



CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION
FOR CASE NUMBER 13/PUU-XX/2022

Concerning

Presidential Candidate Threshold

Petitioner	: Syafriil Sjofyan, et al
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	: Article 222 of Law 7/2017 is in contrary to Article 6 paragraph (2), Article 6A paragraph (2) of the 1945 Constitution.
Verdict	: To declare that the Petitioners' petition is unjustifiable.
Date of Decision	: Wednesday, April 20, 2022.
Overview of Decision :	

Petitioner I is an individual Indonesian citizen, who works as an entrepreneur, who exercises his right to vote in the 2014 and 2019 Presidential Elections. Petitioner II is an individual Indonesian citizen, who exercised his right to vote in the 2014 and 2019 Presidential Elections. Petitioner III is an individual Indonesian citizen, who exercises his right to vote in the General Election. Petitioner IV is an individual Indonesian citizen, who works as a housewife with an undergraduate education background in the Faculty of Law, who exercises her right to vote in the Presidential Election. Petitioner V is an individual Indonesian citizen, who works as a housewife and is active in the religious study (*pengajian*) group, who exercised his right to vote in the 2014 and 2019 presidential elections. Whereas Petitioner VI is an individual Indonesian citizen, who works as a housewife, and as an environment activist with a religious education background, who exercises her right to vote in the 2014 and 2019 Presidential Elections. Petitioner VII is an individual Indonesian citizen, as a millennial who exercise his right to vote in the 2014 and 2019 presidential elections. The Petitioners deemed that their constitutional rights have been prejudiced due to the promulgation of a *quo* Article which limits the number of presidential pairs so that it harms the constitutional rights of the voting community to choose a relatively good pair of presidential candidates, thereby harming the future welfare of the Petitioners as the voting public;

Regarding the authority of the Court, since the Petitioners petition for a review the constitutionality of the norms of the Law, *in casu* Law 7/2017 against the 1945 Constitution, therefore 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 Judicial Powers Law, the Court has the authority to hear the a *quo* petition;

Whereas regarding the legal standing of the Petitioners, in relation to the qualifications of the Petitioners as individual Indonesian citizens who have the right to petition for the constitutionality review of Article 222 of Law 7/2017, by referring to the Court's considerations in the Decision of the Constitutional Court Number 74/PUU-XVIII/2020, dated January 14, 2021 which was subsequently reaffirmed in the Decision of the Constitutional Court Number 66/PUU-XIX/2021, dated February 24, 2022 and Decision Number 8/PUU-XX/2022, dated March 29, 2022, which in principal states as follows:

“**[3.6.2]** ... it is clear 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 and Vice-Presidential candidate threshold. However, because there are differences in the mechanisms and systems used in determining the Presidential and Vice 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;

[3.6.3] Whereas a political party or coalition of political parties participating in the General Election that have constitutional rights to petition for a review of Article 222 of Law 7/2017 is in line with the constitutional mandate, namely Article 6A paragraph (2) of the 1945 Constitution which determines that the nomination of Presidential and Vice-Presidential candidates shall be determined by a political party or coalition of political parties, not by individuals. This is also in line with Article 8 paragraph (3) of the 1945 Constitution which explicitly stipulates that only a political party or coalitions of political parties whose candidates for President and Vice President received the first and second most votes in the previous general election may nominate two pairs of candidates for President and Vice President to be elected by the People's Consultative Assembly (*Majelis Permusyawaratan Rakyat*), if the President and the Vice President pass away, resign, dismissed, or unable to perform their obligations during their term of office simultaneously. The constitutional provisions further emphasize that the Court that the party with the legal standing to petition for the constitutionality review of Article 222 of Law 7/2017 is a political party or coalition of political parties participating in the General Election, not an individual citizen who has the right to vote.”

Furthermore, the Court is of the opinion that regarding the assumption that there is a loss of constitutional rights experienced by the individuals who have the right to vote in elections, there are rules of the game related to the threshold requirements on the nomination of Presidential and Vice Presidential candidates as stipulated in Article 222 of Law 7/2017 for which the Petitioners have petition for a constitutional review, the rules has been enforced before the 2019 general election, in which the Petitioners also have the right to vote and have known that the result of their voting right in the 2019 legislative election will also be used as part of the threshold requirements for the upcoming nomination of the presidential and vice presidential candidates in the 2024.

In addition, regarding the assumption that the Petitioners' constitutional rights have been prejudiced due to the obstruction of their right to vote, the Court is of the opinion that Article 222 of Law 7/2017 does not limit the number of pairs of Presidential and Vice-Presidential candidates who are entitled to participate in the Presidential and Vice-Presidential election. Moreover, the norms proposed by the Petitioners do not prevent the Petitioners from freely voting for any pair of presidential and vice-presidential candidates who have met the requirements. Therefore, according to the Court, the Petitioners do not have the legal standing to file the *a quo* petition.

Whereas in relation to the legal considerations that are used as the basis for the Decision of the Constitutional Court Number 66/PUU-XIX/2021, Constitutional Justice Enny Nurbaningsih and Constitutional Justice Manahan M.P. Sitompul is of the opinion that in reviewing the constitutionality of Article 222 of Law 7/2017, the individual Petitioners as long as they can explain or describe that they have the right to vote, they have the legal standing to file the petition. In the subject matter of the petition, the norm of Article 222 of Law 7/2017 is constitutional and it relates to the percentage limit specified in the *a quo* norm which is an open legal policy for the legislators, therefore the Petitioner's petition is dismissed.

Meanwhile, Constitutional Justice Suhartoyo and Constitutional Justice Saldi Isra are of the opinion that the individual Petitioners as long as they could explain or describe that they have the right to vote, they have the legal standing to file the petition for a constitutional review of Article 222 of Law 7/2017, also in the subject matter of the petition, they are of the opinion that the norm of Article 222 of Law 7/2017 is unconstitutional and the Court should have granted the petition of the Petitioners as declared in the previous decisions.

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