



CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION  
FOR CASE NUMBER 34/PUU-XX/2022

Concerning

Formal Examination of the State Capital Law

- Petitioner** : Azyumardi Azra, et al  
**Type of Case** : Formal Examination of Law Number 3 of 2022 concerning the State Capital (Law 3/2022) against the 1945 Constitution of the Republic of Indonesia (UUD 1945).  
**Subject Matter** : The formation of Law 3/2022 is considered in contrary to the 1945 Constitution.  
**Verdict** : To dismiss the petition of the Petitioners in its entirety.  
**Date of Decision** : Wednesday, July 20, 2022.

**Overview of Decision :**

The Petitioners are individual Indonesian citizens as taxpayers who believe they are in a disadvantaged position because of the formation of Law 3/2022 which is in contrary to the procedures for forming the laws according to the 1945 Constitution. According to the Petitioners, in the formation of Law 3/2022, there was no rights to be considered and no rights to obtain explanation and there was no discussion of Attachment II to Law 3/2022 in the formation of Law 3/2022.

Regarding the authority of the Court, because the Petitioners petition for a formal review of the Law *in casu* Law 3/2022 against the 1945 Constitution, which is one of the authorities of the Court, the Court has the authority to hear the *a quo* petition.

Regarding the deadline for submitting a formal examination, the Court is of the opinion that the Petitioners submitted a petition for a formal review of Law 3/2022 to the Constitutional Court on March 1, 2022. Meanwhile, Law 3/2022 was promulgated on February 15, 2022 in the State Gazette of the Republic of Indonesia of 2022 Number 41, Supplement to the State Gazette of the Republic of Indonesia Number 6766, therefore the petition of the Petitioners is submitted on the 15th (fifteenth) day since the promulgation of Law 3/2022. Therefore, the petition for a formal review of Law 3/2022 is submitted within the specified deadline.

Regarding the time limit for the completion of the formal review of the law, the Court considers it necessary to provide a sufficient time limit or deadline for the completion of the formal review of the law by considering the urgency or need to obtain information and explanation from the legislators before deciding the *a quo* case. Therefore, based on the legal considerations, the Court is of the opinion that the deadline of 60 (sixty) business days is the time the President and/or the DPR (House of Representatives) submit their statements in the plenary session of the trial examination shall be the start of counting the 60 (sixty) business days for the examination of the formal review of that law. However, in certain cases, if the President and DPR in 2 (two) plenary sessions with the agenda of hearing the statements of the President and/or the DPR have not yet submitted their statements at the session, the Court may decide to use another time limit to determine the deadline for the completion of the formal review of the case.

Regarding the legal standing of the Petitioners, Regardless of whether or not the argument is proven in relation to the unconstitutionality issues regarding the procedure for the formation of Law 3/2022 as argued by the Petitioners in the subject matter of the petition, the Court is of the opinion that the Petitioners have been able to describe their position and activities which have a relationship of interest with Law 3/2022, and have also describe the causal relationships (*causal verband*), specifically and potentially, between the perceived loss of the constitutional rights as they experienced and the formation process of Law 3/2022 which is not in accordance with the 1945 Constitution. Therefore, if this petition is granted, such loss of constitutional rights will not occur. Therefore, the Petitioners have the legal standing to act as Petitioners in the formal review of Law 3/2022.

Whereas regarding the arguments of the Petitioners who questioned the non-consideration of expert opinion by the legislators in the formation process Law 3/2022, regarding the argument, based on the testimony of the DPR as revealed in the trial, in the formation of Law 3/2022, the DPR in an effort to facilitate the public to provide their inputs has opened the access to the public to obtain the Academic Paper and the State Capital Bill as ordered by Article 96 paragraph (4) of Law Number 12 of 2011 concerning the Establishment of Legislations (Law 12/2011). In this case, the Academic Paper and the Bill can be accessed and downloaded on the DPR's official website, namely at <https://www.dpr.go.id/uu/detail/id/368>. On the website, the public can read and download the documents related to the formation of the State Capital Bill. Information that can be read and studied on the page includes the information on the bill, track record and is equipped with an input or feedback form.

From the *a quo* statement and attachments to the DPR's statement, it is evident that in the formation process of Law 3/2022, the legislators have tried to fulfil the criteria for a more meaningful participation as legal considerations for the Decision of the Constitutional Court Number 91/PUU-XVIII/2020, by conducting a Public Hearing Meeting (*Rapat Dengar Pendapat Umum* or RDPU), hearings, public consultations, and work visits, particularly with the stakeholders who have an interest in the substance of the State Capital Bill and have immediately followed up on it into the Faction Problem Inventory List (*Daftar Inventarisasi Masalah* or DIM). This proves that the legislators have tried to fulfil the people's right to be heard and their opinions to be considered, as well as explained or answered on the opinions given. In its written statement, the DPR has also described in a table containing various opinions and inputs from the public as well as experts which were responded to and followed up by the DPR [*vide* DPR's Statement page 47 to page 71]. In the table, there is a description of various public opinions/inputs that are accommodated by the DPR in the DIM and considered in the discussion of the State Capital Bill. This fact shows that the DPR has carried out the activities in order to fulfil the right to be considered regarding the statements or opinions of experts and the public in the formation of laws. The availability of access to the Academic Papers and the State Capital Bill means that the public is given the widest opportunity to provide feedbacks and inputs on the Bill. In the context of the right to participate and give opinions in the formation of laws, as long as the community has been given access to the Academic Paper and the State Capital Bill, the next thing to do is that the community is expected to actively express their opinion on the bill, this access has also been granted on the official website of the DPR in the form of filling out online opinion and input forms.

