**CONSTITUTIONAL COURT**
**OF THE REPUBLIC OF INDONESIA**

# SUMMARY OF DECISION FOR CASE NUMBER 66/PUU-XIX/2021

## Concerning

## Presidential Threshold

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| **Petitioner** | : **Ferry Joko Yuliantono** |
| **Type of Case** | : Examination of Law Number 7 of 2017 concerning General Elections (Law 7/2017) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution) |
| **Subject Matter** | : Examination of Article 222 of Law 7/2017 against Article 6 paragraph (2), Article 6A paragraph (3), Article 6A paragraph (4), Article 6A paragraph (5), Article 22E paragraph (1), Article 28D paragraph (1), Article 28D paragraph (3), Article 28J paragraph (1), and Article 28J paragraph (2) of the 1945 Constitution and the 4th Paragraph of the Preamble to the 1945 Constitution |
| **Decision** | : To declare that the Petitioner's petition is not acceptable |
| **Judgment Date** | : Thursday, February 24th, 2022 |

**Overview of Decision:**

The Petitioner is an Indonesian citizen working as a private employee and is also the Deputy Chairperson of the Greater Indonesia Movement Party (Gerindra). The Petitioner believes that his constitutional rights have been impaired by the enactment of the provision of Article 222 of Law 7/2017 because the Presidential Threshold (PT) restricts everyone from nominating themselves as a Presidential Candidate and divides the society and besides, the provision limits the constitutional rights of the Petitioner to obtain alternative candidates for the President and the Vice President due to a high probability of a single candidate (one pair of candidates).

Whereas, in relation to the authority of the Constitutional Court (Court), since the matter requested for review is a law, in this case Law 7/2017, the Court has the jurisdiction to hear the petition in this case.

Whereas, after carefully examining the Petitioner's explanation of damages to his constitutional rights, the Court will further consider that with regard to his legal position as an Indonesian citizen who has the right to vote, the Court in the Decision Number 74/PUU-XVIII/2020 dated January 14th, 2021 confirmed that as essentially stipulated in paragraph [3.6], the Court has given legal standing to individual citizens who have the right to vote to examine norms with regard to the threshold for the nomination of the President and the Vice President. However, due to differences in the mechanisms and systems used in determining the threshold for the nomination of the president and the vice president between the 2014 election and the 2019 election and the next election in 2024, a modification as considered in the Constitutional Court's Decision Number 74/PUU-XVIII/2020 occurred, namely that the parties who have the legal standing to file petitions regarding the threshold requirements for

proposing the candidates for the President and the Vice President (presidential threshold), in this case Article 222 of Law 7/2017, are political parties or coalition of political parties participating in the election.

Political parties or coalitions of political parties participating in the General Election have suffered damages to their constitutional right to apply for a review of Article 222 of Law 7/2017 in accordance with the constitutional mandate, namely Article 6A paragraph (2) of the 1945 Constitution which stipulates the nomination of candidates for the President and the Vice President determined by political parties or a combination of political parties instead of individuals. This is also aligned with Article 8 paragraph (3) of the 1945 Constitution which explicitly stipulates that only political parties or coalitions of political parties whose candidates for the President and the Vice President have been voted with the highest and the second highest votes in the previous general election may nominate the candidates for the President and the Vice President to be elected by the People's Consultative Assembly, if the President and the Vice President die, quit, are dismissed, or are unable to perform their obligations during their term of office simultaneously. This constitutional provision gives further clarity to the Court that the parties having the legal standing to apply for a constitutional review of Article 222 of Law 7/2017 are political parties or a coalition of political parties participating in the General Election instead of an individual citizen who has the right to vote. Individual citizens who have the right to be elected are considered to have a constitutional right as long as they can prove that they are supported by a political party or a coalition of political parties participating in the General Election to nominate themselves or be nominated as a candidate for the President and the Vice President or they engage supporting political parties to jointly file the petition.

With regard to the damages to the Petitioner’s constitutional rights as a voter to obtain alternative candidates for the President and the Vice President, due to the high probability of participation by only a single candidate (one pair of candidates), according to the Court, this is unreasonable because the Petitioner has known that the outcome of their voting during the 2019 legislative elections will also become a part of the threshold requirements for the presidential nomination in the 2024 General Election which can only be raised by political parties or coalitions of political parties participating in the General Election and accordingly, no constitutional damages have been suffered by the Petitioner. The issue related to the number of presidential and vice-presidential candidates who will contest in the presidential and vice presidential elections does not correspond with the norms in Article 222 of Law 7/2017 because the norms do not limit the number of pairs of candidates for the President and the Vice President who are entitled to participate in the election of the President and the Vice President.

