



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 132/PUU-XXII/2024**

Concerning

Formal Review of the Law on Biological Natural Resources and Ecosystems

Petitioners	: The Indigenous Peoples Alliance of the Archipelago (AMAN), represented by Rukka Sombolinggi as Secretary-General et al.
Type of Case	: Formal Review of Law Number 32 of 2024 concerning Amendment to Law Number 5 of 1990 concerning Conservation of Biological Natural Resources and Ecosystems (Law 32/2024) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
Subject Matter	: Formal Review of Law 32/2024 against the 1945 Constitution
Verdict	: On the Preliminary Injunction: To dismiss the Petitioners' preliminary injunction On the Merits: To dismiss the Petitioners' petition entirely
Date of Decision	: Thursday, July 17, 2025
Overview of Decision	:

The Petitioners are legal entities and an individual Indonesian citizen with an interest in the formation of Law 32/2024. Petitioner I describes itself as an association that works to defend Human Rights, particularly the unity of Customary Law Communities. Whereas Petitioner II and Petitioner III describe themselves as legal entities operating in the environmental sector, including playing a role in fighting for human rights, particularly the Constitutional Rights of coastal and small island communities, as well as the protection and empowerment of coastal and small island communities. Petitioner IV explains himself as an individual Indonesian citizen who became a victim of criminalization due to the impact of Law 5/1990 and was not involved in the formation of Law 32/2024, so that the implementation of Law 32/2024 has the potential to seize Petitioner IV's residence and customary territory located within the conservation area.

Whereas, before further considering the Petitioners' petition *a quo*, the Court has passed down Interim Decision Number 132-PS/PUU-XXII/2024, pronounced in a plenary session open

to the public on November 14, 2024. In the Interim Decision *a quo*, the Court has considered the Court's Authority, the Time Limit for Formal Review Submission, and the Petitioner's Legal Standing. In the Interim Decision *a quo* considerations regarding the Court's Authority, in essence, the Court states that it has the authority to hear petitions for formal review of laws, *in casu* Law Number 32 of 2024 concerning Amendment to Law Number 5 of 1990 concerning Conservation of Biological Natural Resources and Ecosystems (State Gazette of the Republic of Indonesia of 2024 Number 138, Supplement to the State Gazette of the Republic of Indonesia Number 6953, hereinafter, Law 32/2024) against the 1945 Constitution of the Republic of Indonesia (hereinafter, the 1945 Constitution). Meanwhile, in the section on Time Limit for Formal Review Submission in the Interim Decision *a quo*, the Court essentially states that the Petitioners' petition was submitted within the time limit for the submission of a petition for formal review of laws. Furthermore, in the section on Legal Standing of Petitioner in the Interim Decision *a quo*, the Court essentially states that the Petitioners have the legal standing to submit the petition *a quo*.

Regarding the preliminary injunction, which, in essence, petitions the Constitutional Court to issue an interim decision to postpone the enactment of Law 32/2024 and to enforce Law Number 5 of 1990 concerning Conservation of Biological Natural Resources and Ecosystems (Law 5/1990) and Article 33 and Article 69 letter c of Law Number 17 of 2019 concerning Water Resources (Law 17/2019) until the Constitutional Court issues a final decision on the subject matter of the petition *a quo*, on the basis that, in the Petitioners' opinion, in essence, there are at least 10 (ten) provisions of norms that delegate the provisions in Law 32/2024 to be further regulated in Government Regulations, including in Article 43B of Law 32/2024, which provides that the implementing regulations of Law 32/2024 shall be stipulated within a maximum period of 1 (one) year from the date the Law *a quo* is promulgated, and therefore it is necessary to order the President not to issue a Government Regulation or Presidential Regulation, the Court is of the view that, it turns out that the matter that the Petitioners are petitioning in the preliminary injunction is directly related to the substance in the subject matter of the petition. Moreover, regarding the Petitioners' preliminary injunction, the Court has previously explained in the legal considerations of Paragraph [3.9] of Interim Decision Number 132-PS/PUU-XXII/2024 that, in essence, among other things, the Court orders the government and other parties not to issue implementing regulations related to Law 32/2024 until the Constitutional Court issues a final decision to avoid broader impacts during the postponement of the hearing examination of the case *a quo*. Thus, the Petitioners' preliminary injunction is legally unjustifiable.

