



CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION
FOR CASE NUMBER 8/PUU-XXI/2023

Concerning

**Existence of Decree of People's Consultative Assembly (TAP MPR) Which
Remains Valid in the Hierarchical Arrangement of Laws and Regulations**

Petitioner	: Trijono Hardjono, et al.
Type of Case	: Judicial Review of Law Number 12 of 2011 concerning Formation of Laws and Regulations (Law 12/2011) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
Subject Matter	: Elucidation to Article 7 paragraph (1) letter b and Elucidation to Article 18 letter b of Law 12/2011 are contrary to Article 1 paragraph (3) and Article 3 of the 1945 Constitution
Verdict	: To declare that the Petitioners' petition is inadmissible
Date of Decision	: Tuesday, February 28, 2023
Overview of Decision	:

The Petitioners are individual Indonesian citizens; they are volunteers for *Program Demokrasi Musyawarah Indonesia* (Indonesian Deliberation Democracy Program) network. Whereas Petitioner I is the Chairperson of *Koperasi Praja Tulada* (Praja Tulada Cooperative), Petitioner II is the Chairperson of *Gerakan Literasi Desa* (Village Literacy Movement) as well as caretaker at the Benteng Cakrawala Indonesia Foundation (*Yayasan Benteng Cakrawala Indonesia*) which operates in the field of education and culture, Petitioner III works as an apprentice Advocate as well as a legal practitioner at *Perkumpulan Dewan Warga Kampung Tanah Negara Surabaya* (Citizens Council Association of Kampung Tanah Negara Surabaya), Petitioner IV is a farmer, breeder and trader in Pare Kediri, and Petitioner V is a student of State Administration and Political Science.

Regarding the authority of the Court, because the petition of the Petitioners is a petition to review the constitutionality of the norms of the Law, *in casu* Law Number 12 of 2011 concerning the Formation of Laws and Regulations (Law 12/2011) against the 1945 Constitution, then pursuant to 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 Judicial Powers Law, the Court has the authority to hear the *a quo* petition;

Whereas regarding the legal standing of the Petitioners, the Court is of the opinion that the Petitioners, as volunteers for *Program Demokrasi Musyawarah Indonesia* (Indonesian Deliberation Democracy Program) network, have described that they have formed a number of institutions as the means of struggle in accordance with the needs of the region and fields of work. Although several pieces of evidence have been provided, the evidences were not sufficient to convince the Court that the Petitioners have been active in carrying out the activities related to the issue of constitutionality of the law being petitioned for review, namely regarding the Elucidation to Article 7 paragraph (1) letter b and the

Elucidation to Article 18 letter b of Law 12 /2011.

In addition, the entire descriptions of the constitutional losses are actually not the descriptions of the presumed constitutional losses as referred in the Decision of the Constitutional Court Number 006/PUU-III/2005 and the Decision of the Constitutional Court Number 11/PUU-V/2007, as well as Article 4 paragraph (2) of PMK 2/2021, but only descriptions of the phrases in the form of interests, wishes and hopes. The Petitioners also could not explain, actually or at least potentially, the relationship between the *a quo* Elucidation to the articles and the presumption of the loss of constitutional right of the Petitioners. Thus, the Court is of the opinion that the Petitioners are unable to describe specifically, actually, or potentially their constitutional rights which, according to the Petitioners' opinion, have been harmed or within the limits of reasonable reasoning, at least have the potential to be harmed by the enactment of the *a quo* Elucidation to Articles.

Whereas in relation to the above, in the Preliminary Examination Session on 24 January 2023, the Panel of Judges has advised that the Petitioners should revise the descriptions of their legal standings, but the Petitioners are still unable to describe the actual or at least potential loss of constitutional rights which, according to reasonable reasoning, can be ascertained to occur. That means, the Petitioners cannot explain the causal relationship (*causal verband*) between the losses and the enactment of the Elucidation to Article 7 paragraph (1) letter b and the Elucidation to Article 18 letter b of Law 12/2011.

Whereas in addition, as read in the revision of their petition, the description of the Petitioners' petition is written in a systematic manner: Title, Identity of the Petitioner, Authority of the Court, Legal Standing of the Petitioner, Subject Matter, Conclusion and *Petitum*. Regarding the *a quo* Revision of Petition, in principal, the Court can understand that it is in accordance with the format of the petition for judicial review as stipulated in Article 31 paragraph (1) of the Constitutional Court Law and Article 10 paragraph (2) of PMK 2/2021. However, after the Court has carefully examined in the section of the reasons for the petition (*posita*), the Petitioners do not at all elaborate on their arguments regarding the conflict between the Elucidation to the articles being petitioned for review and the articles which are the basis for review in the 1945 Constitution.

Furthermore, the petition of the Petitioners as set forth in the *petitum* is unclear or at least not written in accordance with the standard *petitum* in judicial review cases. In this case, despite being advised by the Panel Assembly, there were still "blank" *petitums*, namely *Petitum* Numbers 2 and Number 3, and *Petitum* Numbers 5 and Number 6. All of those *petitums* are unusual. Formally, such *petitums* are not the *petitum* formulation as referred to in Article 10 paragraph (2) letter d of PMK 2/2021.

Whereas in accordance with the entire description of the legal considerations above, the Court is of the opinion that the Petitioners do not experience any loss of constitutional rights, either directly or indirectly, due to the enactment of the Elucidation to Article 7 paragraph (1) letter b and the Elucidation to Article 18 letter b of Law 12/2011. In addition, there is also no causal relationship between the presumed loss of constitutional rights and the enactment of the *a quo* Elucidations of Articles being petitioned for review. Therefore, there is no doubt for the Court to declare that the Petitioners have no legal standing to submit the *a quo* petition. Even if the Petitioners have the legal standing, *quod non*, the petition of the Petitioners is unclear (ambiguous) so that it does not meet the formal requirements for the petition as referred to in Article 31 paragraph (1) of the Constitutional Court Law and Article 10 paragraph (2) of PMK 2/2021. Accordingly, the Court passes down a decision in which the verdict states that the Petitioners' petition is inadmissible.