As for the Petitioner's position as the Deputy Chairperson of the Gerindra Party who has the right to be elected, the Petitioner in the preliminary trial on January 6th, 2022 declared himself not as a person representing the Gerindra Party so that he did not attach a letter of permission from the party [see the minutes of the trial dated January 6, 2022, p. 7]. Additionally, the Petitioner did not explain that he has received a support or was nominated as the President or the Vice President of the Gerindra Party or a coalition of parties and there was no evidence regarding the conditions for the candidacy. Therefore, according to the Court, there is no constitutional damage as claimed by the Petitioner and if the Petitioner is supported by the Gerindra Party or a combination of other parties to nominate themselves as the President and the Vice President, the Petitioner should have submitted evidence of that support to the Court. Therefore, the Petitioner does not have any legal standing to file the petition in this case.

Upon the consideration above, the Court subsequently issued a decision stating that the Petitioner's petition was unacceptable.

**DISSENTING OPINION**

In relation to the decision of the Constitutional Court in this case, four Constitutional Justices namely Constitutional Justice Manahan MP Sitompul, Constitutional Justice Enny Nurbaningsih, Constitutional Justice Suhartoyo, and Constitutional Justice Saldi Isra have dissenting opinions on the legal standing and the subject matter of the petition, which are essentially as follows:

With regard to the legal standing of the Petitioner, the four constitutional judges are of the same opinion, that is to say that basically, based on a careful review of the explanation and argumentation given by the Petitioner and upon several decisions of the Constitutional Court regarding the threshold for submitting candidates for the President and the Vice President as currently regulated in Article 222 of Law 7/ 2017 which has been decided on before, the Petitioner should be declared to have the legal standing to file the petition in this case. In explaining the satisfaction of the provisions of Article 51 paragraph (1) of the Constitutional Court Law and the requirements for constitutional damages as referred to in the Constitutional Court Decision Number 006/PUU-III/2005 in conjunction with the Decision of the Constitutional Court Number 11/PUU-V/2007, the Petitioner has also explained his qualifications as a petitioner and the requirements for constitutional damages which have been used as standard criteria in assessing the existence of the legal standing in filing the petition for the constitutional review over the legal norms and as one of the legal norms whose constitutionality is often reviewed by the Constitutional Court, the description about the damages to the Petitioner's constitutional rights is comparable with several petitions filed by citizens against the enactment of the norms in Article 222 of Law 7/2017. Such petitioners include the petitioners in the Case Number 59/PUU-XV/2017, the Case Number 72/PUU-XV/2017, and the Case Number 49/PUU-XVI/2018. The Petitioner uses the same ground as used by the petitioners in previous cases, namely as voters. For them, their voting rights as citizens became limited or the scope of contestation in the election of the President and the Vice President became reduced as long as the presidential threshold is maintained. Additionally, some of the petitioners in such petitions explicitly stated that the enactment of Article 222 of Law 7/2017 caused them to be prevented from obtaining a fair guarantee, protection, and legal certainty as argued by the Petitioner in the petition in this case. Since the description of the Petitioner's legal standing in various past decisions is aligned with the provisions of Article 51 paragraph (1) of the Constitutional Court Law, the Court has consistently stated that the Petitioner has the legal standing to act as the petitioner in the petition. With regard to the legal standing, the provisions of Article 6A paragraph (2) of the 1945 Constitution which states that the candidates for the President and the Vice President are nominated by political parties or a coalition of political parties participating in the general election prior to the implementation of the general election can become the basis for either actual or potential legal standing for political parties. Such a legal standing cannot be separated from the right to become a candidate. In the context of the legal standing, Article 6A paragraph (2) of the 1945 Constitution also sets forth: *the right to vote* for every citizen who has the right to vote in the election of the President and the Vice President. Based on a reasonable reasoning, this opinion cannot be separated from the nature of the normative construction of Article 6A paragraph (2) of the 1945 Constitution which places two interests simultaneously, namely the right to vote and the right to be candidate as a citizen's constitutional right which has been the spirit of the Constitutional Court's legal consideration in examining legal norms in respect of the general elections. Based on the arguments above, the Constitutional Court should have given the Petitioner a legal standing to file the petition in this case. By the granting of legal status to the Petitioner, the Constitutional Court should consider the main points of the Petitioner’s petition.