Meanwhile, regarding how legislators should respond to the opinions and feedbacks submitted in the context of fulfilling the right to obtain an explanation, the Court is of the opinion that it is within the authority of the legislators to follow up the feedbacks or opinions in the process of discussing the bill. In this case, the Court is of the opinion that it is not proven that the legislators have ruled out the right to be considered and the right to obtain explanation, because the access has been opened to the public as described above. Therefore, the arguments of the Petitioners, regarding the non-fulfilment of the right to be considered and the right to obtain explanation or answer to the opinion given (right to be explained) in the formation process of the State Capital Bill which was later ratified as Law 3/2022, are legally unjustifiable.

Whereas regarding the arguments of the Petitioners in relation to Attachment II of Law 3/2022, that such document was never attached and/or never discussed and was only available at the time of mutual agreement. Against this argument, the Court needs to elaborate on the position of Attachment II of Law 3/2022 in the formation process of Law 3/2022 as the legal facts revealed in the hearings, as follows: The State Capital Bill was originally submitted by the Government through Presidential Letter Number R-44/Pres/09/2021 dated September 29, 2021. In the State Capital Bill that was submitted, there was only 1 attachment attached to the State Capital Bill, which was related to the Delineation Map of the National Strategic Areas of the National Capital. As for the State Capital Master Plan, it will initially be regulated by a Presidential Regulation as formulated in Article 7 paragraph (2) of the State Capital Bill which will be submitted by the Government [vide Attachment 8 of DPR's Statement]. Furthermore, in the Meeting of the Special Committee for the State Capital Bill on December 14, 2021, the Government as represented by the Minister of National Development Planning (Dr. (H.C.) Ir. H. Suharso Monoarfa) has expressed his opinion regarding the State Capital Master Plan which may need to be changed. In the Meeting of the Special Committee for the Drafting of the State Capital Bill which was held on January 11, 2022 and was open, the Government said that there was a formula that underwent some changes based on the input from the factions, one of which was in relation to Article 7 paragraph (3) which principally regulates the attachment or placement of the State Capital Master Plan in Attachment II of the State Capital Bill. Because the changes to the formulation in Article 7 are substantive, further discussion and deepening were carried out in the Meeting of the Work Committee. In the Meeting of the Work Committee of the State Capital Bill on January 17, 2022, the DPR, DPD (Regional Representative Council), and the Government have approved the master plan cluster in Article 1 number 13, Article 7, and Article 15 with notes. As for the attachment of the State Capital master plan in Attachment II, it is formulated in Article 7 paragraph (3). In the Meeting of the Work Committee, the DPR and the Government has agreed that the Master Plan for the State Capital shall be set as an attachment that became an integral part of the State Capital Bill so that it had a strong legal position as a reference for the implementation of preparation, development, and relocation of the State Capital, as well as the administration of the Special Capital Region of the Government. However, it was agreed that there was still room for amendments to the master plan in accordance with the development of the needs in the future. This refers to the formulation of Article 7 paragraph (5) letter a of the State Capital Bill. Based on these provisions, if the State Capital Master Plan is to be amended, it is necessary to consult with the DPR. Furthermore, Attachment II of Law 3/2022 in the form of the State Capital Master Plan has been attached and can be accessed on the official website of the State Secretariat, namely at the link: <https://jdih.setneg.go.id/Produk> and on the official website of the DPR, namely at link: <https://www.dpr.go.id/jdih/index/id/1791>.

Attachment II of Law 3/2022 is the State Capital Master Plan in which the plan at the initial stage is proposed to be regulated in a Presidential Regulation which is then mutually agreed as part of Attachment II to Law 3/2022. The Master Plan has been submitted by the President to the DPR and has been discussed by the Special Committee for the State Capital Bill with the President as represented by the Ministry of National Development Planning/National Development Planning Agency, the Ministry of Law and Human Rights, the Ministry of Home Affairs, and the Ministry of Agrarian and Spatial Planning/National Land Agency. Although in the Special Committee Report dated January 18, 2022, there are factions stating that Attachment II has not been discussed, but based on the minutes of the plenary session on January 18, 2022, it is evident that all participants in the plenary session has approved the State Capital Bill and its attachments to be ratified into law. [vide Attachment 64 page 73 of DPR's statement]. Moreover, in level II discussions, the agenda carried out was the approval and ratification of the State Capital Bill, not a detailed discussion of norms of the articles, including the substance of the attachment to the *a quo* Bill. Therefore, according to the Court, the argument of the Petitioners that Attachment II to the State Capital Bill which was later ratified as Law 3/2022 was never discussed at the time of mutual agreement, is legally unjustifiable. Based on the entire description of the aforementioned legal considerations, the Court is of the opinion that the arguments of the

Petitioners' petition regarding the formal review of Law 3/2022 are entirely legally unjustifiable and thus the formation process of the *a quo* Law 3/2022 is not in contrary to the 1945 Constitution. Therefore, Law 3/2022 still has binding legal force.

Therefore, the Court issued a decision which verdict states that the petition of the Petitioners is entirely dismissed.