



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 7/PUU-XX/2022**

Concerning

Presidential Candidate Threshold

- Petitioner** : Ikhwan Mansyur Situmeang
Type of Case : Examination of Law Number 7 of 2017 concerning General Election (Law 7/2017) against the 1945 Constitution of the Republic of Indonesia (UUD 1945)
Subject Matter : Reviewing Article 222 of Law 7/2017 against the 1945 Constitution
Verdict : To declare that the Petitioner's petition is unjustifiable.
Date of Decision : Thursday, February 24, 2022
Overview of Decision :

The petitioner is an individual Indonesian citizen who works as a state civil apparatus (*Aparatur Sipil Negara* or ASN) in the Secretariat of the Regional Representative Council (*Dewan Perwakilan Daerah* or DPD) of the Republic of Indonesia who argues that he has the constitutional right to vote and be a candidate in the Presidential and Vice-Presidential General Election as regulated in Article 6A paragraph (2) of the 1945 Constitution.

Regarding the authority of the Court, because of the Petitioner petition for the Judicial Review of Law Number 7 of 2017 concerning General Election against the 1945 Constitution, the Court has the authority to hear the *a quo* petition;

Regarding the legal standing of an individual citizen 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/PUU-XIX/2021 dated February 24, 2022, which in principal states that the party with legal standing to petition for a review of Article 222 of Law 7/2017 is a political party or coalition of political parties participating in the General Election. Meanwhile, individual citizens who have the right to be candidates may be deemed to have their constitutional rights being prejudiced as long as they can prove that they are supported by a political party or coalition of political parties participating in the general election to nominate themselves as pairs of candidates for President and Vice President or to submit their petition together with the supporting political party.

Whereas in the decision there are 4 (four) Constitutional Justices who submitted dissenting opinions, namely Constitutional Justice Manahan M.P. Sitompul and Constitutional Justice Enny Nurbaningsih and Constitutional Justice Suhartoyo and Constitutional Justice 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 Constitutional Justice 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 Constitutional Justice 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 Petitioner, as an individual Indonesian citizen who has the right to vote, the Court is of the opinion that the Petitioner has known that the result of his 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 loss on the side of the Petitioner. 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. Therefore, in addition to the Petitioner not having a constitutional loss with the promulgation of the norms of Article 222 of Law 7/2017, there is also no causal relationship between the *a quo* norms and the constitutional rights of the Petitioner as a voter in the election.

Moreover, the Court is of the opinion that regarding the description of the alleged loss of his constitutional rights, the Petitioner apparently has not been able to specifically describe the causal relationship (*causal verband*) between the promulgation of the article petitioned for review which is deemed shall prejudice the constitutional rights of the Petitioner as an Indonesian citizen, *in casu* ASN that are specifically or actually or at least potential due to the promulgation of Article 222 of Law 7/2017. Moreover, the Court cannot believe that the Petitioner has actually or potentially suffered a constitutional loss due to the promulgation of the *a quo* article because the Petitioner did not submit any other evidence in relation to being supported for or being nominated as Presidential or Vice Presidential candidate from a political party or coalition of political parties and there is no evidence in relation to the candidacy requirement. Therefore, the Court is of the opinion that there is no constitutional loss as referred to by the Petitioner, if the Petitioner is supported by a political party or coalition of political parties to nominate himself as Presidential and Vice-Presidential candidate, the Petitioner should show the evidence of such support to the Court.

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