



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 50/PUU-XXI/2023**

**Concerning**

**Formal Review of Job Creation Law**

<b>Petitioner</b>	<b>: Partai Buruh (Labor Party) represented by H. Said Iqbal as President and Ferri Nuzarli as Secretary General</b>
<b>Type of Case</b>	<b>: Formal review of Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law (Law 6/2023) against the 1945 Constitution of the Republic of Indonesia (UUD 1945)</b>
<b>Subject Matter</b>	<b>: Formal Review of the Formation of Law 6/2023 against the 1945 Constitution</b>
<b>Verdict</b>	<b>: To dismiss the Petitioner's petition in its entirety</b>
<b>Date of Decision</b>	<b>: Monday, 2 October 2023</b>
<b>Overview of Decision</b>	<b>:</b>

The petitioner is a legal entity political party organization which was formed based on the general interest or public interest. Based on the objectives as stated in the provisions of Article 5 of the Articles of Association of Partai Buruh, as a political party whose platform focuses to fight for the issues of labour, agriculture, agrarian affair, environment, indigenous communities, etc., the Petitioner has an interest in submitting the petition for the formal review of Job Creation Law because the Job Creation Law was formed without fulfilling the requirements for the formation of Law pursuant to the 1945 Constitution, the Formation of Statutory Regulation Law, and the mandate of the Constitutional Court Decision Number 91/PUU-XVIII/2020, meanwhile the said Law contains various regulations regarding labour, agriculture, agrarian affairs, environment, and indigenous communities, etc., all of which are detrimental to small communities who are constituents and whose interests are defended by Partai Buruh. The Petitioner believes to be harmed by the enactment of Law 6/2023 since its formation is contrary to the 1945 Constitution.

Regarding the authority of the Court, because the Petitioner's petition is a formal review of the law, *in casu* Law 6/2023 against the 1945 Constitution, the Court has the authority to hear the *a quo* petition.

Whereas regarding the Petitioner's legal standing, the Court considers that the Petitioner has a direct relationship with Law 6/2023 because the content of the norms in Law 6/2023 is closely related to the field of employment which is the Petitioner's main concern in fighting for the labour/workers' rights as an effort to improve their living standards. Therefore, the Court is of the opinion that regardless of whether the argument regarding the unconstitutionality of the formation/approval of Law 6/2023 is proven or not, the Petitioner has the legal standing to submit the *a quo* petition.

Whereas the Petitioner argued that the formation of Law 6/2023 was not in accordance with the formal requirements regulated in Article 22 of the 1945 Constitution and Article 52 of Law 13/2022. Against the *a quo* argument, the Court has reviewed and considered it in the Constitutional Court Decision Number 54/PUU-XXI/2023 as declared previously, dated 2 October 2023 sub-Paragraph [3.14.6] and sub-Paragraph [3.14.7]. Pursuant to such considerations, since the constitutionality issue questioned by the Petitioner concerns the requirements regulated by Article 22 of the 1945 Constitution and Article 52 of Law 13/2022, these considerations *mutatis mutandis* shall apply to answer the arguments in the *a quo* petition of the Petitioner. Therefore, the Petitioner's argument regarding the presumption that the enactment of Law 6/2023 is contrary to Article 22 of the 1945 Constitution and Article 52 of Law 13/2022 is legally unjustifiable.

Whereas the Petitioner argued that the enactment of Law 6/2023 does not fulfil the requirements of compelling urgency as stated in the Constitutional Court's interpretation of Article 22 paragraph (1) of the 1945 Constitution and in the Constitutional Court Decision Number 138/PUU-VII/2009. Regarding the issue of the constitutionality of the stipulation of Law 6/2023 which presumed to not fulfilling the requirements of compelling urgency, such issue has been considered by the Court in the Constitutional Court Decision Number 54/PUU-XXI/2023 as stated previously, namely in sub-Paragraph [3.15.1]. In accordance with such considerations, because the constitutionality issue questioned by the Petitioner is related to the enactment of Law 6/2023 which presumed to not fulfilling the requirements of compelling urgency as per the interpretation of Article 22 paragraph (1) of the 1945 Constitution and in the Constitutional Court Decision Number 138/PUU-VII/ 2009, then these considerations *mutatis mutandis* shall also apply to answer the arguments in the *a quo* petition of the Petitioner. Thus, the Petitioner's argument regarding the failure to fulfil the compelling urgency requirements as interpreted in the Constitutional Court Decision Number 138/PUU-VII/2009 in the enactment of Law 6/2023 is legally unjustifiable;

Whereas the Petitioner further argued that the formation of Law 6/2023 was not in accordance with the Constitutional Court Decision Number 91/PUU-XVIII/2020. In addition, according to the Petitioner the formation of Law 6/2023 was not in accordance with the requirements for meaningful participation as considered in the *a quo* Constitutional Court Decision Number 91/PUU-XVIII/2020. With regard to the issue of the presumption that the stipulation of Perppu (Government Regulation in Lieu of Law) 2/2020 which was later established as Law 6/2023 was not in accordance with the Constitutional Court Decision Number 91/PUU-XVIII/2020, the Court has reviewed and considered it in the Constitutional Court Decision Number 54/PUU-XXI/2023 as stated previously, namely in sub-Paragraph [3.15.3] and sub-Paragraph [3.15.4]. Based on such considerations, because the constitutionality issue questioned by the Petitioner is related to the inconsistency between the enactment of Law 6/2023 and the Constitutional Court Decision Number 91/PUU-XVIII/2020, therefore the Constitutional Court Decision Number 54/PUU-XXI/2023 shall also apply *mutatis mutandis* to answer the arguments in the *a quo* Petitioner's petition. Therefore, the Petitioner's argument regarding the inconsistencies between the enactment of Law 6/2023 and the Constitutional Court Decision Number 91/PUU-XVIII/2020 is legally unjustifiable.

