



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 185/PUU-XXII/2024**

**Concerning**

**Term of Land Rights in the National Capital**

- Petitioners** : **Stepanus Febyan Babaro and Ronggo Warsito**
- Type of Case** : Judicial review of Law Number 21 of 2023 concerning Amendment to Law Number 3 of 2022 concerning National Capital (hereinafter referred Law 21/2023) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Judicial review to determine whether Article 16A paragraph (1), paragraph (2) and paragraph (3) of Law 21/2023 are contrary to the 1945 Constitution of the Republic of Indonesia
- Verdict** :
1. To grant the Petitioners' petition in part
  2. To declare that Article 16A paragraph (1) of Law Number 3 of 2022 concerning the National Capital (State Gazette of the Republic of Indonesia of 2022 Number 41, Supplement to the State Gazette of the Republic of Indonesia Number 6766) as amended by Law Number 21 of 2023 concerning Amendments to Law Number 3 of 2022 concerning the National Capital (State Gazette of the Republic of Indonesia of 2023 Number 142, Supplement to the State Gazette of the Republic of Indonesia Number 6898) is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force if it is not interpreted as "In the event that the Land Rights as agreed upon as referred to in Article 16 paragraph (7) take the form of a right to cultivate, such right shall be granted for a maximum period of 35 (thirty-five) years; it may be extended for a maximum period of 25 (twenty-five) years; and it may be renewed for a maximum period of 35 (thirty-five) years, based on evaluation criteria and stages."
  3. To declare Article 16A paragraph (2) of Law Number 3 of 2022 concerning National Capital (State Gazette of the Republic of Indonesia of 2022 Number 41, Supplement to the State Gazette of the Republic of Indonesia Number 6766) as amended by Law Number 21 of 2023 concerning Amendments to Law Number 3 of 2022 concerning the National Capital (State Gazette of the Republic of Indonesia of 2023 Number 142, Supplement to the State Gazette of the Republic of Indonesia Number 6898) is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force if it is not interpreted as "In the event that the Land Rights

as agreed upon as referred to in Article 16 paragraph (7) take the form of a building use right, such right shall be granted for a maximum period of 30 (thirty) years; it may be extended for a maximum period of 20 (twenty) years; and it may be renewed for a maximum period of 30 (thirty) years, based on evaluation criteria and stages.”

4. To declare that Article 16A paragraph (3) of Law Number 3 of 2022 concerning the National Capital (State Gazette of the Republic of Indonesia of 2022 Number 41, Supplement to the State Gazette of the Republic of Indonesia Number 6766) as amended by Law Number 21 of 2023 concerning Amendments to Law Number 3 of 2022 concerning the National Capital (State Gazette of the Republic of Indonesia of 2023 Number 142, Supplement to the State Gazette of the Republic of Indonesia Number 6898) is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force if it is not interpreted as “In the event that the Land Rights as agreed upon as referred to in Article 16 paragraph (7) take the form of a right of use, such right shall be granted for a maximum period of 30 (thirty) years; it may be extended for a maximum period of 20 (twenty) years; and it may be renewed for a maximum period of 30 (thirty) years, based on evaluation criteria and stages.”
5. To declare that the Elucidation to Article 16A paragraph (1), paragraph (2), and paragraph (3) of Law Number 3 of 2022 concerning the National Capital (State Gazette of the Republic of Indonesia of 2022 Number 41, Supplement to the State Gazette of the Republic of Indonesia Number 6766) as amended by Law Number 21 of 2023 concerning Amendments to Law Number 3 of 2022 concerning the National Capital (State Gazette of the Republic of Indonesia of 2023 Number 142, Supplement to the State Gazette of the Republic of Indonesia Number 6898) is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force
6. To order this decision to be published in the State Gazette of the Republic of Indonesia as appropriate
7. To dismiss the remainder of the Petitioners’ petition

**Date of Decision** : Thursday, November 13, 2025

**Overview of Decision :**

The Petitioners, namely Stepanus Febyan Babaro (Petitioner I) and Ronggo Warsito (Petitioner II) are individual Indonesian citizens who claim that their constitutional rights have been violated by the enactment of Article 16A paragraph (1), paragraph (2), and paragraph (3) of Law 21/2023 because the norm being petitioned for review is detrimental to the Petitioners’ constitutional rights to utilize land in the National Capital region.

