



**THE CONSTITUTIONAL COURT
REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
ON CASE NUMBER 74/PUU-XVIII/2020**

**Concerning
Threshold Requirements for Nominating Pairs of Candidates for President and Vice
President**

- Petitioner** : **Rizal Ramli and Abdulrachim Kresno**
- Case** : Review of Law Number 7 of 2017 concerning General Election (Law 7/2017) against the 1945 Constitution of the Republic of Indonesia (UUD 1945).
- Case of Lawsuit** : Article 222 of Law 7/2017 contradicts Article 6 paragraph (2), Article 6A paragraph (2), paragraph (3), paragraph (4), and paragraph (5), Article 22E paragraph (1), Article 28C paragraph (2), Article 28D paragraph (1) and paragraph (3), and Article 28J paragraph (1) and paragraph (2) of the 1945 Constitution.
- Injunction** : Declare the petition of the Petitioners cannot be accepted.
- Date of Decision** : Thursday, January 14, 2021.
- Decision overview** :

Petitioner I is an individual Indonesian citizen who has received public support from several political parties to nominate himself as a presidential candidate. Petitioner II is an individual Indonesian citizen who is registered as a voter in the general election who has the right to vote. The Petitioners are constitutionally disadvantaged due to the obstruction of the Petitioners' desire to either run for the presidential election or get as many votes as possible in the presidential and vice-presidential election;

In relation to the authority of the Court, because the Petitioners' petition is a petition to review the constitutionality of the norms of the Law, in casu of the Law Number 7 of 2017 concerning General Elections (Law 7/2017) against the 1945 Constitution, 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 Law on Judicial Power, the Court has the authority to adjudicate the Petitioners' a quo petition;

Whereas in relation to the legal standing of the Petitioners, according to the Court, the norm of Article 222 of Law 7/2017 relates to the provisions on the threshold for the presidential nomination. The Petitioners relate this to the description of the Petitioners' legal position as individual citizens who have constitutional rights to obtain fair legal certainty and equal treatment before the law. Based on the provisions of Article 6A paragraph (2) of the 1945 Constitution, pairs of candidates for President and Vice President can only be proposed by a political party or coalition of political parties participating in the General Election prior to the implementation of the general election, so that the nomination of a pair of candidates is not determined by the will of an individual but is determined by a political party or coalition of political parties. Thus, according to Article 6A paragraph (2) of the 1945 Constitution which is then elaborated with the provisions of Article

222 of Law 7/2017, those who have the right to constitutional loss according to the petition submitted by the Petitioners are political parties or a combination of political parties.

Whereas the political party in question is based on the interpretation of Article 1 point 1 of Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties (Law 2/2011) and must meet the requirements specified in Article 3 of Law 2/2011 cumulatively, and the verification requirements in Article 173 paragraph (1) and paragraph (2) of Law 7/2017, which are subsequently determined as election participants by the General Elections Commission (KPU). Therefore, legal subjects who have the constitutional right to nominate candidates for president and vice president and thus have the legal standing to apply for norms that are petitioned for review by the Petitioners are political parties or coalitions of political parties participating in the election.

Whereas in relation to the qualifications of Petitioner I, the argument that Petitioner I had several times received public support from a number of political parties to run as a presidential candidate and was asked to pay a sum of money has no evidence that can convince the Court. If Petitioner I is indeed supported by a political party or coalition of political parties participating in the election, Petitioner I should show evidence of that support to the Court or include a supporting political party to file a petition together with Petitioner I. In relation to the argument for potential losses that occur when declaring himself in the presidential and vice-presidential election by paying a certain amount of money to particular political parties, this is an irrelevant issue and is not supported by evidence that can convince the Court. Therefore, the Court is of the opinion that Petitioner I does not have the legal standing to file the a quo petition.

Whereas in relation to the qualifications of Petitioner II, Petitioner II does not have a constitutional disadvantage because when using his right to vote in the 2019 legislative elections,

it is considered to have known that the results of the Petitioner's voting rights will also be used as part of the threshold requirements for proposing pairs of presidential and vice-presidential candidates by political parties or coalitions of political parties in the 2024 simultaneous general elections. In relation to Petitioner II's perceived loss that there is a potential in the provisions of the a quo norm that causes Petitioner II to not have the freedom to choose many pairs of candidates for President and Vice President, it is unreasonable because the norm does not limit the number of pairs of candidates who are entitled to participate in the presidential and vice-presidential elections. Therefore, the assumption of potential loss described by Petitioner II is not related to the issue of the constitutionality of the a quo norm, thus the Court is of the opinion that Petitioner II does not have the legal standing to file the a quo petition.

Based on all of the above considerations, according to the Court, the Petitioners do not have the legal standing to file the a quo petition and the subject of the petition of the Petitioners is not considered;

Therefore, the Court issued a decision stating that the Petitioners' petition cannot be accepted.

Dissenting Opinion

In relation to the a quo Court decision, four judges, consisting of Constitutional Justice Suhartoyo, Constitutional Justice Manahan M.P. Sitompul, Constitutional Justice Saldi Isra, and Constitutional Justice Enny Nurbaningsih have a dissenting opinion regarding the legal standing of Petitioner II. Based on the explanations and arguments of the Petitioners and several decisions of the Constitutional Court concerning the threshold for submitting presidential and vice-presidential candidates as stipulated in Article 6A paragraph (2) of the 1945 Constitution which had previously been decided, Petitioner II should have been specifically declared to have legal

standing to file the a quo petition because Petitioner II has explained the assumption that his constitutional rights have been impaired by the enactment of Article 222 of Law 7/2017.

In relation to legal status, Article 6A paragraph (2) of the 1945 Constitution also contains the right to vote for every citizen who has the right to vote in the contestation of the presidential and vice-presidential elections. Within the limits of 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, including the right to vote and right to be candidate as constitutional rights of citizens that have been the spirit of the legal considerations of the Constitutional Court in testing legal norms in the realm of general elections.

Whereas based on the above arguments, in order to protect the constitutional rights of citizens, we are of the opinion that there is no fundamental reason to state that Petitioner II has no legal standing to file the a quo petition. Therefore, the Constitutional Court should provide legal standing for Petitioner II to file the a quo petition. With the granting of legal status to Petitioner II, the Constitutional Court should consider the main points of the petition filed by Petitioner II.