



CONSTITUTIONAL COURT

REPUBLIC OF INDONESIA

SUMMARY OF DECISION

CASE NUMBER 24/PUU-XVIII/2020

concerning

Immunity of State Financial Policies in Government Regulations in Lieu of Law for Handling Corona Virus Disease 2019 (Covid-19)

Petitioner : The Association of the Indonesian Anti-Corruption Society (MAKI), the Mega Bintang Solo Indonesia Foundation 1997, the Indonesian Justice Servant Community Harmony Institute (KEMAKI), the Indonesian Law Enforcement and Supervision Agency (LP3HI), and the Justice Concerned Legal Aid Association (PEKA).

Case : Review of Article 27 of Government Regulation in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling Pandemic Corona Virus Disease 2019 (Covid-19) and / or in the Context of Facing Threats Endanger the National Economy and / or

Financial System Stability (Law Regulation 1/2020) against the 1945 Constitution of the Republic of Indonesia (UUD 1945).

Case of Lawsuit : Article 27 of Law Regulation 1/2020 contradicts Article 1 paragraph (3), Article 7A, Article 23E, Article 24 paragraph (1), Article 27, and Article 28 of the 1945 Constitution.

Injunction : Stating that the Petitioners' petition cannot be accepted.

Date of Decision : Tuesday, June 23, 2020

Decision Overview :

The Petitioners argue that as a legal entity that feels their constitutional rights have been impaired in the form of the right to live in a state based on law, the right to legal equality, the right to control the Petitioners through the House of Representatives, the right to enjoy fair and prosperous finances, and the right to obtain justice based on process fair, independent and open law. According to the Petitioners, this constitutional right was impaired due to the enactment of Article 27 of the Law Regulation 1/2020 which makes the Financial System Stability Committee (KSSK) to be immune to the law, cannot be prosecuted under the pretext of good faith and not loss to the state, thus injuring the sense of justice for all the people including the Petitioners.

In relation to the authority of the Court, because what the Petitioners are requesting is a review of the Government Regulation in lieu of Law (Perpu) in case Law Regulation 1/2020 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 Law on Judicial Power

and the Decision of the Constitutional Court Number 138 / PUU-VII / 2009, dated 8 February 2010 and the Decision of the Constitutional Court Number 1- 2 / PUU-XII / 2014, dated 13 February 2014, is one of the powers of the Court, so that the Court has the authority to try the a quo petition;

Regarding the legal position, the provisions regarding the legal position of the Petitioners in reviewing the constitutionality of law also apply in examining the constitutionality of the Law Regulation. Whereas, regardless of whether or not the Petitioners' arguments regarding the unconstitutionality of the norms of Article 27 of the Law Regulation 1/2020 petitioned for review are proven, the Petitioners have specifically explained their constitutional rights which the Petitioners consider to have been impaired due to the enactment of Article 27 of the Law Regulation 1/2020, where it has been seen also the causality of the Petitioners' opinion regarding the potential loss of constitutional rights referred to in the norm of Article 27 of the Law Regulation 1/2020 which is petitioned for review so that if the petition is granted, such losses will not occur. Thus, the Petitioners have a legal position to apply for a review of Article 27 of the Law Regulation 1/2020.

Whereas before considering the main points of the Petitioners' petition, the Court will first consider new legal facts in the form of changes to the legal status of Law Regulation 1/2020. In the examination hearing on May 20, 2020 with an agenda to ask the President and DPR for information regarding the approval of Law Regulation 1/2020 to become law, the President's attorney stated that Law Regulation 1/2020 had been approved by the DPR into law and had been ratified by the President in on 16 May 2020 to be further promulgated by the Minister of Law and Human Rights on 18 May 2020 to become Law Number 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2020 concerning State Financial Policy and

Financial System Stability for Handling Pandemics Corona Virus Disease 2019 (Covid-19) and / or in the context of dealing with threats that endanger the national economy and / or financial system stability into law (State Gazette of the Republic of Indonesia of 2020 Number 134, Supplement to the State Gazette of the Republic of Indonesia Number 6516, hereinafter referred to as Law 2/2020). With the promulgation of Law 2/2020, Law Regulation 1/2020 no longer exists legally. This resulted in the Petitioners' petition submitted for review of the constitutionality of Law Regulation 1/2020 having lost its object.

Whereas based on all the descriptions of the above considerations, although the Court has the authority to adjudicate the a quo petition and the Petitioners have the legal standing to submit the a quo petition, but because the Petitioners' petition has lost its object, the main points of the Petitioners' petition and other matters were not considered. Thus, the Court subsequently passed a decision which stated that the Petitioners' petition could not be accepted.