With respect to the Court’s authority, because the Petitioners petition for a review of the constitutionality of statutory norms, *in casu*, Article 16A paragraph (1), paragraph (2), and paragraph (3) of Law 21/2023 against the 1945 Constitution, the Court has the authority to hear the petition *a quo*.

With respect to the legal standing, the Court is of the opinion that Petitioner I and Petitioner II have been able to describe their qualifications as individual Indonesian citizens (Evidence P-1). In this case, Petitioner I is the Chairperson of the Dayak Traditional Council of West Kalimantan Province, and Petitioner II is the owner of the right of use, because the norm *a quo* being petitioned for review is Law 21/2023, which, the Court is of the opinion that stipulates all provisions relating to the National Capital and is therefore a law that essentially affects the interests of all Indonesian citizens or a law that impacts aspects of community life and the fulfillment of the constitutional rights of every citizen, including Petitioner I and Petitioner II. In relation to the fulfillment of these constitutional rights, Petitioner I has explained the alleged loss of his constitutional rights arising from the implementation of the norms of Article 16A paragraph (1), paragraph (2), and paragraph (3) of Law 21/2023, which may result in the encroachment of indigenous peoples' land due to the lengthy period of land rights management granted in the National Capital, which is not in line with the State's right to control. Likewise, Petitioner II also considers that there is unfair treatment with respect to the period for granting land rights to investors in the National Capital compared to the period applicable to Petitioner II. In this case, Petitioner I and Petitioner II have been able to explain specifically and potentially the alleged loss of their constitutional rights as a result of the enactment of the norm being petitioned for review, which has a causal relationship (*causal verband*). Therefore, if the petition *a quo* is granted, the alleged loss, which is potential in nature, as described will not occur. Thus, regardless of whether or not the constitutionality issue of the norm 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*.

With respect to the subject matter of the petition, the Court is of the opinion that there is a discrepancy between the norms set forth in the body of Article 16A paragraph (1) of Law 21/2023 and its Elucidation, as the norm *a quo* stipulates that Land Rights, *in casu* Cultivation Rights Title, are granted for 1 (one) cycle and may be re-granted for 1 (one) subsequent cycle. The granting of Land Rights through one cycle gives the impression that Cultivation Rights Title is immediately granted for a period of 95 (ninety-five) years. Meanwhile, the Elucidation to Article 16A paragraph (1) of Law 21/2023 states that the granting of Land Rights in stages is regulated in each stage as set forth in the Elucidation to Article 16A paragraph (1) of Law 21/2023. This situation gives rise to ambiguous norms that are prone to misinterpretation, notwithstanding the existence of provisions stating that such granting is based on evaluation criteria and stages. This is because the problem lies in the formulation of the basic norm, which uses the phrase "for 1 (one) cycle and may be re-granted for 1 (one) subsequent cycle." The Court is of the opinion that this formulation has the same meaning as granting a time limit in a single instance, which was previously declared unconstitutional in Constitutional Court Decision Number 21-22/PUU-V/2007. Moreover, Article 16A paragraph (1) of Law 21/2023 also stipulates that the total period is 95 (ninety-five) years for the first cycle of Cultivation Rights Title and that such rights may be re-granted for a second cycle with a total period of 95 (ninety-five) years. If accumulated across the two cycles, the total period amounts to 190 (one hundred and ninety) years. This provision is not in line with, and in fact weakens, the State's position in controlling Land Rights as referred to in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