Regarding the Petitioners' argument that the formation of Law 32/2024 is procedurally defective, the Court is of the view that, with respect to the difficulty experienced by the Petitioners to have support in obtaining documents, such as at the drafting stage, after reading and examining the DPR's (House of Representatives) statement and the evidence submitted, the Court finds a fact that documents related to the legislative process of the Bill Amending Law 5/1990 are available and can be accessed by the public through DPR RI's official website in the section of legislative function, specifically in the Periodic National Legislative Program menu. In its statement, the DPR also clarifies that the deliberation meetings were broadcast live via the DPR RI's YouTube channel and disseminated through various DPR's official information media. In addition, the Court finds that during the drafting process, the DPR has held meetings. The series of these meetings shows that, during the drafting of the Bill Amending Law 5/1990, the DPR has held forums with various stakeholders in a participatory manner. This is reflected in the conduct of several RDPU and public consultations with academics, practitioners, NGOs, business actors, and government officials that are relevant to the conservation sector. Furthermore, the DPR also held a series of internal meetings and harmonization within the Commission IV Working Committee on an ongoing basis from 2021 to 2022, culminating in a Plenary Meeting on July 7, 2022, to determine the Bill Amending Law 5/1990 as a DPR initiative proposal. In line with this,

the President's statement and evidence also confirm the series of processes for deliberating the Bill in question in various official forums within the DPR.

Regarding the Petitioners' argument challenging these closed meetings, Article 229 of Law 17/2014 and Article 276 paragraph (1) of DPR RI Rules of Procedure 1/2020 regulate closed meetings, namely, every DPR meeting is open, unless declared closed. Regarding minutes, meeting notes, and brief reports of closed meetings, Article 302 paragraph (4), paragraph (5), and paragraph (6) of DPR RI Rules of Procedure 1/2020 further regulate this matter. Under these provisions, if the chair of the meeting, by mutual agreement between the DPR and the Government, states that the meeting is held behind closed doors, the meeting may be declared confidential. Thus, all discussions and decisions are confidential and must not be announced or disclosed to any party or the public. Meanwhile, if the meeting is held behind closed doors but its contents are not declared confidential, the discussion may be made public through meeting notes, either in full or in part. Therefore, regarding the issue on documents at the drafting stage that the Petitioners cannot obtain, such as documents related to the agenda of Harmonization Meeting with the Proposer (Commission IV) for harmonizing the Bill Amending Law 5/1990 dated January 20, 2022 and the Working Committee Meeting on Harmonization of the Bill Amending Law 5/1990 dated March 30, 2022 and May 22, 2022, it does not necessarily mean that there is no support for obtaining documents related to the formation of Law 32/2024, nor does it mean that the process is contrary to statutory regulations, thereby resulting in procedural defects.

Then regarding the Petitioners' argument challenging the deliberation stages that were not conducted openly, so that they could not see the progress of the DIM deliberation related to customary law communities as subjects carrying out conservation, in the Court's opinion, considering 21 (twenty-one) meetings at Level I Deliberation and 1 (one) meeting at Level II Deliberation in the deliberation stages, it was found that 4 (four) meetings were held openly, namely on April 10, 2023 RDPU with conservation observers, April 11, 2023, June 13, 2024 DPR Commission IV Working Meeting with the Government and the DPD, and July 9, 2024. Meanwhile, the other 18 (eighteen) meetings, including the Formulation and Synchronization Team meetings, were held in a closed-door. However, even though some of the deliberation meetings of the Bill Amending Law 5/1990 were declared closed-door, information regarding the meeting contents is not declared confidential, so that general information on the deliberations that took place in the meetings may be made public through media crews in interviews after the deliberation meeting or interviews on the progress of the formation of the Bill Amending Law 5/1990. Thus, even though a meeting is declared closed-door, the public can still learn what was discussed through the meeting notes, either in full or in part.

Meanwhile, regarding the Petitioners' argument that Petitioner I was involved in drafting the DIM but its input did not receive a response, in the Court's opinion, the DIM for the Bill Amending Law 5/1990 made by the lawmakers, *in casu*, the President, is drafted by considering all aspects related to the contents of the law. Input submitted by the community is a realization of community participation in the legislative process of laws, which cannot all be automatically accommodated directly, because it should be processed in accordance with the needs of forming a law. However, regarding the Petitioners' argument *a quo*, the Court finds that Working Group ICCAs Indonesia (WGII), which covers Petitioner I to Petitioner III, has submitted input that the Government has accommodated. WGII's input regarding the need for the Bill Amending Law 5/1990 to distribute the division of conservation authority so that all parties have responsibilities and may contribute has been included in Article 4 and Article 8 paragraph (4) letter d and letter e of Law 32/2024. Therefore, the Petitioners' argument that the formation of Law 32/2024 is procedurally defective is legally unjustifiable.