With regard to the subject of the petition, Constitutional Justice Manahan MP Sitompul and Constitutional Justice Enny Nurbaningsih argued essentially that in the Constitutional Court's Decision Number 53/PUU-XV/2017 regarding the constitutionality of Article 222 of Law 7/2017, the Court has comprehensively considered the constitutionality of the norms of Article 222 of Law 7/2017, including reaffirming its stance as stated in previous decisions, in particular the Constitutional Court's Decision Number 51-52-59/PUU-VI/2008, and all of these considerations have been reiterated in the Constitutional Court's Decision Number 49/PUU-XVI/2018, the Constitutional Court's Decision Number 50/PUU-XVI/2018, the Constitutional Court's Decision Number 54/PUU-XVI/2018, and the Constitutional Court's Decision Number 58 /PUU-XVI/2018. The Court stated that the threshold for the nomination of candidates for the President and the Vice President are constitutional and are considered as part of the legal policy of the legislators. In other words, the Court is of the opinion that relying on the requirement of a certain percentage of votes (seats) for political parties in the House of Representatives to be able to nominate the candidates for the President and the Vice President is not against the constitution. In respect of the presidential threshold or the minimum vote requirements for political parties (or coalitions of political parties) to be able to nominate the candidates for the President and the Vice President, according to the Court in previous decisions, it is not only intended to ensure that the candidates for the President and the Vice President obtain the strong legitimacy from the people but also to exercise an effective presidential system based on support from the House of Representatives. Furthermore, the Court has also stated that the presidential threshold is a legal policy so that it is the domain of the legislators to determine and/or change the amount of these requirements. Therefore, there are no fundamental reasons to be able to modify the Court's stance on the previous decisions. For these reasons, relying on the requirements for obtaining votes (seats) for political parties in the House of Representatives with a certain percentage to be able to nominate the candidates for the President and the Vice President as stipulated in the norm of Article 222 of Law 7/2017 is constitutional. Thus, the Petitioner has the legal standing to file the petition in this case. However, the argument of the Petitioner's petition has no legal basis and must be declared to be dismissed.

With regard to the main subject of the petition, Constitutional Justice Suhartoyo and Constitutional Justice Saldi Isra are of the opinion that, in essence, they still refer in part to the dissenting opinion in the Constitutional Court's Decision Number 53/PUU-XV/2017 with several adjustments, namely, among others, referring to the development of debates that have occurred since the changes in the implementation of the direct general election of the President and the Vice President by the people as mandated by Article 6A paragraph (1) of the 1945 Constitution, at least pros and cons that rest on the two most basic constitutional issues. *Firstly,* the general election of the president and the vice president is held separately from the general election of the legislatives. Meanwhile, Article 22E paragraph (1) of the 1945 Constitution explicitly states that the phrase "every five years" means that the legislative and presidential (and vice presidential) elections shall be held simultaneously or concurrently. *Secondly*, the threshold mechanism was introduced to be able to nominate the candidates for the President (and the Vice President) (presidential threshold) for political parties participating in the election with a certain percentage based on the outcome from the election of the legislatives. Referring back to the spirit of the Constitution, particularly Article 22E paragraph (2) of the 1945 Constitution, the presidential threshold issue is far from the spirit of Article 6A paragraph (2) of the 1945 Constitution. In this case, Article 6A paragraph (2) of the 1945 Constitution sets forth that all political parties that have been declared or designated as political parties participating in the general election in an election period shall have the right to nominate or propose candidates for the President (and the Vice President). In its position as a constitutional norm which expressly determines the subjects who have the