With respect to the requirements for extension or renewal, these are regulated in Law 21/2023 as an instrument to evaluate the utilization of Land Rights at the time of extension or renewal, the criteria essentially include: 1) the land is still being cultivated and utilized properly in accordance with the conditions, nature, and purpose of the granting of rights; 2) the rights holder continues to meet the requirements as a rights holder; 3) the conditions for the granting of rights continue to be properly fulfilled by the rights holder; 4) the use of the land remains in accordance with the spatial plan; and 5) the land requested for extension or renewal is not indicated as being abandoned [*vide* Article 16A paragraph (5) of Law 21/2023]. In this case, Constitutional Court Decision Number 21-22/PUU-V/2007, in its verdict, essentially emphasized the conditions serving as criteria for the granting, extension,

or renewal of rights, as described above. In this regard, the conditions or evaluation criteria for granting, extending, or renewing Land Rights, when compared in substance, are essentially the same, with the aim of ensuring that land continues to be managed in accordance with the purpose for which the Cultivation Rights Title was granted, which ultimately leads to the objective of maximizing the prosperity of the people as intended in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

In this context, the Elucidation to Article 16A paragraph (1) of Law 21/2023 explains each time period for the granting of Cultivation Rights Title through the following stages: 1) granting of rights, for a maximum period of 35 (thirty-five) years; 2) extension of rights, for a maximum period of 25 (twenty-five) years; and 3) renewal of rights, for a maximum period of 35 (thirty-five) years [*vide* Elucidation to Article 16A paragraph (1) of Law 21/2023]. After careful examination, the Court finds that the substance of the Elucidation to Article 16A paragraph (1) of Law 21/2023 and the practices applied in the granting of Cultivation Rights Title [*vide* Government Regulation 18/2021] are consistent with Constitutional Court Decision Number 21-22/PUU-V/2007, which applies staged processes of granting, extending, and renewing rights in support of investment development in Indonesia, without the need to use the phrase formulation “for 1 (one) first cycle and may be re-granted for 1 (one) second cycle.”

Moreover, in substance, the Elucidation to Article 16A paragraph (1) of Law 21/2023 contains norms of a regulatory nature (*regeling*) concerning the period of Land Rights for the granting of Cultivation Rights Title. In this regard, it is found that the provisions contained in the norm of Article 16A paragraph (1) of Law 21/2023, when read in conjunction with its Elucidation, give rise to ambiguity, which may ultimately lead to legal inconsistency and uncertainty. In order to realize a harmonious design between the norms in the main body and the Elucidation, as well as between laws and regulations, so as to create legal certainty as an important aspect in attracting investors to invest capital and develop the National Capital in accordance with the intent of amending Law 3/2022 through Law 21/2023, the phrase “for 1 (one) first cycle and may be re-granted for 1 (one) second cycle” in the norm of Article 16A paragraph (1) of Law 21/2023 must be declared contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force if it is not interpreted as “In the event that the Land Rights as agreed upon as referred to in Article 16 paragraph (7) take the form of a right to cultivate, such right shall be granted for a maximum period of 35 (thirty-five) years; it may be extended for a maximum period of 25 (twenty-five) years; and it may be renewed for a maximum period of 35 (thirty-five) years, based on evaluation criteria and stages.” This interpretation means that a maximum period of 95 (ninety-five) years may be obtained, provided that the applicable requirements are fulfilled and the evaluation criteria and stages are met. Therefore, the Petitioners’ argument questioning the constitutionality of the norm of Article 16A paragraph (1) of Law 21/2023 is legally justifiable. With the Court’s interpretation of Article 16A paragraph (1) of Law 21/2023, as a legal consequence, the Elucidation to Article 16A paragraph (1) of Law 21/2023 is no longer necessary, as it has become an integral part of the norm of Article 16A paragraph (1) of Law 21/2023 as interpreted by the Court above, accordingly, the said Elucidation must be declared contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force.

