



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 35/PUU-XX/2022**

**Concerning**

**Simultaneous General Election Implementation Method**

- Petitioner** : **Partai Gelombang Rakyat Indonesia (Partai Gelora Indonesia) as represented by H.M. Anis Matta as the General Chairman of Partai Gelora Indonesia and Mahfuz Sidik as the Secretary General of Partai Gelora Indonesia.**
- 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 167 paragraph (3) and Article 347 paragraph (1) of Law 7/2017 are in contrary to Article 28C paragraph (2) and Article 28D paragraph (1) of the 1945 Constitution.
- Verdict** : To dismiss the Petitioner's petition in its entirety.
- Date of Decision** : Thursday, July 7, 2022.
- Overview of Decision** :

The Petitioner is a legal entity, namely a political party based on the Deed of Establishment of Partai Gelora Indonesia Number 15, dated November 11, 2019, which has been approved as a legal entity based on the Decree of the Minister of Law and Human Rights Number M.HH-11.AH.11.01 of 2020 concerning Ratification of the Legal Entity of Partai Gelombang Rakyat Indonesia, dated May 19, 2020;

Regarding the authority of the Court, since the Petitioner petition for an examination of the constitutionality of the norms of the Law, *in casu* Law Number 7 of 2017 concerning General Election (Law 7/2017) against the 1945 Constitution, then 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 Power Law, the Court has the authority to hear the *a quo* petition;

Whereas regarding the legal standing of the Petitioner, although the Petitioner is not yet a political party participating in the election, as a legal entity, Partai Gelora Indonesia has been registered with the Ministry of Law and Human Rights by a Decree of the Minister of Law and Human Rights of the Republic of Indonesia and based on Article 48 of Articles of Association of Partai Gelora Indonesia, the General Chairman and the General Secretary as representatives of the party's legal entity can act directly, or give the power to the party structure and/or legal counsel to represent the party inside and outside of the court. Therefore, the Petitioner has clearly described and is able to explain its qualifications as a legal entity of a political party. In such qualifications, the Petitioner has also specifically explained its constitutional rights which in its opinion is potentially prejudiced, with the promulgation of the norms requested for review, namely the collective rights to build the society, nation and state, as well as to obtain recognition, guarantees, protection, and fair legal certainty and equal treatment before the law, especially in carrying out its functions as a

political party. Therefore, it appears that there is a causal relationship between the Petitioner's assumption regarding the potential loss of its constitutional rights and the promulgation of the legal norms petitioned for a review, so that if the petition is granted, the potential loss as referred to shall not occur. Therefore, regardless of whether or not the Petitioner's argument is proven regarding the unconstitutionality of the legal norms for which constitutional review is petitioned, based on these considerations the Court is of the opinion that the Petitioner has the legal standing to act as the Petitioner in the *a quo* petition;

Whereas the Petitioners in principal states that the provisions of the phrase "simultaneously" in Article 167 paragraph (3) and Article 347 paragraph (1) of Law 7/2017 are in contrary to the 1945 Constitution. The *Ad Hoc* Committee I (*Panitia Ad Hoc* or PAH I) of the Working Body of the MPR RI has never made a joint decision in terms of determining the simultaneous elections, so the original intent to use this method by the Court to determine the simultaneous election has no historical basis. Therefore, for the implementation of the 2024 General Election, general elections to elect members of the DPR, DPD, DPRD can be held earlier than the presidential and vice-presidential elections. Because this model in principal can still be called a simultaneous election based on the year of implementation, and not on the day of implementation, as the Simultaneous Election model which is still declared constitutional by the Court in Decision Number 55/PUU-XVII/2019, dated February 26, 2020. If simultaneous elections are to be held on the same day, the political parties participating in the 2024 General Election cannot nominate their pairs of presidential and vice-presidential candidates, because the votes and seats obtained from the political parties participating in the 2024 elections are not yet known, while to propose the pairs of presidential and vice-presidential candidates, the political parties must pass the presidential threshold requirement;

Whereas because of the *a quo* petition is clear, then by considering the Article 54 of the Constitutional Court Law, the Court is of the opinion that there is no urgency and relevance to hear the statements of the parties as referred to in Article 54 of such Constitutional Court Law;

Whereas the provisions of Article 167 paragraph (3) and Article 347 paragraph (1) of Law 7/2017 have been previously proposed and have been decided in the Decisions of the Constitutional Court Number 37/PUU-XVII/2019, Number 55/PUU-XVII/2019, and Number 16/PUU-XIX/2021. The Court is of the opinion that there are differences in the basis for examination as well as constitutional reasons in the petition for Case Number 37/PUU-XVII/2019, Number 55/PUU-XVII/2019, and Number 16/PUU-XIX/2021 with the basis for examination as well as constitutional reasons for the *a quo* petition. In the *a quo* case, one of the arguments uses the basis for the examination of Article 28D paragraph (1) of the 1945 Constitution which was not used as a basis for examining the Cases Number 37/PUU-XVII/2019, Number 55/PUU-XVII/2019, and Number 16/PUU-XIX/2021. Meanwhile, the reason for the review of "the holding of the 2024 simultaneous General Elections held on the same day has prevented the Petitioner from nominating its President and Vice President candidates" has not been used in the three *a quo* petitions. Therefore, regardless of whether the Petitioners' petition is legally justifiable or not, based on the provisions of Article 60 paragraph (2) of the Constitutional Court Law and Article 78 paragraph (2) of PMK 2/2021, the *a quo* petition can be resubmitted;

