D paragraph (3), Article 28J paragraph (1), and Article 28J paragraph (2) of the 1945 Constitution.
Verdict : To declare that the Petitioners' petition is unjustifiable.
Date of Decision : Thursday, February 24, 2022.
Overview of Decision :

The Petitioners are individual Indonesian citizens who have the right to be elected and to vote in the general election, and to get as many choices of leaders as possible who will administer the government. In addition, the Petitioners also serve as Members of the Regional Representatives Council (*Dewan Perwakilan Daerah* or DPD) which have legislative and supervisory functions in each law. In carrying out their duties the Petitioners have accommodated the aspirations, inputs, and responses of the people in various regions which state that the presidential threshold requirement is in contrary to the principles of popular sovereignty, electoral justice, and the principles of democracy in Indonesia;

Regarding the authority of the Court, since the Petitioners petition for the review of the constitutionality of legal norms, *in casu* Article 222 of Law 7/2007 against the 1945 Constitution, the Court has the authority to hear the *a quo* petition;

Whereas regarding the legal standing of individual citizens in submitting the petition for a review of the provisions on the presidential candidate threshold *in casu* Article 222 of Law 7/2017, the Court has considered such matter in the Decision of the Constitutional Court Number 66/PUUXIX/2021 dated February 24, 2022 which in principal states that the Court has the precedent to give the legal standing to individual citizens who have the right to vote to examine the norms regarding the presidential candidate threshold. However, because there are differences in the mechanisms and systems used in determining the presidential candidate threshold in the 2014 General Election with the 2019 Election and the next General Election in 2024, there has been a shift as considered in the Constitutional Court Decision Number 74/PUU-XVIII/2020 whereas the parties who have the legal standing to submit the petition regarding the threshold requirements to nominate the Presidential and Vice Presidential candidates (presidential threshold) *in casu*, Article 222 of Law 7/2017 shall be a political party or coalition of political parties participating in the election;

Whereas there are 4 (four) Constitutional Justices who submitted dissenting opinions, namely Constitutional Justices Manahan M.P. Sitompul and Enny Nurbaningsih and Constitutional Justices Suhartoyo and Saldi Isra. In these dissenting opinions, which is fully contained in the Decision of the Constitutional Court Number 66/PUU-XIX/2021, the Constitutional Justice Manahan M.P. Sitompul and Enny Nurbaningsih are of the opinion that although the individual Petitioner has the legal standing to file a petition regarding the threshold requirement for the Presidential and Vice-Presidential candidates, the subject matter of the petition is legally unjustifiable, so that the Petitioner's petition is dismissed. Meanwhile, Constitutional Justice Suhartoyo and Saldi Isra are of the opinion that the individual Petitioner has a legal standing and the subject matter of the petition is legally justifiable, therefore the Petitioner's petition is granted.

Whereas based on the consideration of the Decision of the Constitutional Court Number 66/PUU- XIX/2021, in relation to the qualifications of the Petitioners as individual Indonesian citizens who have the right to vote, the Court is of the opinion that the Petitioners have known that the results of their voting right in the 2019 legislative election will also be used as part of the threshold requirements for the nomination of the presidential and vice presidential candidates in 2024 which can only be proposed by a political party or coalitions of political parties participating in the general election, so there is no constitutional losses on the side of the Petitioners. The issue of the number of pairs for the Presidential and Vice-Presidential candidates who will compete in the Presidential and Vice Presidential election does not correlate with the norms of Article 222 of Law 7/2017 because the *a quo* norms do not limit the number of pairs of Presidential and Vice Presidential candidates who are entitled to participate in the Presidential and Vice Presidential election. Likewise, regarding the qualifications of the Petitioners as members of the DPD, the Court did not find any constitutional loss on the side of the Petitioners and there were no causal relationship with the implementation of the duties and authorities of the Petitioners in absorbing the aspirations of the regional community, because the enforcement of the norms of Article 222 of Law 7/2017 does not reduce the opportunity for the best sons and daughters of the region to become the Presidential or Vice Presidential candidates as long as they fulfil the requirements and are proposed by a political party or coalition of political parties participating in the General Election. The Petitioners also do not meet the individual qualifications of citizens who have the right to be elected so that they have the legal standing to petition for the review of norms in Article 222 of Law 7/2017, because there is no evidence of support for the Petitioners to nominate themselves or to be nominated as Presidential and Vice Presidential candidates from a political party or coalition of political parties participating in the General Election or at least in submitting their petition together with the supporting political party.

Whereas based on the entire description of the aforementioned legal considerations, the Court is of the opinion that the Petitioners do not have the legal standing to file the *a quo* petition.

Accordingly, the Court subsequently issued a decision which verdict states that the Petitioners' petition is unjustifiable.