Regarding the Petitioners' argument that the formation of Law 32/2024 is formally defective since it does not fulfill the principle of clarity of purpose, as regulated in Article 5 letter a of Law 13/2022, in the Court's opinion, the formation of Law 32/2024, as a Law Amending Law 5/1990, has proportionally fulfilled the following principles: Firstly, there is suitability, reflected in the intention of drafting the Law *a quo* that is aimed at perfecting the regulation of conservation of biological natural resources and ecosystems to accommodate developments in national law and Indonesia's international obligations after ratifying various biodiversity conventions. Secondly, there is a clear necessity to adjust Law 5/1990, which has been in effect for more than 30 (thirty) years, to address the increasing complexity of conservation problems and the legal needs of communities. Thirdly, aims to create balance, as reflected in the objectives of the formation of the Law *a quo* that prioritizes ecosystem sustainability and its use for the welfare of the people, without closing the space for community participation, including customary law communities, in the process of the implementation in a rational and balanced manner. Thus, in the Court's opinion, the formation of Law 32/2024 is in line with the principle of clarity of objectives in the formation of laws and regulations and has been implemented proportionally.

Furthermore, regarding the existence and role of customary law communities, after the Court examines the entire Law *a quo*, explicit mention of the phrase "customary law communities" is contained in Article 37 paragraph (3) and Article 37 paragraph (4) of Law 32/2024. In the General Explanation section, the aspect of customary law communities is one of the important aspects strengthened in Law 32/2024, namely increasing the role of customary law communities in conservation of biological natural resources and ecosystems, improving the welfare of customary law communities around nature reserve areas, nature conservation areas, conservation areas in waters, coastal areas, and small islands, as well as preservation areas. Therefore, in the Court's opinion, the word "communities" and the phrase "customary law communities" in Law 32/2024 are used interchangeably, with essentially the same meaning, where the word "communities" also includes "customary law communities." According to the DPR's statement, provisions related to customary law communities cannot be regulated in detail in Law *a quo* since there is already a Bill on Customary Law Communities. Law 32/2024 is a regulation on biological natural resources and ecosystems, and therefore, although there are regulations regarding the involvement of the role of customary law communities, Law 32/2024 does not regulate in detail the regulations regarding customary law communities. In this regard, there is a fact that the Government has planned to introduce a Bill on Customary Law Communities, as stated in the National Legislation Program for Bills, namely in the 2020-2024 National Legislation Program Number 160.

Meanwhile, regarding the involvement of parties with concerns towards conservation of biological natural resources and ecosystems as argued by the Petitioners, the Government has invited community organizations and individuals with an interest in conservation, including in the RDPU of the Working Committee of DPR Commission IV on April 10, 2023, that presented Yayasan Konservasi Alam Nusantara (the Nusantara Nature Conservation Foundation), Conservation Working Group, WGII, ISKINDO, and Representatives of the MHA Bali (Indigenous People in Tambling Bali). Thus, even though the lawmakers cannot invite all community institutions or individuals who are concerned with conservation, the space for participation for the community is wide open, as regulated, among other things, in the Elucidation of Article 69 paragraph (2) of Law 17/2014 and Articles 243-246 of DPR RI Rules of Procedure 1/2020. This shows that the formation of Law 32/2024 has taken into account the involvement of customary law communities in the implementation of the conservation of biological natural resources and ecosystems. Thus, the Petitioners' argument that the formation of Law 32/2024 is formally defective, as it does not fulfill the principle of clarity of purpose, is legally unjustifiable.

