



CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION  
FOR CASE NUMBER 111/PUU-XXIII/2025

Concerning

Education Fund Guarantee for All Levels of Education

- Petitioners** : Liga Mahasiswa Indonesia Untuk Demokrasi (LMD or the Indonesian Student League for Democracy) represented by Tegar Afriansyah as General Chairperson and Syamsul Arif as Secretary, and Sri Rahmawati, et al.
- Type of Case** : Judicial Review of Law Number 20 of 2003 concerning National Education System (Law 20/2003) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Article 11 paragraph (2) of Law 20/2003 is conditionally contrary to the 1945 Constitution
- Verdict** : To dismiss the Petitioners' petition in its entirety
- Date of Decision** : Thursday, August 14, 2025
- Overview of Decision** :

The Petitioners consist of private legal entities and individual citizens who believe that their constitutional rights are harmed by the enactment of the norm of Article 11 paragraph (2) of Law 20/2003, which does not provide a guarantee of the availability of funds to provide education for every citizen at every level of education. The Petitioners believe that the violation arises because Article 11 paragraph (2) of Law 20/2003 only provides guarantees for basic education funds, thus preventing the Petitioners from obtaining education at the secondary and higher education levels, which has violated their constitutional rights as regulated in Article 28C paragraph (1), Article 28D paragraph (1), Article 31 paragraph (1) and paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

With respect to the Court's authority, because the Petitioners petition for a review of statutory norm, *in casu* Article 11 paragraph (2) of Law 20/2003 against the 1945 Constitution, therefore the Court has the authority to hear the petition *a quo*.

With respect to the legal standing, Petitioner I to Petitioner V have been able to prove their qualification requirements as Petitioners, both Petitioner I as a Private Legal Entity, and Petitioner II to Petitioner V as individual Indonesian citizens. Petitioner I to Petitioner V have been able to describe the potential for losses related to the norms of the Articles that regulate the obligations of the Government and Regional Governments in fulfilling the education budget as regulated by Law 20/2003. Therefore, Petitioner I to Petitioner V have been able to demonstrate the existence of a causal relationship (*causal verband*) between the alleged

specific and potential loss of constitutional rights and the enactment of the norms being petitioned for review. Accordingly, if the petition *a quo* is granted, the assumption of loss of constitutional rights experienced by Petitioner I to Petitioner V will not occur. Therefore, regardless of whether or not the arguments of Petitioner I to Petitioner V (hereinafter referred to as the Petitioners) which state that the norms of Article 11 paragraph (2) of Law 20/2003 is unconstitutional is proven, the Court is of the opinion that the Petitioners have the legal standing to act as Petitioners in the petition *a quo*.

Whereas since the petition *a quo* is clear, the Court is of the opinion that there is no urgency and relevance in hearing the statements of the parties as intended in Article 54 of the Constitutional Court Law.

With respect to the petition for judicial review, due to the different basis for judicial review and constitutional grounds between this case and Case Number 11/PUU-VII/2009, which was decided in Constitutional Court Decision Number 11-14-21-126-136/PUU-VII/2009, the Court is of the opinion that the formal petition *a quo* is not hindered by the provisions of Article 60 of the Constitutional Court Law and Article 78 of Constitutional Court Regulations 2/2021. Accordingly, the provisions of Article 11 paragraph (2) of Law 20/2003 may be resubmitted for judicial review.

With regard to the constitutionality issue under examination, the Court sets forth the following considerations:

As one of the efforts to fulfill the State's objective of improving the life of the nation, the 1945 Constitution of the Republic of Indonesia mandates the principles forming the basis of the national education system in Article 31 of the 1945 Constitution of the Republic of Indonesia, which essentially provides that: (1) Every citizen has the right to obtain education, regardless of background or social status; (2) Citizens are obliged to attend basic education, and the government is obliged to finance it; (3) The government is responsible for organizing a quality national education system, including enhancing faith, piety, and noble morals, as well as improving the life of the nation; (4) The government allocates a minimum of 20% of the State Revenue and Expenditure Budget and Regional Revenue and Expenditure Budget for education; and (5) The government advances science and technology by upholding religious values and national unity. Pursuant to the foregoing description, the 1945 Constitution of the Republic of Indonesia expressly stipulates the rights of citizens in the field of education and the State's responsibility to fulfill those rights. In fact, by referring to the process of amendment of the 1945 Constitution of the Republic of Indonesia, a paradigm shift in basic education was agreed upon, whereby basic education is not only a constitutional right but also an obligation for citizens to attend. Accordingly, the State is obliged to finance such basic education. This paradigm shift is based on the awareness of all parties involved in the amendment process that education is essential to ensuring the achievement of national objectives, and that one of the causes of national underdevelopment is the lack of public awareness and participation in education, which begins at and is founded upon the basic education level.

