



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 119/PUU-XXIII/2025**

**Concerning**

**Legal Protection for Every Person Fighting for the Right  
to a Good and Healthy Environment**

- Petitioners** : **Leonardo Petersen Agustinus Turnip and Jovan Gregorius Naibaho**
- Type of Case** : Judicial Review of Law Number 32 of 2009 concerning Environmental Protection and Management (Law 32/2009) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Judicial Review of Elucidation of Article 66 of Law 32/2009 against Article 28D paragraph (1), Article 28G paragraph (1), and Article 28H paragraph (1) of the 1945 Constitution
- Verdict** : 1. To grant the Petitioners' petition in part
2. To declare that the Elucidation of Article 66 of Law Number 32 of 2009 concerning Environmental Protection and Management (State Gazette of the Republic of Indonesia of 2009 Number 140, Supplement to the State Gazette of the Republic of Indonesia Number 5059) is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force if it is not interpreted as:
- “This provision is intended to protect every person, including any victims, reporters, witnesses, experts and environmental activists participating in environmental protection and management efforts and/or taking legal action due to environmental pollution and/or damage.
- This protection is intended to prevent retaliatory actions through criminal prosecution, civil lawsuits and/or other legal remedies while still paying attention to the independence of the judiciary.”
3. To order this decision to be published in the State Gazette of the Republic of Indonesia as appropriate
4. To dismiss the remainder of the Petitioners' petition

**Date of Decision** : Thursday, August 28, 2025

**Overview of Decision** :

Whereas the Petitioners are individual Indonesian citizens who are students at the Faculty of Law of Universitas Sumatera Utara and have constitutional rights as guaranteed in Article 28D paragraph (1), Article 28G paragraph (1), and Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia;

With respect to the Court's authority, since the petition *a quo* is submitted for a review of the constitutionality of statutory norms, *in casu* Elucidation of Article 66 of Law 32/2009 against the 1945 Constitution, the Court has the authority to hear the petition *a quo*.

Whereas with respect to the legal standings of the Petitioners, Petitioner I and Petitioner II have been able to prove themselves as individual Indonesian citizens, having the status of students at the Faculty of Law, Universitas Sumatera Utara, who, in their daily activities, conduct studies, research, or advocacy, including on environmental matters, and who possess constitutional rights as guaranteed by Article 28D paragraph (1), Article 28G paragraph (1), and Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Petitioner I and Petitioner II have been able to describe the existence of the assumption of potential loss of constitutional rights which has a causal relationship (*causal - verband*) with the enactment of the Elucidation being petitioned for review. Within the limits of reasonable reasoning, the assumption of potential loss of constitutional rights is specific and potential in nature, and is reasonably certain to occur as a result of the enactment of the Elucidation of Article 66 of Law 32/2009. Its application may cause Petitioners I and II to be deprived of legal protection when fighting for the right to a good and healthy environment through their civil-society activities within the academic community, due to the threat of eco-SLAPP or retaliatory actions. Therefore, if the petition *a quo* is granted, the assumption of potential loss of constitutional rights of Petitioner I and Petitioner II will not occur. Thus, regardless of whether or not the unconstitutionality of the Elucidation of Article 66 of Law 32/2009 being petitioned for review is proven, the Court is of the opinion that Petitioner I and Petitioner II (hereinafter referred to as the Petitioners) have the legal standing to act as Petitioners in the petition *a quo*.

