



CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION
FOR CASE NUMBER 147/PUU-XXII/2024

Concerning

**Administrative Sanctions for Business Actors Carrying Out
Plantation Activities in Forest Areas**

- Petitioners** : PT Tara Bintang Nusa, represented by Fernando Bangun as Director, et al.
- Type of Case** : Judicial Review of Law Number 6 of 2023 concerning Determination of Government Regulation 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 (1945 Constitution)
- Subject Matter** : Judicial Review of Article 110A paragraph (1) and Article 110B paragraph (1) in Article 37 number 20 of the Appendix to Law 6/2023 against Article 28D paragraph (1), Article 28G paragraph (4), and Article 28H paragraph (4) of the 1945 Constitution
- Verdict** :
1. To declare that the Petitioners' petition regarding the review of the constitutionality of the norm of Article 110B paragraph (1) in Article 37 number 20 of the Appendix to Law 6/2023 is inadmissible
 2. To dismiss the remainder of the Petitioner's petition
- Date of Decision** : Thursday, October 16, 2025
- Overview of Decision** :

The Petitioners are legal entities and individual Indonesian citizens who are subject to administrative sanctions in the form of paying fines for carrying out plantation activities in forest areas.

Whereas regarding the authority of the Constitutional Court (the Court), since the petition concerns a petition for review the statutory norms, *in casu* Law 16/2023 against the 1945 Constitution, the Court has the authority to hear the petition *a quo*.

Whereas, with respect to legal standing, the Court is of the opinion that Petitioner I has been able to describe himself as the party entitled to represent the relevant legal entity in and outside the court, whereas Petitioner II has not describe himself as the party entitled to represent its legal entity in accordance with its Articles of Association/By-Laws, nor submitted a power of attorney or letter of assignment stating the name of the party authorized to represent the legal entity in the proceedings. However, pursuant to Article 30 paragraph (2) of Law 25/1992 concerning Cooperatives, which in essence provides that the Management has the authority to

represent the cooperative in and outside the court, in submitting the petition *a quo*, Petitioner II is represented by the Management of the Cooperative. Furthermore, the Petitioner III is an individual Indonesian citizen as has been proven by a Residence Identity Card. Pursuant to this, Petitioner I, Petitioner II, and Petitioner III (the Petitioners) have met their qualifications as Petitioners in the petition *a quo* and have constitutional rights guaranteed in the 1945 Constitution of the Republic of Indonesia. In addition, the Petitioners have been able to explain the alleged loss of constitutional rights which specifically have the potential to be violated by the enactment of the norms being petitioned for review, and have also been able to describe the existence of a causal relationship (*causal verband*) between the alleged loss of constitutional rights and the enactment of the norms of the articles being petitioned for review, namely that as a result of the enactment of Article 110A paragraph (1) and Article 110B paragraph (1) as referred to in Article 37 number 20 of the Appendix to Law 6/2023, the Petitioners are required to pay an administrative fine and potentially surrender their land to the state. Therefore, if the petition is granted, the potential loss of constitutional rights as alleged by the Petitioners will not occur. Therefore, regardless of whether the unconstitutionality issue of the norms being petitioned for review is proven or not, the Court is of the opinion that the Petitioners have the legal standing to act as Petitioners in the petition *a quo*.

Whereas the Petitioner argues that, in essence, Article 110A paragraph (1) and Article 110B paragraph (1) as referred to in Article 37 number 20 of the Appendix to Law 6/2023 create legal uncertainty and eliminate the protection of personal rights to obtain a prosperous life as guaranteed by the 1945 Constitution of the Republic of Indonesia, because these norms impose obligations to pay administrative forestry fines and to return land to the state, therefore, an exception must be made for land rights holders as requested in the Petitioner's *petitum*.

With respect to the review of Article 110A paragraph (1) in Article 37 number 20 of the Appendix to Law 6/2023, the Court considers it important to understand the essence of the norm of Article 110A paragraph (1), which essentially provides that business activities holding a location permit and/or a business permit in the plantation sector in accordance with the spatial plan, but which do not yet possess a permit in the forestry sector and were carried out prior to the enactment of Law 11/2020, are required to complete the relevant requirements in accordance with forestry regulations within a period of no later than three (3) years, namely by November 2, 2023. If such requirements cannot be fulfilled within the stipulated period, then pursuant to Article 110A paragraph (2) in Article 37 number 20 of the Appendix to Law 6/2023, administrative sanctions shall be imposed in the form of fines and/or revocation of Business Permits. This means that, under the norms *a quo*, business actors are no longer directly subject to criminal sanctions, but are instead afforded the opportunity to complete forestry licensing requirements by paying Forest Resource Provision and Reforestation Funds up to the deadline of November 2, 2023. The existence of Article 110A paragraph (1) in Article 37 number 20 of the Appendix to Law 6/2023 is in fact intended to facilitate the settlement of the legal status of business activities, such as oil palm plantations, that have been established within forest areas unlawfully or without having fulfilled the required licensing requirements. Therefore, the norms of the Article *a quo* are placed within the transitional provisions, the purpose of which is to: (1) avoid legal vacuums; (2) guarantee legal certainty; (3) provide legal protection for parties affected by changes in statutory provisions; and (4) regulate matters of a transitional or temporary nature. With regard to this matter, when viewed from the spirit underlying the enactment of Law 6/2023, which amended several provisions of Law 18/2013, it is evident that the law prioritizes the imposition of administrative sanctions and places criminal sanctions as a last resort (*ultimum remedium*) where administrative sanctions are ineffective. In addition, the law also aims to protect the "palm oil" commodity as one of the mainstays of the Indonesian economy, as well as other plantation commodities, from control by individuals or corporations that have utilized forest areas without fulfilling, or no longer fulfilling, the requirements stipulated under the laws and regulations in the forestry sector. With respect to land designated as forest areas, in principle not all land may be utilized as forest areas, because forest areas are areas designated by the Government to be maintained as permanent forests. The norm of Article 110A paragraph (1) in Article 37 number 20 of the Appendix to Law 6/2023 provides an opportunity