In order to implement the mandate of the 1945 Constitution of the Republic of Indonesia, the legislators subsequently enacted Law 20/2003 as the legal basis for the organization of the national education system. In addition to Law 20/2003, the constitutional principles of national education are also implemented through a number of other laws, including laws on the state budget that apply the allocation of the education budget in accordance with the constitutional mandate, as well as the law governing higher education, namely Law Number 12 of 2012 concerning Higher Education. Therefore, every law and State policy related to the implementation of the national education system must give effect to the principles mandated by the Constitution, as stipulated in Article 31 of the 1945 Constitution of the Republic of Indonesia. In this regard, Article 3 of Law 20/2003 provides that national education functions to develop capabilities and to shape the character and civilization of a dignified nation in order to enlighten the life of the nation, and aims to develop the potential of students to become

individuals who are faithful and pious to God Almighty, possess noble character, are healthy, knowledgeable, capable, creative, independent, and who become democratic and responsible citizens.

The constitutionality of Law 20/2003 has been reviewed several times before the Court, and through Constitutional Court Decision Number 11-14-21-126-136/PUU-VII/2009, the Court has considered and decided upon the constitutionality of norms relating to the responsibility for financing national education. Pursuant to the Court's legal considerations and verdict in that decision, the Court took the position that it is an obligation for citizens aged seven to fifteen years to attend basic education, however, the State may not relinquish its responsibility for ensuring the continuity of the provision of education. Accordingly, since the pronouncement of the Decision, the norm of Article 6 paragraph (2) of Law 20/2003 must be interpreted as "Every citizen shares responsibility for the continuity of the provision of education." It should be understood that Article 6 paragraph (1) of Law 20/2003 emphasizes the obligation of citizens to participate in basic education, whereas Article 6 paragraph (2) of Law 20/2003 emphasizes responsibility for the continuity of the provision of education in general, without specifically referring to basic education. In this regard, Constitutional Court Decision Number 97/PUU-XVI/2018, which was pronounced in a public hearing on February 27, 2019, essentially considered and decided upon the constitutionality of the norm of Article 34 paragraph (2) of Law 20/2003 concerning the phrase "at least at the basic education level."

In this regard, the Court, through Constitutional Court Decision Number 3/PUU-XXII/2024, which was pronounced in a plenary session open to the public on May 27, 2025, has considered and decided upon the constitutionality of Article 34 paragraph (2) of Law 20/2003, which is also closely related to the responsibility for financing education, particularly basic education. In its Decision, the Court essentially stated that Article 34 paragraph (2) of Law 20/2003 is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force if it is not interpreted as "The Government and Regional Governments shall guarantee the implementation of compulsory education at least at the basic education level without charging fees, both for basic education units organized by the Government and for basic education units organized by the community." In relation thereto, the Court has taken the position that, in organizing the national education system, in addition to the State being required to allocate an education budget of at least 20% of the State Revenue and Expenditure Budget and Regional Revenue and Expenditure Budget, the utilization of the education budget must also be prioritized for the implementation of basic education. This is because the obligation of citizens to attend basic education, as mandated by Article 31 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, must be accompanied by the implementation of the State's obligations, in this case by the Government and Regional Governments, to provide basic education without charging fees, as decided in Constitutional Court Decision Number 3/PUU-XXII/2024.

Furthermore, with respect to the Petitioners' arguments, the failure to guarantee funding for education at all levels, even though such levels constitute an integral part of the national education system, would limit and hinder the Petitioners in obtaining their fundamental rights as guaranteed by Article 28C paragraph (1) of the 1945 Constitution of the Republic of Indonesia. With respect to the arguments a quo of the Petitioners, when linked to Article 6 paragraph (1) of Law 20/2003, which provides that "Every citizen aged seven to fifteen years is obliged to attend basic education," the basic education referred to consists of Elementary School (SD) and *Madrasah Ibtidaiyah* (Islamic elementary school, MI), or other equivalent forms, as well as Junior High School (SMP) and *Madrasah Tsanawiyah* (Islamic junior high school, MTs), or other equivalent forms [vide Article 17 paragraph (1) and (2) of Law 20/2003]. Furthermore, the affirmation regarding levels of education is stipulated in Article 14 of Law 20/2003, which provides that the levels of formal education consist of basic education, secondary education, and higher education. Law 20/2003 further determines what is included within secondary education and higher education [vide Article 18, Article 19, and Article 20 of Law 20/2003]. Pursuant to these provisions, it can be concluded that what the Petitioners

refer to in their petition as “all levels of education” encompasses basic education, secondary education, and higher education, and is therefore not limited to the levels of education attended by citizens aged seven to fifteen years.