Regarding the Petitioners' argument that the formation of Law 32/2024 is formally defective since it does not fulfill the principles of efficiency and effectiveness, as regulated in Article 5 letter e of Law 13/2022, in the Court's opinion, regarding the Petitioners' argument that is concerned about potential problems, including, provisions regarding preservation areas that are unclear, the absence of regulations on free, prior and informed consent without coercion (*padiatapa*), vague position of customary forests, the centralized approach, and conservation-development approach in Law 32/2024. Regarding the Petitioners' argument, in the Court's opinion, the problems they present are not related to the principles of efficiency and effectiveness, but rather to clarity of formulation. In this context, after the Court examines the Petitioners' petition, the description of the Petitioners' argument emphasizes fulfilling the technical requirements for drafting laws and regulations, systematics, and the choice of words or terms, which are considered to have the potential to give rise to various interpretations in their implementation. In this context, the review of the clarity of the law's formulation is not part of the formal review but rather a material review of the law. Thus, the Petitioners' concerns about potential problems are not relevant to further discussion. Therefore, the Petitioners' argument that the formation of Law 32/2024 is formally defective, as it does not comply with the principles of efficiency and effectiveness, is legally unjustifiable.

Regarding the Petitioners' argument that the formation of Law 32/2024, it is formally defective since it does not fulfill the principle of openness, as regulated in Article 5 letter g of Law 13/2022, and does not apply the principle meaningful participation, as stated in Constitutional Court Decision Number 91/PUU-XVIII/2020, in the Court's opinion, it needs to reaffirm that under Article 229 of Law 17/2014, all meetings in the DPR are open unless the meeting is declared closed. Then, under Article 278 of the DPR RI Rules of Procedure 1/2020, closed meetings may be confidential and may be prohibited from being announced or conveyed to other parties or the public. Regarding the minutes of the meeting being declared closed, if they are confidential, they cannot be given to the information Applicants. Meanwhile, if the closed meeting is not confidential, information can be provided to information Applicants by first submitting a written request to obtain approval from DPR leadership or the leadership of the organs of the House.

Meanwhile, regarding the Petitioners' argument, the DPD, in its conclusion, states that the deliberations on the Bill Amending Law 5/1990 are accessible. In addition, the DPD also emphasized that although the DPD is not a direct representation of customary law communities, the DPD has voiced and fought for regional interests, including protection of the rights of local communities and the environment, in various discussion forums through DPD Committee II which is actively, continuously involved and documents all stages of the deliberation of the Bill Amending Law 5/1990 with the DPR and the Government. The DPD's involvement is not merely administrative or symbolic, but is substantial in the DPD's legislative function.

Furthermore, regarding the Petitioners' argument that 20 (twenty) documents of meeting results cannot be accessed, it has been established that the documents in question relate to DPR meetings held behind closed doors, and the meeting information was not declared confidential. This means that, regarding the 20 (twenty) meeting documents in question, the Petitioners can still obtain general information on the deliberations, such as through print or electronic media that have been provided, including the YouTube channel and the official social media platform of the DPR RI. Therefore, the problem with accessing documents of meeting results is not appropriate when viewed in light of the principle of openness, as argued by the Petitioners *a quo*. Because, if the Petitioners want to get access to the meeting result, even though some of the deliberation meetings of the Bill Amending Law 5/1990 were declared closed-door, information regarding the meeting contents is not declared confidential, so that general information on the deliberation taken place in the meetings may be made public through media crews in interviews after the deliberation meeting or interviews on the progress of the formation of the Bill Amending Law 5/1990. Thus,

even though a meeting is declared closed-door, the public can still learn what was discussed through the meeting notes, either in full or in part.

Moreover, regarding the Petitioners' argument that the formation of Law 32/2024 does not apply the principle meaningful participation because it does not accommodate input from customary law communities and local communities with potential direct impact in every stage of legislative process of laws, in the Court's opinion, the lawmakers have opened up public participation and efforts to disseminate information and provide space for public discourse in the legislative process of Law 32/2024. Thus, the lawmakers have fulfilled the requirements related to the principle of meaningful participation, namely the right to have one's opinion heard (right to be heard), the right to have one's opinion considered (right to be considered), and the right to receive an explanation or answer to the opinion given (right to be explained). However, the Court needs to emphasize that, in the future, lawmakers should maximize the public participation process by utilizing well-managed information technology so that, even though there is no physical meeting in the participation process, the public's right to participate is still accommodated to provide input, including obtaining responses or explanations related to the input submitted. This is in line with the principle of openness, as referred to in the law on the formation of laws and regulations. Thus, the Petitioners' argument that the formation of Law 32/2024 is formally defective, as it does not fulfill the principles of openness and meaningful participation, is legally unjustifiable.