for holders of land rights within forest areas to resolve licensing issues in the forestry sector by paying Forest Resource Provision and Reforestation Funds. After fulfilling the requirements for established oil palm plantation business activities, possessing a location permit and/or a business permit in the plantation sector in accordance with the spatial plan, and after paying Forest Resource Provision and Reforestation Funds, approvals may be granted, namely: for Production Forest areas, a Forest Area Release Approval; and for Protected Forest areas and/or Conservation Forest areas, an approval to continue business activities for one (1) cycle of a maximum period of fifteen (15) years from the planting period. In this regard, the payment of administrative sanctions automatically eliminates the imposition of criminal sanctions. When linked to the issues argued by the Petitioners, namely objections to the payment of certain administrative sanctions despite the Petitioners already holding a Certificate of Ownership (*Sertipikat Hak Milik* or SHM) and the land subsequently being designated as a forest area, the Court is of the opinion that land rights constitute a governmental legal product created by law and are concrete in nature, as they are intended for determinable subjects and objects as proof of ownership of land rights. Furthermore, Article 19 of Law 5/1960 concerning Agrarian Principles regulates the implementation of land registration to guarantee legal certainty. Such registration includes measurement, mapping, land bookkeeping, and the recording of rights and their transfer, culminating in the issuance of a certificate of title that serves as strong evidence of land rights. Thus, the function of land registration is to guarantee legal certainty and, at the same time, to serve as evidence of land rights that may be used as a basis for resolving land disputes. In this case, a certificate constitutes strong and authentic evidence as long as it cannot be proven otherwise. This means that if another party is able to demonstrate the existence of a legal defect, the certificate may be cancelled. Land certificates are also individual and final in nature, as they are intended solely for the party whose name is listed on the certificate. The existence of such a certificate gives rise to a new legal situation, namely the emergence of new legal rights and obligations for certain individuals or legal entities who hold a certificate of land title. Furthermore, with regard to the Petitioners' argument that they were unaware of the provisions of Article 110A paragraph (1) in Article 37 number 20 of the Appendix to Law 6/2023, which allegedly resulted in the Petitioners being suddenly subjected to administrative sanctions, the Court is of the opinion that to the extent that the matter concerns the imposition of administrative sanctions in the form of fines to be paid, it does not constitute a constitutionality issue of the norm, but rather relates to the implementation of the norm. The norm of Article 110A paragraph (1) in Article 37 number 20 of the Appendix to Law 6/2023 has provided a time limit for resolving licensing issues, therefore, the Court is of the opinion that the principle applies that everyone is deemed to know the law (*presumptio iuris de iure*). In addition, when linked to the Petitioners' petition, which in essence requests an interpretation of the norm being reviewed as being "exempted for land rights holders," the Court is of the opinion that the Petitioners should further study and understand their rights and obligations in relation to the land concerned, including knowledge of the origin of the land, particularly the process from the initial issuance of the land title certificate until the certificate came into the possession of the Petitioners. Furthermore, if the Government has designated land as a forest area, the Petitioners are likewise obliged to comply with the legal provisions governing the utilization of land within forest areas, because the state's control over forests is not only intended to ensure the existence of forest areas that are properly maintained and managed and to protect the habitats and ecosystems therein, but also to ensure that such forests are used and utilized for the greatest prosperity of the people. In this regard, the Court considers it important to emphasize that the Government must promptly complete the arrangement of forest areas and provide legal certainty to the public in order to enable the continuation of established business activities, by carrying out comprehensive inventory processes, as well as valid data collection and area mapping, in line with the objective of preventing and eradicating forest damage. This constitutes one form of implementation of Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia in the context of sustainable and environmentally conscious development. Thus, Article 110A paragraph (1) in Article 37 number 20 of the Appendix to Law 6/2023 is legally unjustifiable.

Furthermore, with respect to the constitutionality issue of the norm of Article 110B paragraph (1) in Article 37 number 20 of the Appendix to Law 6/2023, the matter has already been considered and decided in the legal considerations and verdict of Constitutional Court Decision Number 181/PUU-XXII/2024, which in essence partially granted the Petitioner's petition and declared that Article 17 paragraph (2) letter b in Article 37 number 5 and Article 110B paragraph (1) in Article 37 number 20, to the extent that they relate to the provisions of Article 17 paragraph (2) letter b in Article 37 number 5 of the Appendix to Law 6/2023, are contrary to the 1945 Constitution of the Republic of Indonesia and do not have binding legal force unless interpreted as, "except for communities that have lived in forest areas for generations and are not intended for commercial interests." Accordingly, the Court is of the opinion that the Petitioners' argument concerning the unconstitutionality of the norm of Article 110B paragraph (1) in Article 37 number 20 of the Appendix to Law 6/2023 has lost its object.

Accordingly, the Court subsequently passed down a decision, the verdict of which states:

1. To declare that the petitioners' petition regarding the constitutionality review of the norm of Article 110B paragraph (1) in Article 37 number 20 of the Attachment of Law Number 6 of 2023 concerning the Determination of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law is inadmissible;
2. To dismiss the remainder of the Petitioners' petition.