right to nominate candidates for the President (and the Vice President), further provisions (i.e. laws) governing the nomination may not reduce the rights of the subjects determined by the Constitution to have the right to nominate candidates for the President (and the Vice President) . On a literal basis, the constitutional rights of political parties participating in the election to nominate the candidates for the President (and the Vice President) are explicitly regulated in Article 6A paragraph (2) of the 1945 Constitution. In fact, based on the constitutional theory, it has become a general knowledge or understanding, in terms of the language of the constitution regulating explicitly or expressly *(expression verbis)* there is no gap to interpret differently from what is written in the text of the constitution. In this case, as an agency with a spirit to maintain and at the same time protect the constitutional rights of citizens (including the constitutional rights of political parties participating in the election), whenever legislators deviate from or modify the text of the constitution, it is the constitutional authority of the Constitutional Court to straighten and at the same time return it to the text of the constitution as it should be. Thus, it is difficult to accept any reasonable reasoning if the Court actually allows a policy which deviates from the constitutional norms upon the argumentation that it is an open legal policy of the legislators. Referring to the Constitutional Court's Decision Number 14/PUU-XI/2013, namely with the Presidential (and Vice-Presidential) election being held simultaneously with the legislative election, the threshold regime in the nomination of the President (and the Vice President) using the outcome from the election of members of the House of Representatives loses its relevance and maintaining it would mean to persist in maintaining something unconstitutional. In addition, taking into account the design of the government system, it uses the outcome from the election of legislative members as a requirement in filling the highest executive position *(*chief executive or the President) which clearly undermines the logic of the presidential system of the government. In a presidential system, through direct elections the people's mandate is given separately to each of the holder of the legislative powers and the holder of the executive powers (the President). Because they both come from direct elections, the mandate given to the holder of legislative powers is not necessarily the same, even a number of empirical facts have proven that it is often different from the mandate given to the holder of the executive powers. Using the outcome from the legislative elections to fill the position of the holder of the executive powers is a logic adopted in filling the position for the holder of the highest executive powers in the parliamentary system. That is to say that, using the logic of the governance system, maintaining the presidential threshold during the process of filling the highest executive position will clearly mean to impose part of the logic of filling executive positions in the parliamentary system into the presidential system. In fact, one of the central ideas behind the amendment to the 1945 Constitution is to purify the Indonesian presidential system of government. Another logic that is always being developed is that the threshold for nominating candidates for the President (and the Vice President) is needed to maintain the stability of the government in building relations with the legislatives. Supporters of this logic believe that if the President is supported by significant political parties in the legislatives, it will be easier to get the support in the legislatives. This view exists because the practice of presidential systems is characterized more by the basic problem about how to manage the relationship between the president and the holder of the legislative powers. It is commonly understood that, because they both obtain direct mandates from the people, the practice of the presidential system is often caught in the tension of the relationship between the executive and the legislatives. This practice often occurs if the power of the majority political

parties in the legislative body is different from the political party of (supporting) the President. Meanwhile, if the majority political party in the legislatives is the President's political party or the majority of the political parties in the legislatives support the President, the practice of the presidential system is easily trapped into an authoritarian government. It is understood from doctrines that the presidential system swings between two pendulums, on the one hand an unstable government while on the other hand it is easy to get caught up in the practice of authoritarian government. When associated with the phrase “previous elections for members of the House of Representatives” in Article 222 of Law 7/2017, a basic question should be raised: can this phrase be justified as an open legal policy? In several decisions of the Constitutional Court it is stated that an open legal policy can be nullified if it violates morality, rationality, and injustice that is intolerable. The meaning of morality in the formulation of legal norms can be traced with a very simple measuring tool, namely how large the conflict of the legislators' interests with the norm or the law is. How is it possible to assess the presence of the norm of Article 222 of Law 7/2017 if it was deliberately designed to benefit the political forces that made up the norm itself, and on the other hand it is a real harm to political forces that do not participate in formulating the norms of Article 222 of Law 7/2017. Meanwhile, rationality is using the basis of argumentation to find the truth. In this case, how is it possible to accept the rationale behind the drafting of the norms of Article 222 of Law 7/2017 when the outcome from the 2014 Legislative Election was utilized or used as a basis for nominating candidates for the President and the Vice President for the 2019 Election. It is not only that, but the implementation also clearly undermines the rationality and meaning of the people's sovereignty in the election. Similar to the intolerable injustice, while it is not necessary to explain about more philosophical and complicated theories, Article 222 of Law 7/2017 is clearly detrimental and very far from fair for political parties participating in the 2024 General Election which were not given the opportunity to nominate presidential (and vice-presidential) candidates because they did not have seats or votes in the 2019 Election. Using the outcome from the election of members of the House of Representatives in the previous election as the basis for determining the rights of political parties or coalitions of political parties to nominate the candidates for the President (and the Vice President) is unfair. This injustice is suffered by new political parties that were declared as participants in the 2024 General Election. In fact, when declared as a participant in the election, a new political party immediately lost its constitutional rights to nominate candidates for the President (and the Vice President). When the right to nominate candidates for the President (and the Vice President) is only granted to political parties that have obtained a certain number of seats in the previous election, the design of Article 222 of Law 7/2017 has clearly created injustice. In such a position, constitutionally, Article 6A paragraph (2) of the 1945 Constitution contains the meaning that political parties that have been declared as election participants may nominate presidential (and vice-presidential) candidates. With the formulation of Article 6A paragraph (2) of the 1945 Constitution, once it is declared that it meets the requirements as an election participant in every election, the political party in question also has constitutional rights to nominate candidates for the President (and the Vice President). With such understanding, the logical constitutional engineering that Article 6A paragraph (2) of the 1945 Constitution also has a mission to simplify political parties cannot be justified at all. If you want to simplify the number of political parties participating in the election, the engineering should be done during the process when they were about to obtain the status as legal entities and gain the status as election participants. Once a political party is declared as an election participant, the

