



CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION
FOR CASE NUMBER 41/PUU-XX/2022

Concerning

The Definition of Psychological Violence in Domestic Violence

Petitioner	: Sindi Enjelita Sitorus and Hesti Br. Ginting
Type of Case	: Examination of Law Number 23 of 2004 concerning the Elimination of Domestic Violence (Law 23/2004) against the 1945 Constitution of the Republic of Indonesia (UUD 1945)
Subject Matter	: Examination of Article 7 of Law 23/2004 against Article 28D paragraph (1) of the 1945 Constitution
Verdict	: To declare that the Petitioners' petition is inadmissible
Date of Decision	: Tuesday, May 31, 2022
Overview of Decision	:

The Petitioners are Indonesian citizens who are students. The Petitioners believe that their constitutional rights have been prejudiced by the promulgation of the provisions of Article 7 of Law 23/2004, because as women, the *a quo* Article 7 does not provide clear provisions as to what shall be constitute as psychological violence, thus this gives rise to various interpretations and debates.

Whereas regarding the authority of the Constitutional Court (the Court), because the petition is for an examination of the constitutionality of legal norms, *in casu* Law 23/2004 against the 1945 Constitution, the Court has the authority to hear the *a quo* petition.

Whereas before considering the legal standing and the subject matters of the Petitioners' petition, the Court deems it necessary to emphasize several important matters regarding the power of attorney and the petition of the Petitioners, namely, the Court has received the petition of the Petitioners dated March 7, 2022 which was received at the Registrar's Office on March 10, 2022 and registered on March 22, 2022. Regarding the *a quo* petition, the Court has held a preliminary hearing on April 14, 2022. Furthermore, based on the provisions of Article 39 of Law Number 24 of 2003 concerning the Constitutional Court as last amended by Law Number 7 of 2020 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court (Constitutional Court Law) and Article 41 paragraph (3) of the Constitutional Court Regulation Number 2 of 2021 concerning Proceedings in Judicial Review Cases (PMK 2/2021), the Court is obliged to provide advice to the Petitioners to complete and/or revise the petition. Then in the preliminary hearing, the Panel of Judges advised the Petitioners to revise their power of attorney and petition. The power of attorney dated March 1, 2022 must be revised because in principal it only states that the grantee of the power of attorney is authorized to submit a petition for examination, to summon experts and to draw conclusions. In addition, the *petitum* of the petition is also the *petitum* that is cumulative and contradicts each other.

Whereas the Petitioners, based on Receipt Number 35-2/PUU/PAN.MK/AP3 have submitted a revised petition dated April 27, 2022 which was received at the Court's Registrar's Office on April 27, 2022. In addition to the revised petition, the Petitioners have also submitted a revised power of attorney dated April 26, 2022, the contents of which are

still the same as the power of attorney dated March 1, 2022, but only signed by the grantee of the power of attorney, while the grantor of the power of attorney did not sign such power of attorney. Then, at the hearing on May 11, 2022, the Court has asked for clarification from the Petitioners regarding the revised power of attorney which was only signed by the grantee of the power the attorney. The Petitioners conveyed that the power of attorney used is a power of attorney that has been revised, namely, the power of attorney dated April 26, 2022. Regarding the Petitioners' *petitum*, which in the initial petition was cumulative and contradictory, the Petitioners still did not revise it in the revised petition as advised by the Panel of Judges. Regarding this *petitum*, it has been re-confirmed to the Petitioners, however the Petitioners conveyed that the *petitum* is correct as stated in the revised petition.

Whereas based on all the descriptions above, the Court is of the opinion that, based on Article 7 paragraph (2) of PMK 2/2021, the special power of attorney shall be affixed with a stamped duty in accordance with the laws and regulations and shall be signed by the grantor and grantee of the power of attorney. Because the power of attorney submitted by the Petitioners was not signed by the grantor of the power of attorney, thus such power of attorney does not fulfil the formal requirements of a power of attorney, such power of attorney is formally flawed and automatically the power of attorney becomes invalid. Moreover, substantially the power of attorney does not authorize the grantee of the power of attorney to attend the trial and principle matters related to procedural law. However, because the principal of the Petitioners were still present at the hearings on April 14, 2022 and May 11, 2022, the Court continued to examine the petition of the principal of the Petitioners. Regarding the ambiguity in the part of the *petitum* which is cumulative and contradictory, because in *petitum* number 2, the Petitioners petition for the Court to declare that Article 7 of Law 23/2004 **is in contrary** to the 1945 Constitution, meanwhile in *petitum* number 3, they petition for the Court to declare that Article 7 of Law 23/2004 **is in accordance** with the 1945 Constitution conditionally (conditionally constitutional). The Court is of the opinion that such *Petitum* actually makes it difficult for the Court to understand what the Petitioners really wish for. This is because, on the one hand, the Petitioners petition for the Article 7 of Law 23/2004 to be declared as in contrary to the 1945 Constitution and has no binding legal force, but on the other hand, they petition for the Court to give interpretation conditionally to Article 7 of Law 23/2004 (conditionally constitutional). Therefore, based on these legal facts, the Court could not grant two contradictory *petitum*, unless the Petitioners in their *petitum* of their petition plead them as alternatives. Moreover, regarding the *a quo* petition, the Petitioners also did not attach any evidence of a copy of the law being petitioned for an examination and a copy of the 1945 Constitution, even though based on Article 11 paragraph (6) and Article 12 paragraph (5) of PMK 2/2021, the evidence to be submitted shall consist of at least: a. a copy of the law or *Perppu*, at least the part or chapter being petitioned for an examination, including the front page and the page containing the date of promulgation of the copy of the law or *Perppu*; b. a copy of the 1945 Constitution.

Therefore, the *a quo* petition is unclear (vague) because it does not fulfil the formal requirements of the petition as referred to in Article 30 and Article 31 paragraph (1) of the Constitutional Court Law and Article 10 paragraph (2) of PMK 2/2021, therefore the Court shall not consider the legal standing and the subject matter of the Petitioners' petition any further.

Based on all of the considerations above, the Court subsequently issued a decision which verdict states that the petition of the Petitioners is inadmissible.