Whereas regarding the election of the members of DPR, DPD, and DPRD as well as the election of the President and Vice President, the Court needs to reaffirm its development since the general election for President and Vice President was held directly based on the provisions of Article 6A paragraph (1) of the 1945 Constitution due to the constitutional reforms (1999-2002) which was completed in 2002, the mandate of Article 6A paragraph (1) of the 1945 Constitution was implemented in the 2004 General Election. In practice, the elections for the members of DPR, DPD, and DPRD are held separately from the presidential and vice-presidential elections. At that time, the elections for the members of DPR, DPD, and DPRD were held earlier than the President and Vice President elections.

After the 2004 General Election, the Election for the members of DPR, DPD, and DPRD was held at a separate time from the Election for the President and Vice President. Such matter was being disputed or being constitutionality tested before the Court through Case Number 51-52-59/PUU-VI/2008. After the case was examined, through the Decision of the Constitutional Court Number 51-52-59/PUU-VI/2008 dated February 18, 2009, the Court in principal stated that the election for the members of the representative institutions (members of the DPR, DPD, and DPRD) was held before the presidential and vice-presidential election as something constitutional. Due to the Court's legal considerations in the Constitutional Court Decision Number 51-52-59/PUU-VI/2008, the 2009 and 2014 elections were still held in the same method as the 2004 elections, namely the elections for the members of DPR, DPD, and DPRD were held earlier than the Presidential and Vice-Presidential elections.

In the further developments, although the 2014 elections are held separately between the elections for the members of DPR, DPD, and DPRD and the elections for the President and Vice President, some time before the 2014 elections, through the Decision of the Constitutional Court Number 14/PUU-XI/2013 dated January 23, 2014, the Court shifted its stance in the Decision of the Constitutional Court Number 51-52-59/PUU-VI/2008. In principal, the Court stated that the holding of the election for the members of DPR, DPD and DPRD that was separate (not simultaneously) with the holding of the election for the President and Vice President is not in line with constitutional principles. Therefore, the holding of separate elections was declared unconstitutional. However, even though the implementation of separate elections is declared unconstitutional, in fact the Decision of the Constitutional Court Number 14/PUU-XI/2013 was declared close to the voting stage for the 2014 Election for the members of DPR, DPD, and DPRD, so that the Court considered and declared that the holding of the simultaneous General Election shall only be implemented in the 2019 Election.

Then, after various experiences in holding the 2019 Simultaneous Elections, the Court remains with its stance that the simultaneous implementation of the elections for the members of DPR, DPD, and DPRD and the elections for the President and Vice President is constitutional by providing several alternative models for the implementation of simultaneous elections as set out in the legal considerations of the Decision of the Constitutional Court Number 55/PUU-XVII/2019;

Based on the aforementioned descriptions, although the Court provides several alternatives for the implementation of the simultaneous General Election models, however, the choice of the Simultaneous Election implementation model must still maintain the simultaneous nature of the General Election for the members of DPR and DPD and the President and Vice President. The attitude and stance of the Court has been based on the original intent of the 1945 Constitution, the doctrine and practice are based on the argument that simultaneous elections for the members of the people's representative institutions at the central level and the elections for the president and vice president are a logical consequence of efforts to strengthen the presidential government system. This means that although it is possible for it to shift its stance, so far the Court has not had a strong reason to shift its position as stated in the Decision of the Constitutional Court Number 55/PUU-XVII/2019. Moreover, the Petitioner's wishes to "separate the time for the holding of the General Elections for the members of DPR, DPD, and DPRD from the General Elections for the President and Vice President, both to not be carried out on the same day but in the same year, the elections for the members of DPR, DPD, and DPRD shall be held earlier than the elections for the President and Vice President" is tantamount to returning to the model of organizing the 2004 General Election, 2009 Election, and 2014 Election which have been firmly assessed and declared as unconstitutional by the Court. In fact, this attitude has been reaffirmed by the Court in the Decision of the Constitutional Court Number 16/PUU-XIX/2021 which was declared in a trial open to the public on November 24, 2021. Therefore, there is no legal reason and fundamentally different conditions for the Court to shift its stance regarding

the subject matter in relation to the phrase "simultaneously" so that the norms of Article 167 paragraph (3) and Article 347 paragraph (1) of Law 7/2017 must be still declared as constitutional;

Based on all the aforementioned considerations, the Petitioner's petition is legally unjustifiable. Therefore, the Court issued a decision which verdict state that the Petitioner's petition is entirely dismissed.