



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 22/PUU-XXI/2023**

**Concerning**

**Formal Review of Government Regulation in Lieu of Law  
Concerning Job Creation**

- Petitioners** : Pusat Federasi Serikat Pekerja Kimia, Energi, dan Pertambangan Serikat Pekerja Seluruh Indonesia (Central Federation of Chemical, Energy and Mining Trade Unions of Indonesia) as represented by R. Abdullah as General Chairperson of the Central Executive of Pusat Federasi Serikat Pekerja Kimia, Energi, dan Pertambangan Serikat Pekerja Seluruh Indonesia (PP FSP KEP SPSI) and Afif Johan as General Secretary of the Central Executive of Pusat Federasi Serikat Pekerja Kimia, Energi, dan Pertambangan Serikat Pekerja Seluruh Indonesia (PP FSP KEP SPSI ), et al.
- Type of Case** : Formal Review of Government Regulation in lieu of Law Number 2 of 2022 concerning Job Creation (Government Regulation 2/2022) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : The formation of Government Regulation 2/2022 is contrary to the principle of compelling urgency as referred to in Article 22 paragraph (1) of the 1945 Constitution
- Verdict** : The Petitioners' petition is inadmissible.
- Date of Decision** : Friday, 14 April 2023
- Overview of Decision** :

Whereas the Petitioners consisting of Petitioner I, Petitioner II, Petitioner III, Petitioner IV, Petitioner V, Petitioner VI, Petitioner VII, Petitioner VIII, Petitioner IX, and Petitioner X, respectively qualify themselves as a trade union or group of people acting for themselves as well as for the workers who are members of the organization led by each of the Petitioners

Regarding the authority of the Court, the object of the Petitioner's petition is Government Regulation 2/2022. Article 10 paragraph (1) letter a of the Constitutional Court Law states that the Constitutional Court shall have the authority to try at the first and final levels whose decision shall be final to review the Law against the 1945 Constitution. Meanwhile, Article 51 paragraph (3) states that in the petition the Petitioner must clearly describe that: (a) the formulation of a law does not comply with the provisions of the 1945 Constitution; and/or (b) the content material in paragraphs, articles, and/or parts of the law is considered to be contrary to the 1945 Constitution. Therefore, in accordance with the provisions of such article, the Court has the authority to examine, hear and decide on the judicial review against the 1945 Constitution, both in formal review and material review. The Court is of the opinion that since the object of the *a quo* petition is the formal review of Government Regulation 2/2022 which at the time of the submission of the petition and during

the trial process of the Court, the Government Regulation has not been approved or dismissed by DPR (Dewan Perwakilan Rakyat or House of Representatives), thus the Court has the authority to hear the *a quo* petition.

Whereas the deadline for submitting the petition for the formal review of the law against the 1945 Constitution is to be submitted within 45 (forty-five) days from the date of promulgation in the State Gazette of the Republic of Indonesia and the Supplement to the State Gazette of the Republic of Indonesia. The provisions regarding the deadline for submitting a formal petition also apply to the formal review of the Government Regulation against the 1945 Constitution as submitted by the *a quo* Petitioners. Because Government Regulation 2/2022 was promulgated on 30 December 2022, the deadline for submitting a petition for formal review is 12 February 2023. The petition of the Petitioners was received by the Registrar's Office of the Constitutional Court on 9 February 2023. Thus, the petition of the Petitioners was submitted within the deadline for submitting a petition for a formal review of Government Regulation 2/2022 against the 1945 Constitution.

Regarding the legal standing of the Petitioner, before considering the description of the legal standing of the Petitioners in the formal review of *a quo* Government Regulation 2/2022, the Court needs to consider the validity of each Petitioner as a party representing the workers' organizations. The Court is of the opinion that Petitioner I, Petitioner II, Petitioner V, Petitioner VI, Petitioner VIII, and Petitioner IX have the rights to represent their organization in the *a quo* matters, whereas Petitioner III, Petitioner IV, Petitioner VII, and Petitioner X could not prove that they have the rights to represent the organization in the *a quo* matter. Therefore, subsequently the Court shall only consider the description of the legal standing of Petitioner I, Petitioner II, Petitioner V, Petitioner VI, Petitioner VIII and Petitioner IX.

Whereas the Court is of the opinion that Petitioner I, Petitioner II, Petitioner V, Petitioner VI, Petitioner VIII, and Petitioner IX as trade union organization have been able to describe the causal relationship between themselves as Petitioners and the enactment of Government Regulation 2/2022 being petitioned for review. In this case, Petitioner I, Petitioner II, Petitioner V, Petitioner VI, Petitioner VIII, and Petitioner IX believes that they are harmed by the enactment of Government Regulation 2/2022 which, according to *a quo* Petitioner I, Petitioner II, Petitioner V, Petitioner VI, Petitioner VIII, and Petitioner IX formally the formation of Government Regulation 2/2022 is contrary to the provisions of Article 22 paragraph (1) of the 1945 Constitution. Thus, regardless of whether or not the unconstitutionality of the formation of Government Regulation 2/2022 being petitioned for review is proven, the Court is of the opinion that Petitioner I, Petitioner II, Petitioner V, Petitioner VI, Petitioner VIII, and Petitioner IX (hereinafter referred to as the Petitioners) have the legal standing to submit the *a quo* petition. Meanwhile for Petitioner III, Petitioner IV, Petitioner VII, and Petitioner X, because they cannot prove that they have the rights to represent their organization in the *a quo* case, then the Court is of the opinion that Petitioner III, Petitioner IV, Petitioner VII and Petitioner X have no legal standing to submit the *a quo* petition.

Whereas before considering the subject matter of the petition, the Court needs to consider that DPR (House of Representatives), in the plenary session on 21 March 2023, has approved the Bill concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation to Become Law. Furthermore, on 31 March 2023, the President ratified and promulgated Government Regulation 2/2022 to become Law Number 6 of 2023 concerning Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation to Become Law (State Gazette of the Republic of Indonesia of 2023 Number 41, Supplement to the State Gazette of the Republic of Indonesia Number 6856, hereinafter referred to as Law 6/2023).

Whereas pursuant to these facts, the Court has held a hearing on 6 April 2023 to confirm the stance of the Petitioners in this matter. In relation to this, the Petitioners stated that they would leave the Court to decide on the matter. In accordance with these facts, the Court immediately held a Deliberative Meeting of Judges on the same day and the Court was of the opinion that as a form of law, Government Regulation 2/2022 has been turned into law, therefore Government Regulation 2/2022, which is the object of the petition of the Petitioners, is no longer exist because it has been changed to Law 6/2023. Therefore, the Petitioner's

petition has lost its object.

Whereas based on these legal considerations, the Court is of the opinion that because the petition of the Petitioners has lost its object, the subject matter of the Petitioners' petition would not be considered. Accordingly, the Court passes down its decision in which the verdict states that the petition of the Petitioners is inadmissible.