Whereas the Petitioners argue that, in essence, the Elucidation of Article 66 of Law 32/2009 causes legal uncertainty for every person in obtaining legal protection from retaliatory actions, namely the existence of threats in various forms, including through the use of criminal and/or civil legal mechanisms against individuals advocating for the right to a good and healthy environment. According to the Petitioners, the Elucidation of Article 66 of Law 32/2009 does not accommodate all individuals, including the Petitioners, who should have the right to a sense of security and protection from fear due to the possibility of retaliatory actions, including in the form of eco-SLAPP, and therefore the Elucidation of Article 66 of Law 32/2009 is contrary to Article 28D paragraph (1), Article 28G paragraph (1), and Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia. With respect to the argument *a quo* of the Petitioners, the Court considers the following:

Whereas because the Petitioners question the elucidation of a law, it is important for the Court to first confirm the function of an elucidation pursuant to Law Number 12 of 2011 concerning the Formation of Legislation, as last amended by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning Formation of Legislation (Law 12/2011) in conjunction with the Law 13/2022, which states, "The elucidation functions as an official interpretation of the laws and regulations regarding certain norms in the body of the law. Therefore, an elucidation should contain only explanations of foreign words, phrases, sentences, or equivalent terms, which may be adjusted to the norms and supplemented with examples. Elucidation is needed to clarify the norms contained in the main provision, so as not to render such norms unclear. It is further stated, "The elucidation may not include formulations containing norms" [*vide* point 176 and point 177 of Appendix II of Law 12/2011].

With respect to the Petitioners' argument questioning the constitutionality of the elucidation of an article in a law, this may not be separated from the norms of the article contained in the body of the law. This is because the function of the elucidation in an article is as an official interpretation and a means to clarify the norms in the body, not to cause the said norms to become unclear by expanding or narrowing the scope of the article. Therefore, even though the provisions under review relate to the Elucidation of Article 66 of Law 32/2009, the Court cannot avoid its obligation to consider the norm contained in the body of the law—*in casu*, the norm in Article 66 of Law 32/2009, which provides that any person who fights for the right to a good and healthy environment may not be criminally prosecuted or civilly sued. The norm of Article 66 of Law 32/2009 are part of Chapter X which regulates the Rights, Obligations and Prohibitions, which are related to the norm of the previous article. In this regard, Article 1 number 32 of Law 32/2009 has provided a definition of the phrase "every person" as "an individual or business entity, whether a legal entity or non-legal entity" [*vide* Article 1 number 32 of Law 32/2009]. This means that Law 32/2009 provides that environmental responsibility, including the obligations to maintain the environment, prevent and address pollution, and the right to participate in environmental management, applies to every person or individual and to every business entity, and is not limited to victims and/or reporters of environmental pollution and/or destruction.

The Court is of the opinion that, given the definition of "every person" in Article 1 number 32 of Law 32/2009, and as a form of protection for the constitutional right to a good and healthy environment, the scope of Article 66 of Law 32/2009, which essentially regulates the rights of every person, must be interpreted in accordance with the substance of the norm in the main body of the law, and not limited only to victims and/or reporters of alleged environmental pollution and/or destruction. This interpretation encompasses all individuals involved in defending the right to a good and healthy environment and/or seeking the restoration of an environment that has been polluted or damaged by certain actions. This interpretation is important considering that the right to a good and healthy environment is one of the human rights guaranteed by the constitution as regulated in Article 28H paragraph (1) of the 1945 Republic of Indonesia Constitution. This constitutional right is further affirmed in Law 32/2009, which elaborates the right of every person to environmental education, access to information, access to participation, and access to justice in the fulfillment of the right to a good and healthy environment. Accordingly, every person also has the right to submit proposals and/or objections to business plans and/or activities that are expected to have environmental impacts [*vide* Article 65 of Law 32/2009].

Thus, in the context of the true purpose of Article 66 of Law 32/2009, every person as a subject fighting for the right to a good and healthy environment cannot be limited only to victims and/or reporters of environmental damage and/or pollution, it also includes individuals and/or groups who are part of, or act under, a legal entity or institution, including non-governmental organizations, that continuously and sustainably engage in activities and advocacy related to environmental protection. Likewise, the subject should clearly include a person who is a witness or expert in connection with legal or governmental administrative proceedings resulting from environmental pollution or destruction. If the scope of the interpretation of the term "every person" is ignored and further narrowed down by the formulation of the Elucidation of Article 66 of Law 32/2009, it would be difficult to achieve the objectives of environmental protection and management, one of which is to guarantee the fulfillment and protection of the right to the environment as part of human rights [*vide* Article 3 letter g of Law 32/2009]. Because the purpose of these provisions is to guarantee the protection of rights, Law 32/2009 also emphasizes that the implementation of the right to a good and healthy environment is based, among other things, on the principle of participation. This principle encourages every member of society to take an active role, directly or indirectly, in the decision-making and implementation of environmental protection and management [*vide* Article 2 letter k of Law 32/2009 and its Elucidation].

