



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 73/PUU-XXI/2023**

Concerning

**Authority of the National Police of Republic of Indonesia over Registration
and Identification of Motorized Vehicles and Drivers**

Petitioner	: Leon Maulana Mirza Pasha
Type of Case	: Judicial Review of Law Number 22 of 2009 concerning Road Traffic and Transportation (Law 22/2009) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
Subject Matter	: Judicial Review of Article 5 paragraph (3) letter b and letter e, Article 7 paragraph (2) letter b and letter e, Article 64 paragraph (4) and paragraph (6), Article 67 paragraph (3), Article 68 paragraph (6), Article 69 paragraph (2) and paragraph (3), Article 71 paragraph (1), paragraph (2), and paragraph (3), Article 75, Article 87 paragraph (2), paragraph (3), and paragraph (4), Article 88, Article 280, and Article 288 paragraph (1) of Law 22/2009 against Article 1 paragraph (3), Article 17 paragraph (3), Article 27 paragraph (1), Article 28D paragraph (1) and Article 30 paragraph (4) of 1945 Constitution
Verdict	: To declare that the Petitioner's petition is inadmissible
Date of Decision	: Tuesday, 15 August 2023
Overview of Decision	:

Whereas the Petitioner is a taxpayer who has fulfilled his obligation as a taxpayer to the state, therefore according to the Petitioner, he should have the right to obtain guarantees for the use of traffic and road and transportation facilities and infrastructure.

Whereas the Petitioner stated that as a road user who drives a motorized vehicle, he still experiences traffic jams. Furthermore, according to the Petitioner, the traffic jam was caused by poor management of registration and identification of motorized vehicles and drivers, which in accordance with the articles being petitioned for review, it is under the authority of the National Police of the Republic of Indonesia. The Petitioner is also pessimistic and doubts the performance of the Police, especially in making and administering SIM (driving license) and STNK (vehicle registration certificate) renewals, because according to the Petitioner, the policies of the Police regarding SIM and STNK often change in a short time so that they do not provide legal certainty. According to the Petitioner, this shows the incompetence of the Police institution in making policies based on mature considerations and deliberations, because this indeed is not the expertise of the Police.

Whereas the Petitioner petitions for a review of the constitutionality of statutory norms, *in casu* Law 22/2009 against the 1945 Constitution, therefore the Court has the authority to hear the *a quo* petition.

Whereas even though the Court has the authority to hear the *a quo* petition, however, before considering the legal standing and the subject matter of the Petitioner's petition, the Court will first consider the Petitioner's petition as follows, whereas the Court has examined the Petitioner's petition in the Preliminary hearing on 26 July 2023. The Panel of Judges, in accordance with its obligations under Article 39 paragraph (2) of Constitutional Court Law and Article 41 paragraph (3) of Constitutional Court Regulation Number 2 of 2021 concerning Procedures in Judicial Review Cases (PMK 2/2021) has provided advice to the Petitioner to revise and clarify certain matters in relation to the Petitioner's

petition in accordance with the systematic petition as regulated in Article 31 paragraph (1) and paragraph (2) of the Constitutional Court Law and Article 10 paragraph (2) letters a, b, c and d of the PMK 2/2021. The Petitioner has revised his petition as received by the Court on 7 August 2023, in principle, the substance of the *a quo* revised petition is the same, and has been examined in the preliminary hearing to examine the revised petition on 8 August 2023. Although the format of the Petitioner's revised petition is basically in accordance with the format of the petition for judicial review against the 1945 Constitution as regulated in Article 31 paragraph (1) and paragraph (2) of Constitutional Court Law and Article 10 paragraph (2) letters a, b, letter c, and letter d of PMK 2/2021, but in the legal standing section, after careful examination by the Court, in describing the presumed loss of the Petitioner's constitutional rights, the Petitioner did not describe the existence of a causal relationship (*causal verband*) between the losses suffered by the Petitioner and the enactment of Article 5 paragraph (3) letter b and letter e, Article 7 paragraph (2) letter b and letter e, Article 64 paragraph (4) and paragraph (6), Article 67 paragraph (3), Article 68 paragraph (6), Article 69 paragraph (2) and paragraph (3), Article 71 paragraph (1), paragraph (2), and paragraph (3), Article 75, Article 87 paragraph (2), paragraph (3), and paragraph (4), Article 88, Article 280, and Article 288 paragraph (1) of Law 22/2009. The description in the legal standing section only describe the Petitioner's losses as a taxpayer who has fulfilled his obligation as a taxpayer to the state, therefore according to the Petitioner, he should have the right to obtain guarantees for the use of traffic and road and transportation facilities and infrastructures. The Petitioner stated as a road user who drives a motorized vehicle, he still experiences traffic jams. Furthermore, according to the Petitioner, the traffic jam was caused by poor management of registration and identification of motorized vehicles and drivers, which in accordance with the articles being petitioned for review, it is under the authority of the National Police of the Republic of Indonesia. The Petitioner is also pessimistic and doubts the performance of the Police, especially in making and administering SIM (driving license) and STNK (vehicle registration certificate) renewals, because according to the Petitioner, the policies of the Police regarding SIM and STNK often change in a short time so that they do not provide legal certainty. According to the Petitioner, this shows the incompetence of the Police institution in making policies based on mature considerations and deliberations, because this indeed is not the expertise of the Police. In accordance with all the descriptions above, the Petitioner stated that he has the constitutional right to question the *a quo* law.