Furthermore, regarding the Petitioner's argument that the formation of Law 6/2023 is presumed to be not fulfilling the requirements for meaningful participation of the community, this matter has also been considered by the Court in the Constitutional Court Decision Number 54/PUU-XXI/2023 which was stated previously, namely in Sub-paragraph [3.15.5] to sub-Paragraph [3.15.6]. Based on such considerations, because the constitutionality issue questioned by the Petitioner is related to the enactment of Law 6/2023 which is presumed to be not fulfilling the requirements for meaningful participation of the community, therefore such considerations shall apply *mutatis mutandis* to answer the arguments in the *a quo* Petitioner's petition. Accordingly, the Petitioner's argument related to the failure to fulfil the requirements for meaningful participation of the community in the stipulation of Law 6/2023 is legally unjustifiable;

With regard to the Petitioner's argument which stated that the stipulation of Law 6/2023 was not in accordance with Article 42A of Law 13/2022, because according to the Petitioner, the *a quo* law was not stipulated in the planning document even though the omnibus method is used, the Court considered that Article 42A of Law 13/2022 in principle states that the use of the omnibus method in preparing a Bill must be stipulated in the planning document. The Petitioner believes that the formation of Law 6/2023 did not go through such process so that it violates the law formation procedure. To answer this issue, it is necessary to first understand the background of the formation of the *a quo* Law 6/2023. Law 6/2023 is fundamentally not a law that was formed using ordinary processes or procedures, because the *a quo* law is a legal product that originates from a bill establishing Perppu (government regulation in lieu of law) into law, therefore the background to the formation of Law 6/2023 cannot be separated from the formation of Perppu 2/2022 which was ratified by such law. The background to the formation of the Perppu has been considered by the Court as per the

aforementioned considerations and in the consideration of the Constitutional Court Decision Number 54/PUU-XXI/2023 which has also been quoted in Paragraph [3.14] and Paragraph [3.15] above. From these considerations, it has been concluded that the stipulation of Perppu 2/2022, which later became Law 6/2023, according to the DPR, has fulfilled the requirements of compelling urgency. In other words, the DPR has provided an assessment regarding the fulfilment of these requirements so that the Petitioner's opinion which states that the formation of the *a quo* law does not meet the criteria of compelling urgency has been declared legally unjustifiable. The affirmation that the stipulation of Perppu 2/2022, which was later ratified as Law 6/2023, is deemed to fulfil the requirements of a compelling urgency is important to answer the question of whether the formation of Law 6/2023 is contrary to Article 42A of Law 13/2022. The birth of a Perppu (government regulation in lieu of law) does not go through a planning stage, because a Perppu is made if and only if there is an element of compelling urgency which in fact does not always occur. Therefore, the laws that are the legal product arising from the enactment of any Perppu into law will not be included in planning documents as regulated by Article 42A of Law 13/2022. This is different from ordinary laws which must be planned in advance in the national legislation program. The subject matter submitted by the Petitioner regarding this matter is more relevant for the formation of laws using normal procedures, whereas Law 6/2023 was formed as a product that went through the process of ratifying the Perppu into law, namely Perppu 2/2022 where the fulfilment of the compelling urgency requirements has forced the Perppu to be assessed and approved by the DPR (House of Representatives). Meanwhile, with regard to the omnibus law method, the Court is of the opinion that neither the 1945 Constitution nor Law 13/2022 regulates any restrictions on the material or types of law that may not be made in the form of a perppu. Article 7 and Article 11 of Law 12/2011 also emphasize that the Perppu, both in terms of its position and content, is equivalent to the law. The formation of the Perppu and which materials will be regulated in the Perppu is the President's prerogative in order to face and respond to pressing emergency conditions. As long as the compelling urgency requirements have been assessed and approved by the DPR (House of Representatives), the Perppu must then be passed as law. As for the substance or content of the Perppu which has been passed into law, it remains under the authority of the Court to be assessed in the application of its authority to review legal material or legal norms against the 1945 Constitution. Therefore, the Court considers that the formation of Law 6/2023 should not fulfil the requirement of including the Bill in the planning documents as intended in Article 42A of Law 13/2022. This is not a violation of the principles of the rule of law and it does not violate the realization of popular sovereignty which is implemented based on the 1945 Constitution as guaranteed by Article 1 paragraph (2) and paragraph (3) of the 1945 Constitution.

Pursuant to these considerations, the *a quo* argument of the Petitioner which states that the stipulation of Law 6/2023 is contrary to Article 42A of Law 13/2022 is legally unjustifiable. 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 Petitioner's arguments are entirely legally unjustifiable. Subsequently, the Court handed down a decision which verdict stated to dismiss the Petitioner's petition in its entirety.