



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 67/PUU-XIX/2021**

Concerning

Postponement of Regional Head Elections

- Petitioner** : **Bartholomew Mirip and Makbul Mubarak.**
- Type of Case** : Examination of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Laws (Law 10/2016) against 1945 Constitution of the Republic of Indonesia (UUD 1945).
- Subject Matter** : Article 201 paragraph (7) and paragraph (8) of Law 10/2016 are in contrary to Article 27 paragraph (1), Article 28D paragraph (1) and Article 28I paragraph (2) of the 1945 Constitution.
- Verdict** : To dismiss the Petitioners' petition in its entirety.
- Date of Decision** : Wednesday, April 20, 2022.
- Overview of Decision** :

The Petitioners are individual Indonesian citizens who have the right to vote and the right to be candidate for President and/or Vice President. Petitioner I has repeatedly exercised his voting rights in every general election and regional head election as well as being a Candidate for the Regent of Intan Jaya in the election of Regent and Vice Regent of Intan Jaya in 2017 and will re-run in the Regional Head Elections which should be held in 2022 but due to the provisions of Articles that are being petitioned for a review must wait for another 2 years. While Petitioner II has exercised his voting rights in the election of the Regent and Vice Regent of Tolitoli in 2015 and 2020 who feels that the vote and choice of Petitioner II is considered different by the state, because in the other regional heads and vice regional heads elections, especially those in the 2017 and the 2018 elections, the elected Regent and Vice Regent shall serve for 5 (five) years.

Regarding the authority of the Court, since the Petitioners petition for the examination of the constitutionality of the norms of the Law, *in casu* Article 201 paragraph (7) and paragraph (8) of Law 10/2016 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 Judiciary Power Law, the Court has the authority to hear the *a quo* application;

Regarding the legal standing of the Petitioners, the Court is of the opinion that the Petitioners have explained their constitutional rights which, according to the Petitioners, have been prejudiced by the promulgation of the norms of the law petitioned for review, namely Article 201 paragraph (7) and paragraph (8) of Law 10/2016. The assumption of the constitutional loss is specific and actual, as it has been experienced by Petitioner II who because of the results of his choice in the 2020 Regional Head Elections, has only served for 4 years, or at least potentially as Petitioner I who had to wait 7 years to re-run in the Intan Jaya Regional Head Elections because of the postponement of the 2022 Regional Head

Elections. Therefore, if the Petitioners' petition is granted, the assumption of loss as experienced by the Petitioners in particular as voters will not or will no longer occur. Therefore, regardless of whether or not there is evidence of the norms being petitioned for review is unconstitutional, the Court is of the opinion that the Petitioners have the legal standing to file the *a quo* petition.

Whereas because of the *a quo* petition is clear, the Court is of the opinion that there is no urgency and relevance in requesting information from the parties as stipulated in Article 54 of the Constitutional Court Law.

In the subject matter of the petition, regarding the Petitioners' argument which states that the norms of Article 201 paragraph (7) and paragraph (8) of Law 10/2016 are in contrary to the 1945 Constitution because they have prevented the Petitioners from exercising their right to vote and to be candidate regularly and in accordance with the election schedule every 5 (five) years, the Court is of the opinion that the delays in fulfilling the citizens' right to vote and the right to be candidate in some Regional Head Elections in the context of implementing simultaneous Regional Head Elections nationally in 2024, it is still within the framework of limiting the constitutional rights of citizens as stipulated in Article 28J paragraph (2) of the 1945 Constitution. Moreover, every citizen who has fulfilled the requirements to take part in the Regional Head Elections, either as a voter or as a candidate for regional head or vice regional head, will still have his constitutional rights accommodated in the upcoming 2024 simultaneous Regional Head Elections.

Furthermore, regarding the Petitioners' argument which states that the norms of Article 201 paragraph (7) and paragraph (8) of Law 10/2016 are in contrary to the 1945 Constitution because the regulated election administration design is not in accordance with the decision of the Constitutional Court and according to reasonable reasoning, it makes the Petitioners not getting quality elections, the Court is of the opinion that the design of the national simultaneous general elections chosen by the legislators in 2024 is a simultaneous elections in 2 (two) stages, namely: (i) simultaneous general elections to elect the Members of DPR, DPD, President/Vice President, and the Members of DPRD and (ii) sometime after that simultaneous Regional Head Elections shall be held nationally, including in the category of election model choice as stated in the Decision of the Constitutional Court Number 55/PUU-XVII/ 2019, namely "Other options as long as they maintain the simultaneous nature of the general elections to elect the members of DPR, DPD, and the President/Vice President", therefore, the simultaneous choice is in line with the Decision of the Constitutional Court and certainly is not in contrary with the 1945 Constitution.

Furthermore, regarding the argument of the Petitioners which states that the norms of Article 201 paragraph (7) and paragraph (8) of Law 10/2016 are in contrary to the 1945 Constitution because the postponement of the election time has caused the position of regional head to be vacant and filled by an official who does not have political legitimacy to lead a region, the Court is of the opinion that filling the vacant regional head positions is a necessity in order to ensure the continued fulfilment of public services and the achievement of community welfare in the regions. Precisely with the filling of the vacant regional head position, the rights of citizens to obtain public services will still be accommodated and political stability and regional security will still be maintained.

Based on all these considerations, the Court is of the opinion that the norms of Article 201 paragraph (7) and paragraph (8) of Law 10/2016 have proven to provide legal certainty, are not discriminatory and are not in contrary to the decision of the Constitutional Court. Therefore, the Petitioners' petition is entirely legally unjustifiable.

Accordingly, the Court subsequently issued a decision which verdict state that the Petitioners' petition is entirely dismissed.