Furthermore, with respect to the norm of Article 16A paragraph (2) and paragraph (3) of Law 21/2023, the constitutionality of which is also challenged by the Petitioners on the ground that they are considered to be contrary to Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, the Court considers as follows.

Whereas the Court is of the opinion that the norm of Article 16A paragraph (2) and paragraph (3) of Law 21/2023 essentially determine the same substance as that regulated in the norm of Article 16A paragraph (1) of the Law *a quo*, namely concerning Land Rights granted in the form of Building Rights Title and Right of Use. With respect to Land Rights in the form of Building Rights Title, such rights are granted for a maximum period of 80 (eighty) years through 1 (one) first cycle and may be re-granted through 1 (one) second cycle for a

maximum period of 80 (eighty) years, based on evaluation criteria and stages. Likewise, with respect to Land Rights in the form of Right of Use as stipulated in Article 16A paragraph (3) of Law 21/2023, such rights are granted for a maximum period of 80 (eighty) years through 1 (one) first cycle and may be re-granted through 1 (one) second cycle for a maximum period of 80 (eighty) years, based on evaluation criteria and stages. Meanwhile, the Elucidation to Article 16A paragraph (2) of Law 21/2023 states that the term of Building Rights Title is granted in stages, namely: the granting of rights for a maximum period of 30 (thirty) years; the extension of rights for a maximum period of 20 (twenty) years; and the renewal of rights for a maximum period of 30 (thirty) years. Similarly, the Elucidation to Article 16A paragraph (3) of Law 21/2023 states that the term of the Right of Use is granted in stages, namely: the granting of rights for a maximum period of 30 (thirty) years; the extension of rights for a maximum period of 20 (twenty) years; and the renewal of rights for a maximum period of 30 (thirty) years. Because the substance of the norm of Article 16A paragraph (1) of Law 21/2023 challenged by the Petitioners is, in principle, the same as the substance of the norm of Article 16A paragraph (2) and paragraph (3) of the Law *a quo*, namely, concerning the duration of the granting of Building Rights Title and Right of Use, the Court's legal considerations regarding the unconstitutionality of the norm of Article 16A paragraph (1) of Law 21/2023 concerning the granting of Cultivation Rights Title also apply, *mutatis mutandis*, as legal considerations in assessing the constitutionality of the norms of Article 16A paragraph (2) and paragraph (3) of Law 21/2023 concerning the granting of Building Rights Title and Right of Use. Accordingly, with respect to the validity of the phrase "for 1 (one) first cycle and may be re-granted for 1 (one) second cycle" in the norm of Article 16A paragraph (2) of Law 21/2023, such phrase must likewise be declared contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force if it is not interpreted as "In the event that the Land Rights as agreed upon as referred to in Article 16 paragraph (7) take the form of a building use right, such right shall be granted for a maximum period of 30 (thirty) years; it may be extended for a maximum period of 20 (twenty) years; and it may be renewed for a maximum period of 30 (thirty) years, based on evaluation criteria and stages." This means that a maximum period of 80 (eighty) years may be obtained, provided that the applicable requirements are fulfilled and the evaluation criteria and stages are met. Therefore, the Petitioners' argument questioning the constitutionality of the norm of Article 16A paragraph (2) of Law 21/2023 is legally justifiable.

Likewise, the phrase "for 1 (one) first cycle and may be re-granted for 1 (one) second cycle" in the norm of Article 16A paragraph (3) of Law 21/2023 must also be declared contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force if it is not interpreted as "In the event that the Land Rights as agreed upon as referred to in Article 16 paragraph (7) take the form of a right of use, such right shall be granted for a maximum period of 30 (thirty) years; it may be extended for a maximum period of 20 (twenty) years; and it may be renewed for a maximum period of 30 (thirty) years, based on evaluation criteria and stages." This means that a maximum period of 80 (eighty) years may be obtained, provided that the applicable requirements are fulfilled and the evaluation criteria and stages are met. Therefore, the Petitioners' argument questioning the constitutionality of the norm of Article 16A paragraph (3) of Law 21/2023 is legally justifiable.

