



CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION  
FOR CASE NUMBER 45/PUU-XXI/2023

Concerning  
Management and Allocation of Plantation Funds

<b>Petitioner</b>	: Perkumpulan Serikat Petani Kelapa Sawit (PSPKS or Association of Palm Oil Farmers Union) as represented by Mansuetus Asly Hanu as Chairperson of the SPKS Board, et al.
<b>Type of Case</b>	: Judicial Review of Law Number 39 of 2014 concerning Plantation (Law 39/2014) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
<b>Subject Matter</b>	: Article 93 paragraph (4) of Law 39/2014 is contrary to the 1945 Constitution.
<b>Verdict</b>	: To declare that the petition of the Petitioners is inadmissible
<b>Date of Decision</b>	: Thursday, 15 June 2023.
<b>Overview of Decision</b>	:

The Petitioner is a legal entity in the form of association and cooperative which in this case is represented by the management representatives who have the legal capacity to represent the legal entity before the court in accordance with the Articles of Association/Bylaws (*Anggaran Dasar/Anggaran Rumah Tangga* or AD/ART). The Petitioners believe that Article 93 paragraph (4) of Law 39/2014 has harmed the constitutional rights of the Petitioners because it hinders the fulfilment of the vision, mission and/or objectives of establishing a legal entity in accordance with their respective AD/ART in carrying out the activities in the oil palm plantation sector and in increasing the welfare of oil palm plantation business actors.

In considering the petition of the Petitioners, regarding the authority of the Constitutional Court, the Court is of the opinion that since the object of the *a quo* petition is a judicial review of the norms of Article 93 paragraph (4) of Law 39/2014 against the 1945 Constitution, then the Court has the authority to hear the *a quo* petition.

Regarding legal standing of the Petitioners, the Court considers that the Petitioners have fulfilled the qualification requirements as a legal entity, association and organization and have explained the constitutional rights of the Petitioners who have been harmed by the enactment of the legal norms being petitioned for review, namely the right to obtain legal certainty over the management and allocation of funds from plantation business actors by Badan Pengelola Dana Perkebunan Kelapa Sawit (BPDPKS or Oil Palm Plantation Fund Management Agency). The presumption of the loss of constitutional rights is specific and potential because Article 93 paragraph (4) of Law 39/2014, which is being petitioned for review of its constitutionality by the Petitioners, is interpreted in a broad/non-limitative manner so as it hinders the fulfilment of the vision, mission and/or objectives of establishing a legal entity in accordance with the AD/ART of the Petitioners. Thus, regardless of whether or not the argument regarding the unconstitutionality of the norm being petitioned for review is proven, the Petitioners have the legal standing to submit the *a quo* petition.

However, before the Court considers the subject matter of the petition of the Petitioners, the Court first considers the object of the Petitioners' petition, *in casu* Article 93 paragraph (4) of Law 39/2014, which in fact the *a quo* norm has been amended by the legislators through Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation to become Law (Law 6/2023) as stated in Article 29 number 26 of Appendix of Law 6 /2023 which amends the norm of Article 93 paragraph (4) of Law 39/2014. Regarding such facts, the Petitioners still use the norm of Article 93 paragraph (4) of Law 39/2014 as the object of the petition in a *quo* case, deliberately ignoring Law 6/2023.

Regarding such issues, the Court considers that as with the judicial process in general, in the Constitutional Court trials there are principles of the Constitutional Court Procedure which serve as guidelines as well as principles that guide Constitutional Judges in administering the justice system and such guidelines and principles must be obeyed by the parties in the proceedings of the Constitutional Court, particularly in conducting judicial review against the 1945 Constitution. One of the principles that must be obeyed is the principle of presumption of validity (*praesumptio iustae causa/het vermoeden van rechtmatigheid*) which means that the actions of the authorities are considered valid according to the rule of law until they are being annulled. In the context of the *a quo* petition, the fact that the material norm of Article 93 paragraph (4) of Law 39/2014 which is being petitioned by the Petitioners has been amended by the enactment of Government Regulation 2/2022 which has been approved by DPR (House of Representatives) and then ratified to become Law 6/2023 which came into effect since its promulgation on 31 March 2023, without the Court's intention to assess its constitutionality, Law 6/2023, which is also being petitioned for a review of its constitutionality, is a legal action that must be considered valid until it is being annulled, so the norm that is currently in force and has binding legal force is the norm in Article 29 number 26 Appendix to Law 6/2023 which amends Article 93 paragraph (4) of Law 39/2014. Therefore, it is clear that the argument of the Petitioners, which ignored the validity of Law 6/2023 because it is deemed to violate the constitution prior to its annulment by the legally competent authority, is contrary to the principle of presumption of validity.

Based on the above legal considerations, the Court is of the opinion that even though the Court has the authority to hear the petition of the Petitioners and the Petitioners have the legal standing to act as Petitioners, based on the aforementioned legal considerations, the Court is of the opinion that the Petitioners have made a mistake in determining the object of the petition because the object being petitioned for review is no longer a part of Law 39/2014 since it has been amended by Article 29 number 26 Appendix to Law 6/2023. Therefore, the Petitioners' petition has lost its object, thus the Court does not further consider the subject matter of the Petitioners' petition.

Accordingly, the Court subsequently passes down a decision in which the verdict states that the petition of the Petitioners is inadmissible.