



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 46/PUU-XXI/2023**

Concerning

Formal Review of Job Creation Law

- Petitioner** : **Serikat Petani Indonesia (SPI or Indonesian Farmers Union) represented by Agus Ruli Ardiansyah as General Secretary of Serikat Petani Indonesia, et al.**
- Type of Case** : Formal Review of Law Number 6 of 2023 concerning Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation (Law 6/2023) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Formal Review of Law 6/2023 against the 1945 Constitution
- Verdict** : To dismiss the Petitioners' petition in its entirety
- Date of Decision** : Monday, 2 October 2023
- Overview of Decision** :

The Petitioners are legal entities and work unions that work to promote and defend constitutional rights and human rights to realize social justice and human rights through litigation advocacy and policy advocacy in the process of forming the laws and regulations to realize social justice and prosperity of the people. Petitioner I, Petitioner IV, Petitioner V, Petitioner IX, Petitioner X, and Petitioner XI are legal entities in the form of associations that are active in the agricultural, animal husbandry, fishing, and plantation sectors. Petitioner III and Petitioner XIV are trade unions. Petitioner VI and Petitioner XIII are associations engaged in the field of human rights protection. Petitioner VII is an association operating in the global trade sector. Petitioner II and Petitioner VIII are legal entities in the form of foundations, and Petitioner XII is a legal entity in the form of an association.

Regarding the Court's authority, pursuant to Article 24C paragraph (1) of the 1945 Constitution, Article 10 paragraph (1) letter a of the Constitutional Court Law, Article 29 paragraph (1) of the Judicial Power Law, and Article 51 paragraph (3) of the Constitutional Court Law, because the Petitioners' petition is a formal review of the law, *in casu* Law Number 6 of 2023 concerning Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation (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) against the 1945 Constitution, the Court has the authority to hear the *a quo* petition.

Regarding the Deadline for Submitting Formal Review, the Court is of the opinion that because Law 6/2023 was promulgated on 31 March 2023 as contained in the State Gazette of 2023 Number 41, Supplement to State Gazette Number 6856, the latest deadline for submitting a petition is 14 May 2023. Even though the Petitioners stated that their *a quo* petition was

submitted on 17 April 2023, but after the Court carefully reviewed the Petitioners' petition, it was accepted by the Court on 18 April 2023 based on the Deed of Submission of Petitions Number 43/PUU/PAN.MK/AP3/04/2023. Therefore, the Petitioners' petition was submitted within the period for submitting petition for formal review of law.

Whereas regarding the legal standing of the Petitioners, the Court considers that Petitioner II, Petitioner VIII, and Petitioner XII are not represented by the authorized parties in accordance with their Articles of Association or deeds of incorporation, or their Articles of Association or deeds of incorporation do not specify any legal subjects authorized to represent the organizations at and outside of the court and there is no statement or mandate from the organizations stating which parties are authorized to represent them, therefore the Court is of the opinion that Petitioner II, Petitioner VIII and Petitioner XII do not have the legal standing to submit the *a quo* petition. Furthermore, Petitioner I, Petitioner III to Petitioner VII, Petitioner IX, Petitioner X, Petitioner XI, Petitioner XIII, and Petitioner XIV have been able to describe their legal standings and activities that are closely related to Law 6/2023 so that there are relations between Petitioner I, Petitioner III up to Petitioner VII, Petitioner IX, Petitioner X, Petitioner XI, Petitioner XIII, and Petitioner XIV and the Law that is formally reviewed. Therefore, regardless of whether the argument regarding the unconstitutionality of the formation of Law 6/2023 which is presumed to be not fulfilling the requirements of the 1945 is proven or not, Petitioner I, Petitioner III to Petitioner VII, Petitioner IX, Petitioner XIV (hereinafter referred to as the Petitioners) have the legal standing to submit the *a quo* petition.