In this regard, it is important for the Court to emphasize that the norm of Article 11 paragraph (2) of Law 20/2003, the constitutionality of which is being challenged by the Petitioners, essentially regulates the State’s obligation to ensure the availability of a budget for the provision of basic education. Constitutionally, the norm *a quo* has the same substance as the constitutional mandate contained in Article 31 paragraph (2) and paragraph (4) of the 1945 Constitution of the Republic of Indonesia, namely that the State is obliged to finance basic education and that there is a minimum allocation of the State Revenue and Expenditure Budget for education. As the Court has explained in the foregoing considerations, the Constitution provides a different level of urgency for basic education compared to other levels of education. The obligation of the State to finance basic education is explicitly stipulated in Article 31 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, therefore, the special emphasis on basic education constitutes a constitutional mandate that cannot be interpreted otherwise. Therefore, the Court is of the opinion that it is inappropriate to construe the meaning of the Government’s guarantee of the availability of funds/budget for the implementation of all levels of education as stipulated in the norm of Article 11 paragraph (2) of Law 20/2003. Although all levels of education constitute matters that fall under the responsibility of the State within the national education system, the interpretation requested by the Petitioners could in fact obscure the State’s obligation to prioritize basic education. As the Court has considered in Constitutional Court Decision Number 3/PUU-XXII/2024, in essence, the Court has adopted the position that the allocation of the education budget must be prioritized to ensure the provision of free basic education. Therefore, without interpreting the norm of Article 11 paragraph (2) of Law 20/2003 as requested by the Petitioners, the norm *a quo* remains in accordance with and coherent with the mandate of Article 31 of the 1945 Constitution of the Republic of Indonesia. Thus, according to the Court, there is no issue of constitutionality concerning the norm of Article 11 paragraph (2) of Law 20/2003 in relation to Article 31 paragraph (1) and paragraph (3) of the 1945 Constitution of the Republic of Indonesia, and accordingly, the Petitioners’ argument *a quo* is legally unjustifiable.

Furthermore, with respect to the Petitioners’ arguments questioning the constitutionality of the norm of Article 11 paragraph (2) of Law 20/2003 on the ground that, according to the Petitioners, it violates the rights guaranteed by Article 28C paragraph (1) of the 1945 Constitution of the Republic of Indonesia, the Court has, in its previous decisions, considered that the fulfillment of the right to education constitutes one of the economic, social, and cultural rights. The fulfillment of these economic, social, and cultural rights, although remaining the responsibility of the State, may be carried out progressively in accordance with the State’s capabilities, since the fulfillment of the economic, social, and cultural rights is always related to the availability of facilities, infrastructure, resources, and budget. The absence of norms emphasizing the State’s obligation to fulfill the funding needs for the provision of secondary and higher education cannot be interpreted as automatically resulting in the State relinquishing its responsibility for the provision of education at these levels. The State remains responsible for creating an educational ecosystem in the form of a series of regulations to facilitate citizens’ access to education at every level, however, such responsibility is not appropriately formulated by interpreting Article 11 paragraph (2) of Law 20/2003 as argued by the Petitioners. Moreover, in several previous Court decisions, it has been emphasized that such State’s obligation does not eliminate the role of the community in participating in education. Accordingly, the Petitioners’ argument, which states that Article 11 paragraph (2) of Law 20/2003 is contrary to Article 28C paragraph (1) of the 1945 Constitution, is entirely legally unjustifiable.

