



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 161/PUU-XXI/2023**

**Concerning
Origins of Indonesian Language**

Petitioner	: Artiningkun
Type of Case	: Judicial Review of Law Number 24 of 2009 concerning National Flag, Language, Emblem and Anthem (Law 24/2009) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution).
Subject Matter	: According to the Petitioner, Article 25 paragraph (1) of Law 24/2009 is contrary to the 1945 Constitution.
Verdict	: To declare that the Petitioner's petition is inadmissible.
Date of Decision	: Wednesday, January 31, 2024
Overview of Decision	:

The Petitioner is an individual Indonesian citizen who is a retired civil servant (former teacher). The Petitioner petitions for a review of the constitutionality of Article 25 paragraph (1) of Law 24/2009 which regulates Indonesian language reference sources.

Regarding the Court's authority, because the Petitioner petitions for a review of the constitutionality of statutory norms, *in casu* Article 25 paragraph (1) of Law 24/2009 against Article 27 paragraph (3) and Article 28G paragraph (1) and paragraph (2) of the 1945 Constitution, the Court has the authority to hear the *a quo* petition.

Regarding the Petitioner's legal standing, the Petitioner believes that he is injured by the reference to the language pledged in the 1928 Youth Pledge (*Sumpah Pemuda*), namely the phrase *Van Ophuijsen*, he believes that it has the nuance of discrediting, vilifying or weakening the authority of the Indonesian nation by opening up old wounds that were once colonized by the Dutch. The Petitioner also believes that he is injured because as a teacher he could not clearly answer questions from his students regarding the origins of the Indonesian language. The Court considers that the Petitioner had proven himself to be an Indonesian citizen. In addition, the Petitioner has also described his constitutional rights, and has also described the relationship between the provisions being petitioned for review and the potential constitutional injury experienced by the Petitioner, although the formulation is not sufficiently clear. Therefore, the Court considers that the Petitioner has the legal standing to act as a Petitioner in the *a quo* case; Whereas before considering the subject matter of the petition, the Court needs to consider the clarity of the formulation and systematics of the following Petitioner's petition.

- 1) The Petitioner submitted a petition dated 2 November 2023 which was received at the Registrar's Office of the Constitutional Court on 10 November 2023;
- 2) Regarding this petition, the Court examined it in the First Preliminary Hearing on 19 December 2023, with the agenda of examining the Petitioner's petition and providing advice or suggestions for improvements, in principle, the Petitioner was asked to summarize and clarify the *posita* section of his petition and improve the formulation of the *petitum*;
- 3) The Petitioner then submitted/sent several revised petitions, which after being examined by the Court consisted of three revised versions of the petition, namely:
 - a) revised petition dated 30 December 2023 which was sent by post and received by the Court on 2 January 2024;
 - b) revised petition dated 2 January 2024 which was sent by post and received by the Court on 4 January 2023, which is the same as the revised petition dated 2 January 2024 which was sent by email on 2 January 2024; and
 - c) revised petition dated 15 January 2024 which was sent via email on 15 January 2024;
- 4) From these revised petitions, pursuant to Article 42 of the Constitutional Court Regulation Number 2 of 2021 concerning Procedures in Judicial Review Cases (Constitutional Court Regulation 2/2021) and the explanation of the panel of justices in the first Preliminary Session regarding the deadline for submitting revised petition, and upon confirmation from the Petitioner, in examining and adjudicating the *a quo* case, the Court will refer to the revised petition dated 2 January 2024 which was received on the same date;
- 5) Furthermore, in the second Preliminary Hearing with the agenda of examining the revised petition, on 17 January 2024, the Court heard the Petitioner's description regarding the substance of the revised petition prepared by the Petitioner;
- 6) After the Court heard the Petitioner's description and carried out an examination and review of the *a quo* revised petition, the Court provides the following consideration:
 - a) In the *posita* section of the petition, there are many descriptions or explanatory sentences which are repeated, thereby blurring the focus of the petition and making the *posita* of the petition difficult to understand;
 - b) The writing used in the petition is unusual, among other things because the Petitioner marked the order/numbering of paragraphs using numbers, but in other parts the Petitioner marked the order using sub-headings in the form of "Argument 1", "Argument 2", and so on. The Court is of the opinion that the description in each sub-heading is a repetition of the explanation in the previous paragraph;
 - c) The Petitioner has prepared a *petitum*, however the writing/formulation of the *petitum* is more suitable to be a *posita* description. Such writing of *petitum* gave the impression that the Petitioner petitioned for a review of Article 36 of the 1945 Constitution;
 - d) In the *posita* section of the petition, the Petitioner petitioned for an interpretation of Article 25 paragraph (1) of Law 24/2009, but the description or formulation of the *petitum* did not clearly indicate a petition to interpret Article 25 paragraph (1) of Law 24/2009 because the Petitioner also included the contents of Article 36 of the 1945 Constitution in the *petitum*;
 - e) The entire formulation of *petitum* did not state a contradiction between Article 25 paragraph (1) of Law 24/2009 and the 1945 Constitution.

Regarding such petition, which has been revised with a revised petition, the Court is of the opinion that the petition does not comply with the guidelines for preparing petition and/or revising petition as regulated in the Constitutional Court Law and Article 10 paragraph (2) letter b and letter d of the Constitutional Court Regulation 2/2021, among other things because the contents of the petition are not focused (obscure), the writing is unusual and keeps on repeating other parts, the formulation of the *petitum* gives the impression of a petition to review of Article 36 of the 1945 Constitution, and there is no formulation of *petitum* stating the contradiction between Article 25 paragraph (1) of Law 24/2009 and the 1945 Constitution.

Pursuant to such legal considerations, even though the Court has the authority to hear the *a quo* petition and the Petitioner has the legal standing to act as Petitioner, however because the Petitioner's petition is unclear or obscure (*obscuur*), then the Court will not consider the subject matter of the petition.

Therefore, the Court subsequently handed down a decision whose verdict states that the Petitioner's petition is inadmissible.

Dissenting Opinion

Regarding the *a quo* decision of the Court, there is a dissenting opinion from the Constitutional Justice M. Guntur Hamzah which states the following:

Whereas I think the petition of the Petitioner should not have been judged as unclear or obscure so that it is considered as inadmissible (*niet ontvankelijke verklaard*), instead it should have been judged as a clear petition in accordance with the principle of '*ex aequo et bono*', however, indeed, the Petitioner's arguments are entirely legally unjustifiable. Under such consideration, on the one hand, the Court is able to maintain the aspects or dimensions of the constitution and constitutionality, on the other hand, the Court is also able to explain or convey the educational aspects or elements related to the issue of the constitutionality of the Indonesian language through the *a quo* decision. Therefore, because the subject matter of the petition is entirely legally unjustifiable, this petition should have been dismissed (*wordt ongegrond verklaard*).