discussion on simplification of political parties participating in the election loses its relevance. That is to say that, with the phrase "political parties or" in Article 6A paragraph (2) of the 1945 Constitution, all political parties declared to have passed as election participants may nominate the candidates for the President (and the Vice President) without being bound or complicated by the threshold regime. Meanwhile, with regard to concerns that there will be many candidates for the President (and the Vice President), this can be avoided by tightening the requirements for political parties to become election participants. If the tightening is done, the candidates for the President (and the Vice President) will not exceed the number of political parties participating in the election. Even if the number is the same as the number of political parties participating in the General Election, Article 6A paragraph (4) of the 1945 Constitution has anticipated the possibility of a second round of elections being held. Based on this meaning, the use of thresholds to nominate potential presidential and vice-presidential candidates has amputated one of the functions of political parties, namely providing and selecting candidates for future leaders. With the presidential threshold regime, the public does not have a broad opportunity to know and evaluate the candidates for the nation's leaders produced by political parties participating in the election. By opening up the opportunity for all political parties participating in the election to nominate the candidates for the President (and the Vice President), the public can see the availability of potential leaders for the future. In addition, the public is also provided with various choices for candidates for the highest ranks in the executive leadership. As important as that, considering the recent situation, especially after the 2019 Presidential (and Vice-Presidential) election, by removing the threshold there will be more potential presidential (and vice-presidential) candidates than in the 2019 election. With a larger and more diverse number of candidates, divisions and tensions that occur in the community can be reduced by the availability of many choices in the 2024 Presidential (and Vice-Presidential) Election. Above all, by holding the Presidential (and Vice-Presidential) election simultaneously with election for the House of Representatives, the legislators have lost the basis for the constitutional argument to continue maintaining the presidential threshold regime which has been implemented since the 2004 election. For the Constitutional Court itself, as an institution who was formed with the spirit to protect the constitutional rights of citizens, by combining the holding of the Presidential (and Vice-Presidential) election with the election for the legislative members, the Constitutional Court must also abandon the view that so far justifies the presidential threshold regime. In addition, the necessity to abolish the presidential threshold regime can also be based on the original intent behind Article 6A paragraph (2) of the 1945 Constitution. As a norm that regulates the process of candidacy for the President and the Vice President, the provisions of Article 6A paragraph (2) of the 1945 Constitution basically provide a space for all political parties participating in the election to take part in the nomination process. The limitation for political parties applies only on whether the political party is an election participant or not. This limitation has been very explicitly and clearly formulated in Article 6A paragraph (2) of the 1945 Constitution so that it does not give any room for the legislators to narrow it down and end up reducing the rights of political parties already designated as election participants to nominate candidates for the president and the vice president, either individually or jointly or in coalition with other political parties. Why is the room so wide? This is because the nomination of presidential and vice-presidential candidates by political parties participating in the election is nothing more than a door for the people to participate in determining the presidential and vice-presidential candidates through elections held