Pursuant to the entire description of the aforementioned considerations, the Court passes down a decision in which the verdicts were:

On the Preliminary Injunction:

To dismiss the Petitioners' preliminary injunction.

On the Merits:

To dismiss the Petitioners' petition entirely

Concurring Opinion of Constitutional Justice Arsul Sani

Regarding the Decision of the Constitutional Court ("Court") in case Number 132/PUU-XXII/2024, I, Constitutional Justice Arsul Sani, convey a concurring opinion against the Court's Decision *a quo* with respect to the issue that the principle of openness in terms of public participation in the legislative process of Law 32/2024 is not fulfilled. My concurring opinion is explained as follows.

Thus, from the perspective of reasonableness principle, I am of the opinion that it would be unreasonable or inappropriate if, due to the existence of sub-stages that do not provide adequate space for public participation, the legislative process of Law 32/2024 is deemed procedurally defective, resulting in Law 32/2024 being conditionally unconstitutionality. In conclusion, I conclude that at the planning stages of Law 32/2024, public participation, at least in this aspect of right to be heard and right to be considered, has been sufficiently and adequately fulfilled. Meanwhile, regarding the right to be explained, from the evidence and facts of the hearing, I do not find that the Petitioners actively asked the lawmakers for an explanation of the input submitted to them. Moreover, this aspect of the right to be explained can be fulfilled by lawmakers after Law 32/2024. In this regard, fulfillment can be requested or carried out through various government or DPR public engagement forums, such as dissemination, and so on.

According to what was stated above, it is disproportionate and unreasonable if the Court declares that Law 32/2024 is contrary to the 1945 Constitution and conditionally has no binding force, as petitioned by the Petitioners, on the basis that the requirements for public participation have not been fulfilled. Whereas pursuant to the entire description stated above, I agree and share the same view with the verdict in the Court Decision to dismiss the Petitioners' petition entirely.

DISSENTING OPINION

Dissenting opinion of Constitutional Justice Suhartoyo and Constitutional Justice Saldi Isra

Whereas the Petitioners in Case Number 132/PUU-XXII/2024, in essence, argue that the formation of Law 32/2024 does not comply with the procedures for the formation of laws under the 1945 Constitution and petition the Court to declare that the legislative process of Law 17/2023 is formally defective so that it is contrary to the 1945 Constitution and must be declared to have no binding legal force. In the Decision *a quo*, the Court dismissed the Petitioners' petition. Regarding the Decision *a quo*, We, Constitutional Justice Suhartoyo and Constitutional Justice Saldi Isra, have a dissenting opinion for reasons which, in essence, are described in the following paragraph.

According to the legal considerations above, it is evident that the formation of Law 32/2024 was deliberated in a closed meeting, making it difficult for the public to obtain information on the progress of the bill's deliberation. These facts cannot be justified and should not be taken lightly in the legislative process of laws. Because the spirit of the dialogic process, as expressed in the principle of meaningful participation, is impossible to achieve in bill deliberations conducted behind closed doors. This clearly violates the principle of openness in the legislative process of laws. Accordingly, we need to emphasize that openness during the deliberation stage is the culmination of public participation in the formation of laws. In fact, the deliberation stage can be seen as the crown of the legislative process for enacting laws. This means that in the joint deliberation stage, as intended in Article 20 paragraph (2) of the 1945 Constitution, the principle of openness must be optimally pursued. The process of forming a law that ignores openness -- and, at the same time, public participation -- in deliberation on the law, even if other principles of formation are deemed to have been fulfilled, must still be assessed as containing formal defects. This stance refers to the legal considerations of Constitutional Court Decision Number 91/PUU-XVIII/2020, which states, "... the assessment of the stages and standards in question is carried out accumulatively. In this case, if at least one stage or one standard is not fulfilled from all the stages or all the existing standards, then the formation of the law can be considered formally defective."

Whereas pursuant to the legal considerations above because the process of deliberating Law 32/2024 was carried out behind closed doors without any valid reasons and has an impact on ignoring the principles of openness and public involvement in realizing the principles meaningful participation, the Court should declare that Law 32/2024 contains formal defects so that its legislative process is contrary to the 1945 Constitution. Therefore, the subject matter of the Petitioner's petition is legally justifiable. Or at least the Petitioner's petition *a quo* is granted in part.