Regarding the Petitioners' argument concerning the formation of Law 6/2023 not fulfilling the requirements of compelling urgency as regulated in Article 22 paragraph (1) of the 1945 Constitution and Constitutional Court Decision Number 138/PUU-VII/2009, the Court has considered it in sub-Paragraph **[3.15.1]** of the Constitutional Court Decision Number 54/PUU-XXI/2023 which was previously declared in a session open to the public on 2 October 2023 regarding the constitutionality issue of the enactment of Law 6/2023 which was presumed to not fulfilling the requirements of compelling urgency.

Whereas because the Petitioners question the stipulation of Perppu (Government Regulation in Lieu of Law) 2/2022 which they consider as not fulfilling the requirements of compelling urgency as mandated by Article 22 paragraph (1) of the 1945 Constitution, the subject matter is the same as the one in the Constitutional Court Decision Number 138/PUU-VII/2009, therefore the legal considerations in the said decision *mutatis mutandis* shall also apply to answer the Petitioners' *a quo* arguments. Therefore, the Petitioners' argument regarding the formation of Law 6/2023 does not fulfil the requirements of compelling urgency as regulated in Article 22 paragraph (1) of the 1945 Constitution and Constitutional Court Decision Number 138/PUU-VII/2009 is legally unjustifiable.

Regarding the Petitioners' argument concerning the formation of Law 6/2023 not fulfilling the requirements for approval by the House of Representatives in the following session as regulated in Article 22 paragraph (2) of the 1945 Constitution and Article 52 of Law 12/2011, the Court has given its interpretation on the "following session" as regulated in the provisions of Article 22 paragraph (2) of the 1945 Constitution and Article 52 paragraph (1) of Law 12/2011 which have been decided by the Court in sub-Paragraph **[3.14.6]** and sub-Paragraphs **[3.14.7]** of the Constitutional Court Decision Number 54/PUU-XXI/2023.

Whereas the substance questioned by the Petitioners is essentially the same as the Constitutional Court Decision Number 54/PUU-XXI/2023 as declared previously. Moreover, the essence of what is being petitioned in the *a quo* case is the same as case Number 54/PUU-XXI/2023, namely the question regarding "the following session". Accordingly, the legal considerations in the Constitutional Court Decision Number 54/PUU-XXI/2023 *mutatis mutandis* shall apply in the legal consideration of the *a quo* petition. Therefore, the arguments of the Petitioners which stated that the Formation of Law 6/2023 does not fulfil the requirement to obtain approval from the House of Representatives in the following session as regulated in Article 22 paragraph (2) of the 1945 Constitution and Article 52 of Law 12/2011 is legally unjustifiable.

The Petitioners' argument which stated that Law 6/2023 is contrary to the principles of popular sovereignty, rule of law, and guarantees of legal certainty as regulated in Article 1 paragraph (2), Article 1 paragraph (3), and Article 28D paragraph (1) of the 1945 Constitution because it does not respect the Constitutional Court Decision Number 91/PUU-XVIII/2020, the issue of the presumption that the stipulation of Perppu (Government Regulation in Lieu of Law) 2/2022 which was later enacted into Law 6/2023 is not in accordance with the Verdict in the Decision of the Court Number 91/PUU-XVIII/2020 has been considered by the Court in sub-Paragraph **[3.15.2]** to sub-paragraphs **[3.15.4]** of the Constitutional Court Decision Number 54/PUU-XXI/2023.

Whereas regarding the legal considerations used as the basis for the Constitutional Court Decision Number 54/PUU-XXI/2023 as described above, Constitutional Justice Wahiduddin Adams, Constitutional Justice Saldi Isra, Constitutional Justice Enny Nurbaningsih, and Constitutional Justice Suhartoyo have dissenting opinions. Regarding the *a quo* case, the four Constitutional Justices have the same opinion as stated in the dissenting opinions of the Constitutional Court Decision Number 54/PUU-XXI/2023.

Whereas in accordance with all the legal considerations above, the Court is of the opinion that it is evident that the formal formation process of Law 6/2023 is not contrary to the 1945 Constitution. Therefore, Law 6/2023 remains to have binding legal force. Accordingly, the Petitioners' arguments are legally unjustifiable in their entirety and other matters shall not be considered further because they are considered to be irrelevant. Therefore, based on this, the Court handed down a decision whose verdict is to dismiss the Petitioners' petition in its entirety.