Regarding the description of the legal standing above, the Court is of the opinion that by stating that the Petitioner is a taxpayer, it does not necessarily mean that the Petitioner has a legal standing in submitting any petition for judicial review. Whereas in the development of its decisions, the Court has confirmed its stance that a taxpayer may only be given legal standing to submit a petition for judicial review of a law to the Constitutional Court related to state finances, his/her the constitutional loss must be specific and there must be actual or potential loss that has a clear connection with the enactment of the law (*vide* the Constitutional Court Decision Number 76/PUU-XII/2014, declared in a plenary session open to the public on 22 September 2015 and the Constitutional Court Decision Number 10/PUU-XVII/2019 declared in a plenary session open to the public on 13 March 2019, the Constitutional Court Decision Number 12/PUU-XVIII/2020 declared in a plenary session open to the public on 19 May 2020). Likewise with the description of the presumption of constitutional loss of the Petitioner regarding the performance of the National Police of the Republic of Indonesia, the description stated by the Petitioner is only based on the Petitioner's pessimism. Such a description does not present a causal relationship (*causal verband*). Furthermore, the Court is of the opinion that the Petitioner was also unable to describe the possibility that if the *a quo* petition is granted, then the loss of constitutional rights and/or authority as argued will not or will no longer occur.

Whereas before the Court further examines the Petitioner's legal standing as described in the legal considerations above, it is important for the Court to consider the subject matter of the petition as follows, whereas after the Court's careful examination of the subject matter of the Petitioner's Petition, the Court found several things that are unclear because the Petitioner did not describe the provisions of Article 60 of the Constitutional Court Law and Article 78 of PMK 2/2021 by connecting them to the cases that have been decided by the Court, when in fact, several articles being petitioned for review have previously been decided by the Court, namely Article 7 paragraph (2) letter e and Article 71 paragraph (1) of Law 22/2009, both norms have been decided in Case Number 43/PUU-VIII/2010 declared in a session open to the public on 16 June 2011. Although the norms have been decided, the Court has never reviewed the constitutionality of the *a quo* norms because the *a quo* petition was declared inadmissible. Meanwhile, regarding Article 64 paragraph (4) and paragraph (6), Article 67 paragraph (3), Article 68 paragraph (6), Article 69 paragraph (2) and paragraph (3), Article 75, Article 87 paragraph (2), and Article 88 of Law 22/2009, the Court has reviewed the constitutionality of the *a quo* norms in Case Number 89/PUU-XIII/2015. Regarding this matter, it has been reconfirmed to the Petitioner during the Preliminary Examination hearing with an agenda of Examination of the Revised Petition on 8 August 2023 [*vide* Minutes of Case Hearing Number 73/PUU-XXI/2023, Tuesday, 8

August 2023, p. 6-7] and the Petitioner remains in his position. The Court is of the opinion that when the Petitioner submitted the petition to review the articles in a law that have been submitted to the Court previously, the Petitioner should be able to describe that the articles are being re-submitted on a different legal grounds or due to different reasons so that it would not be hindered by the provisions of Article 60 of the Constitutional Court Law and Article 78 of the PMK 2/2021. Whereas in the section of the matters being petitioned to be decided (*petitum*) in the *a quo* petition, the Petitioner's *petitum* is unclear or at least not in accordance with the usual *petitum* in judicial review cases. The lack of clarity in the Petitioner's *petitum* lies in the fact that it does not describe who or which institution has the constitutional authority in carrying out the registration and identification of motorized vehicles and drivers. Because it is not clearly stated which ministry, according to the Petitioner, is most appropriate in handling this matter, if the Petitioner's petition is granted, it will result in legal uncertainty regarding which institution will handle the registration and identification of motorized vehicles and drivers. Whereas the formulation of *petitum* Number 22 which the Petitioner petitioned the Court to "Declare that the entire *petitum* above shall apply mutatis mutandis to the laws and regulations in the field of traffic and road transportation", is an additional *petitum* which was only included in the revised petition. The Court is of the opinion that the formulation of the *a quo petitum* also does not contain legal certainty, because the Court only has the authority to review laws against the 1945 Constitution. Regarding this *petitum*, it has been reconfirmed to the Petitioner during the Preliminary Examination hearing with an agenda of Examination of the Revised Petition on 8 August 2023 [*vide* Minutes of Case Hearing Number 73/PUU-XXI/2023, Tuesday, 8 August 2023, p. 5, 7-8] and the Petitioner remains in his position.

Whereas because the Petitioner did not describe the provisions of Article 60 of the Constitutional Court Law and Article 78 of PMK 2/2021 and due to the construction of the formulation of the *petitum* as referred to above, there is no doubt for the Court to declare the Petitioner's petition unclear or obscure.

Whereas pursuant to the description of the legal considerations above, regarding the legal standing of the Petitioner, the Petitioner cannot explain the existence of a causal relationship between the presumed loss of constitutional rights and the enactment of the norms being petitioned for review, therefore the Court is of the opinion that the Petitioner does not have the legal standing to submit the *a quo* petition. Even if the Petitioner has a legal standing, *quod non*, the Petitioner's petition is obscure. Whereas regarding any other matters and the remainder of the petition shall not be considered further because they are deemed to be irrelevant.

Accordingly, the Court subsequently handed down a decision whose verdict states that the Petitioners' petition is inadmissible.