simultaneously with the elections for members of the House of Representatives and the Regional House of Representatives. If we trace further the minutes of the formation of Article 6A paragraph (2) of the 1945 Constitution, it can be found that the provisions of Article 6A paragraph (2) are basically the result of a compromise between a group that wants to nominate a presidential candidate and a vice president which was established by the People's Consultative Assembly with a group that did not agree with the determination of the candidates for the President and the Vice President by the People's Consultative Assembly. As a middle ground, the right to nominate candidates for the President and the Vice President is granted to political parties already designated as election participants. Henceforth, the candidates proposed by political parties will be confirmed to the people through the Presidential and Vice-Presidential Elections held simultaneously with the elections for members of the House of Representatives and the Regional House of Representatives. As a candidacy process, the granting of the right to nominate candidates for the President and the Vice President to political parties participating in the General Election is to recruit existing candidates, either from political parties or otherwise. The screening process for candidates nominated by political parties participating in the election will occur through the general election process for members of the House of Representatives which is held simultaneously with the election of the President and the Vice President. In this context, the existence of the candidacy process in Article 6A paragraph (2) of the 1945 Constitution has a systematic relationship with the provisions of Article 6A paragraph (3) of the 1945 Constitution which contains provisions related to the threshold for obtaining votes that must be reached in order to be nominated as candidates for the elected President and the Vice President. Based on the spirit of its formulation, Article 6A paragraph (3) of the 1945 Constitution is actually also part of the candidacy process. If there are no presidential and vice presidential candidates who reach the minimum threshold for obtaining votes in simultaneous elections, then the presidential and vice presidential candidates who get the highest and second highest votes will be designated as candidates for the president and the vice president who will contest in the general election of the President and the Vice President after the election for members of the House of Representatives and the Regional House of Representatives (now known as the second round of elections). However, the norm of Article 6A paragraph (3) of the 1945 Constitution also opens a room for an immediate designation of the elected presidential and vice-presidential candidates if there are presidential and vice presidential candidates who meet the voting threshold specified in the said norm. In this context, the norm of Article 6A paragraph (3) of the 1945 Constitution contains two aspects, namely the aspect of candidacy in relation to Article 6A paragraph (2) of the 1945 Constitution and the aspect of electability of candidates for the President and the Vice President with a predetermined voting threshold. By opening the room for every political party participating in the election to nominate candidates for the President and the Vice President, the first round of the Presidential and Vice-Presidential Election can also be seen as a candidacy process that involves the people directly. At this time, by holding the Presidential and Vice-Presidential Election simultaneously with the election of members of the House of Representatives and the Regional House of Representatives, it becomes clearer that the existence of Article 6A paragraph (2) of the 1945 Constitution in relation to Article 6A paragraph (3) of the 1945 Constitution indicates that the intended simultaneous election is part of candidates for the President and the Vice President by involving the people. This is because when voters choose a political party, the candidates nominated by that political

party will also be chosen by the people. The greater support for the party also means that the candidates for the President and the Vice President nominated by the political party in question are also accepted by the people. In this regard, if the simultaneous election is also intended to carry out the candidacy process, then limiting the rights of political parties participating in the election to nominate candidates for the President and the Vice President through the presidential threshold will also mean limiting the people's right to determine candidates for the President and the Vice President. In this context, the presidential threshold is not only contradictory with the provisions of Article 6A paragraph (2) of the 1945 Constitution but is also contradictory with the principle of popular sovereignty embedded in the 1945 Constitution. In addition, in the minutes of formulating the norms of Article 6A paragraph (2) of the 1945 Constitution, there was no discussion whatsoever about the presidential threshold to be imposed on political parties participating in the election. Even if there was a discussion about a threshold, it was only related to the threshold for political parties to be able to place their representatives in the legislatives (parliamentary threshold). The absence of such a discussion was due to the fact that the amendment to the 1945 Constitution did not have the spirit of setting limits for political parties participating in the general election to nominate candidates for the President and the Vice President. Rather, it was intended to determine who should be given the right to nominate candidates for the President and the Vice President. The will of the majority members of the People’s Consultative Assembly was reflected in the minutes of the amendment to the 1945 Constitution, namely to give the people rights to nominate the President and the Vice President with political parties as the intermediary. The people are given the right to determine candidates from those nominated by political parties. Therefore, the space for nominating candidates by political parties participating in the general election is opened as wide as possible by Article 6A paragraph (2) of the 1945 Constitution for all political parties participating in the general election. With the construction of the norms of Article 6A paragraph (2) of the 1945 Constitution, the application of the presidential threshold can be considered as an effort to eliminate the people's right to determine candidates for the President and the Vice President by fully surrendering these rights to a coalition of political parties that meet the presidential threshold. Based on the above way of thinking and considering the reasons for the constitutional review proposed by the Petitioner to declare that Article 222 of Law 7/2017 which stipulates as follows: "The candidates for the president and/or the vice president are nominated by political parties participating in the election that hold the required seats of at least 20 percent of the number of seats in the House of Representatives or obtain 25 percent of valid votes nationwide in the previous election for members of the House of Representatives” is unconstitutional and has no binding legal force as maintained by the Petitioner in the petition, it is legally justifiable and the Constitutional Court should have granted the petition in this case. The granting the Petitioner’s petition is essentially a real manifestation of the submission to the people's sovereignty as stipulated in Article 1 paragraph (2) of the 1945 Constitution.