With respect to the argument that the absence of a legal guarantee for the funding of education at higher levels violates the Petitioners’ constitutional right to legal certainty as mandated by Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia,

the Court is of the opinion that the Petitioners are incorrect in their interpretation of the guarantee of fair legal certainty as stipulated in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia. This is because the norm of Article 11 paragraph (2) of Law 20/2003 cannot be interpreted as giving rise to uncertainty as to whether the Petitioners are able to pursue education at the secondary and/or higher education levels. In fact, Article 11 paragraph (2) of Law 20/2003 expressly provides legal certainty regarding the State's obligation to fulfill basic education and constitutes one of the legal bases for the realization of free basic education. Whether or not the Petitioners are able to pursue secondary and/or higher education is not solely determined by the State's obligation to provide funding for all levels of education. However, the Court considers it necessary to emphasize that, in order to prevent the concerns raised by the Petitioners from materializing, the Government is obliged to maintain proportionality in education funding by prioritizing budget allocations based on the number of students in the education pathway (general/non-service) and the budget for the service education pathway.

In relation to the foregoing, to the extent that the State provides and maintains a national education ecosystem that supports the availability of secondary and/or higher education and does not enact implementing regulations that hinder citizens' opportunities to pursue secondary and/or higher education, the legal uncertainty argued by the Petitioners does not arise from normative issues, *in casu*, the norm of Article 11 paragraph (2) of Law 20/2003. The State's responsibility in this regard has been expressly emphasized in Article 11 paragraph (1) of Law 20/2003, which provides that "the Government and Regional Governments are obliged to provide services and facilities, and to guarantee the provision of quality education for every citizen without discrimination." Therefore, the gradual fulfillment of citizens' rights to an adequate ecosystem for the provision of education at every level constitutes a State obligation, without the need to interpret the norm of Article 11 paragraph (2) of Law 20/2003 as requested by the Petitioners. Accordingly, the Petitioners' argument questioning the constitutionality of Article 11 paragraph (2) of Law 20/2003 in relation to Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia is entirely legally unjustifiable.

Furthermore, with respect to the Petitioners' argument that Article 11 paragraph (2) of Law 20/2003 gives rise to discrimination by preventing citizens from participating in secondary and higher education, the Court is of the opinion that, as considered above, Article 11 paragraph (2) of Law 20/2003 constitutes an affirmation of the State's obligation with respect to basic education. This provision is a direct elaboration of the mandate of Article 31 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which obliges citizens to attend basic education and requires the State to finance it. In other words, the norm *a quo* cannot be deemed to give rise to discriminatory practices, since the differentiation in focus between basic education and education at other levels is explicitly provided for by the Constitution and has been affirmed by the Court through its previous decisions. In addition, the affirmation of the State's role in facilitating the fulfillment of the right to education has been regulated in Law 20/2003, including in Article 11 paragraph (1) of Law 20/2003. In this regard, the Court considers it necessary to emphasize that the norm of Article 11 paragraph (2) of Law 20/2003, which requires the availability of funds to provide education for every citizen aged seven to fifteen years or at the basic education level, cannot be directly interpreted as disregarding the fulfillment of citizens' rights to secondary and higher education. The fulfillment of the right to secondary and higher education is closely related to open access to such education for all citizens, without being hindered by technical obstacles, namely the lack of funding or the limited economic capacity of citizens. In this context, the fulfillment of opportunities to pursue and complete all levels of education may determine the level of welfare and sustainability of a citizen's life, thereby enabling citizens to effectively play a role in supporting the State in its efforts to realize one of the objectives of the State, namely improving the life of the nation. Therefore, the Government must progressively endeavor to implement programs that can ease the burden on citizens in pursuing education

at every level, including secondary and higher education, and ensure that such programs are implemented effectively and efficiently.

Moreover, with respect to the definition of discrimination, the Court has adopted a position in several decisions, including Constitutional Court Decision Number 19/PUU-V/2007, pronounced in a plenary session open to the public on November 13, 2007, and reaffirmed in Constitutional Court Decision Number 124/PUU-XXII/2024, pronounced in a plenary session open to the public on January 2, 2025. In essence, these decisions explain that discriminatory actions consist of any restriction, harassment, or exclusion, whether direct or indirect, based on distinctions among individuals on the grounds of religion, tribe, race, ethnicity, group, class, social status, economic status, gender, language, or political beliefs, which result in the reduction, deviation, or elimination of the recognition, implementation, or exercise of human rights and fundamental freedoms, both individually and collectively, in political, economic, legal, social, cultural, and other aspects of life. Thus, the Petitioners' argument questioning the constitutionality of the norm of Article 11 paragraph (2) of Law 20/2003 as being contrary to Article 28I paragraph (2) of the 1945 Constitution of the Republic of Indonesia is legally unjustifiable.

Accordingly, the Court subsequently passed down a decision, the verdict of which was to dismiss the Petitioners' petition in its entirety.