



CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION
FOR CASE NUMBER 5/PUU-XXI/2023

Concerning

Formal Review of Government Regulation in Lieu of Job Creation Law

Petitioners	: Hasrul Buamona, 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 process of Government Regulation 2/2022 is contrary to the 1945 Constitution
Verdict	: On Preliminary Injunction: To dismiss the Petitioners' petition for preliminary injunction On the Merits: To declare that the Petitioners' petition is inadmissible
Date of Decision	: Friday, April 14, 2023
Overview of Decision	:

The Petitioners qualified themselves as individual Indonesian citizens (Petitioner I to Petitioner VIII) with various professions, from lecturers (Petitioner I, Petitioner VII, and Petitioner VIII), activist at Migrant Care (Petitioner II), legal consultant (Petitioner III), migrant worker (Petitioner IV) and students (Petitioner V and Petitioner VI) as well as a legal entity in the form of an organization named Federasi Serikat Pekerja Singaperbangsa (Singaperbangsa Trade Union Federation) (Petitioner IX). Whereas according to the Petitioners, the process of its formation was not in accordance with the 1945 Constitution and the Decision of the Constitutional Court Number 138/PUU-VII/2009 and the Decision of the Constitutional Court Number 91/PUU-XVIII/2020.

Regarding the authority of the Court, the Court is of the opinion that since the object of the *a quo* petition is a formal review of Government Regulation 2/2022 which at the time of submission of the petition and during the Court trial process, the Government Regulation has not been approved or rejected by DPR (House of Representatives), therefore the Court has the authority to hear the *a quo* petition.

Regarding the deadline for submission of formal review. The Court is of the opinion that because Government Regulation 2/2022 was promulgated on 30 December 2022, the deadline for submitting any petition is 12 February 2023. The Petitioners' petition was received by the Court on 5 January 2023 under the Deed of Submission of the Petition of the Petitioner Number 1/PUU/PAN.MK/AP3/01/2023. Thus, the petition of the Petitioners was submitted before the deadline for submitting a petition for a formal review of Government Regulation 2/2022 against the 1945 Constitution.

Regarding legal standing of the Petitioners, the Court considers that, Petitioner I to Petitioner VIII who are individual Indonesian citizens, as well as Petitioner IX which is a legal entity in the form of a workers/labor organization, have clearly and specifically explained their qualifications as an individual petitioner, an Indonesian citizen who believes that his/her constitutional rights have been harmed by the enactment of Government Regulation 2/2022.

So it is clear that he/she has a causal relationship with the enactment of Government Regulation 2/2022. Thus, regardless of whether the argument is proven or not regarding the unconstitutionality of the formation of Government Regulation 2/2022, the Petitioners have the legal standing to submit the *a quo* petition.

Furthermore, regarding the petition for preliminary injunction, the Court considers that it is the constitutional obligation of DPR (House of Representatives) whether or not to give approval to the government regulation in lieu of the law that has been stipulated by the President, as granted by the 1945 Constitution, as stipulated in Article 22 paragraph (2) of the 1945 Constitution. In this case, if the Court grants the petition for preliminary injunction to postpone the enactment of Government Regulation 2/2022, it would mean that the Court is eliminating the constitutional obligations of DPR (House of Representatives) which would in fact be contrary to the 1945 Constitution. Thus, the Court is of the opinion that the Petitioners' petition for preliminary injunction is legally unjustifiable.

Furthermore, regarding the subject matter of the Petitioners' petition, the Court considers that regarding the *a quo* petition, at the Plenary Meeting on 21 March 2023, DPR (House of Representatives) approved the Bill on 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 the 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). Pursuant to 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 had been turned into law. Therefore, the Government Regulation which is the subject matter of the petition of the Petitioners has been changed into Law 6/2023. Therefore, the Petitioner's petition has lost its object and the subject matter shall not be considered any further.

Accordingly, the Court passes down a decision in which verdict states as follows:

On Preliminary Injunction:

To dismiss the Petitioners' petition for preliminary injunction.

On the Merits :

To declare that the Petitioners' petition is inadmissible.