Whereas after carefully examining the substance of Law 32/2009, including its principles and objectives, the Court finds that, from the perspective of norm formulation, Article 66 of Law

32/2009 does not in essence intend to limit the individuals entitled to legal protection when fighting for the right to a good and healthy environment solely to those who have taken legal action in response to environmental pollution and/or destruction. On the other hand, the Elucidation of Article 66 of Law 32/2009 states that the protection provided is intended for victims and/or reporters who take legal action in response to environmental pollution and/or destruction. Such protection aims to prevent retaliation through criminal prosecutions or civil lawsuits while preserving the independence of the judiciary. This means that, within the limits of reasonable reasoning, the Elucidation of Article 66 of Law 32/2009 effectively restricts the individuals entitled to protection under Article 66 to those who pursue legal action in response to incidents of environmental damage and/or pollution. The Court is of the opinion that the definition as referred to in the Elucidation of Article 66 of Law 32/2009 is a limitation of the meaning of “every person” contained in Article 66 of Law 32/2009. This limitation not only risks diminishing public enthusiasm to participate in the protection of environmental rights, participation which is explicitly encouraged under Law 32/2009, but also reduces the concept of community involvement and legal protection for environmental rights to merely take certain legal actions. In other words, the Elucidation of Article 66 of Law 32/2009 directly narrows the scope of Article 66 by restricting the interpretation of “every person” to only “victims and/or reporters who take legal action. Such a restriction narrows both community participation and the legal protection of environmental rights guaranteed by the 1945 Constitution of the Republic of Indonesia. In fact, the elucidation of a statutory provision must not contradict the main substance regulated in the body of the law, nor may it expand, reduce, or otherwise alter the meaning of the norms contained therein. Therefore, the limitation of the phrase “every person” in the Elucidation of Article 66 of Law 32/2009, which restricts protection to “victims and/or reporters who take legal action,” as argued by the Petitioners, creates legal uncertainty and must, in the Court’s view, be declared contrary to the 1945 Constitution of the Republic of Indonesia if it is not interpreted as provided in the decision *a quo*.

Whereas pursuant to all the legal considerations above, it is evident that the Elucidation of Article 66 of Law 32/2009 has not provided a complete guarantee of legal protection and certainty regarding the right to a good and healthy environment, and the right to a sense of security, as guaranteed in Article 28D paragraph (1), Article 28G paragraph (1), and Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, as argued by the Petitioners. However, since the Court’s interpretation is different from the one stated in the petition of the Petitioners, the Petitioners’ petition is legally justifiable in part.

Accordingly, the Court subsequently passes down a decision which verdicts are as follows.

1. To grant the Petitioners’ petition in part;
2. To declare that the Elucidation of Article 66 of Law Number 32 of 2009 concerning Environmental Protection and Management (State Gazette of the Republic of Indonesia of 2009 Number 140, Supplement to the State Gazette of the Republic of Indonesia Number 5059) is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force if it is not interpreted as:

“This provision is intended to protect every person, including any victims, reporters, witnesses, experts and environmental activists participating in environmental protection and management efforts and/or taking legal action due to environmental pollution and/or damage.

This protection is intended to prevent retaliatory actions through criminal prosecution, civil lawsuits and/or other legal remedies while still paying attention to the independence of the judiciary.”

3. To order this decision to be published in the State Gazette of the Republic of Indonesia as appropriate;
4. To dismiss the remainder of the Petitioners’ petition.