With the Court's interpretation of Article 16A paragraph (2) and paragraph (3) of Law 21/2023, as a legal consequence, the Elucidation to Article 16A paragraph (2) and paragraph (3) of Law 21/2023 is no longer necessary, as it has become an integral part of the norms of Article 16A paragraph (2) and paragraph (3) of Law 21/2023 as interpreted by the Court above, accordingly, the said Elucidation must be declared contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force.

Pursuant to all the legal considerations above, the Court passed down a decision, the verdict of which was as follows:

1. To grant the Petitioners' petition in part;
2. To declare that Article 16A paragraph (1) of Law Number 3 of 2022 concerning the

National Capital (State Gazette of the Republic of Indonesia of 2022 Number 41, Supplement to the State Gazette of the Republic of Indonesia Number 6766) as amended by Law Number 21 of 2023 concerning Amendments to Law Number 3 of 2022 concerning the National Capital (State Gazette of the Republic of Indonesia of 2023 Number 142, Supplement to the State Gazette of the Republic of Indonesia Number 6898) is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force if it is not interpreted as “In the event that the Land Rights as agreed upon as referred to in Article 16 paragraph (7) take the form of a right to cultivate, such right shall be granted for a maximum period of 35 (thirty-five) years; it may be extended for a maximum period of 25 (twenty-five) years; and it may be renewed for a maximum period of 35 (thirty-five) years, based on evaluation criteria and stages.”

3. To declare Article 16A paragraph (2) of Law Number 3 of 2022 concerning National Capital (State Gazette of the Republic of Indonesia of 2022 Number 41, Supplement to the State Gazette of the Republic of Indonesia Number 6766) as amended by Law Number 21 of 2023 concerning Amendments to Law Number 3 of 2022 concerning the National Capital (State Gazette of the Republic of Indonesia of 2023 Number 142, Supplement to the State Gazette of the Republic of Indonesia Number 6898) is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force if it is not interpreted as “In the event that the Land Rights as agreed upon as referred to in Article 16 paragraph (7) take the form of a building use right, such right shall be granted for a maximum period of 30 (thirty) years; it may be extended for a maximum period of 20 (twenty) years; and it may be renewed for a maximum period of 30 (thirty) years, based on evaluation criteria and stages.”
4. To declare that Article 16A paragraph (3) of Law Number 3 of 2022 concerning the National Capital (State Gazette of the Republic of Indonesia of 2022 Number 41, Supplement to the State Gazette of the Republic of Indonesia Number 6766) as amended by Law Number 21 of 2023 concerning Amendments to Law Number 3 of 2022 concerning the National Capital (State Gazette of the Republic of Indonesia of 2023 Number 142, Supplement to the State Gazette of the Republic of Indonesia Number 6898) is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force if it is not interpreted as “In the event that the Land Rights as agreed upon as referred to in Article 16 paragraph (7) take the form of a right of use, such right shall be granted for a maximum period of 30 (thirty) years; it may be extended for a maximum period of 20 (twenty) years; and it may be renewed for a maximum period of 30 (thirty) years, based on evaluation criteria and stages.”
5. To declare that the Elucidation to Article 16A paragraph (1), paragraph (2), and paragraph (3) of Law Number 3 of 2022 concerning the National Capital (State Gazette of the Republic of Indonesia of 2022 Number 41, Supplement to the State Gazette of the Republic of Indonesia Number 6766) as amended by Law Number 21 of 2023 concerning Amendments to Law Number 3 of 2022 concerning the National Capital (State Gazette of the Republic of Indonesia of 2023 Number 142, Supplement to the State Gazette of the Republic of Indonesia Number 6898) is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force.
6. To order this decision to be published in the State Gazette of the Republic of Indonesia as appropriate.
7. To dismiss the remainder of the Petitioners’ petition.

### **Dissenting Opinion**

With respect to the above decision, 3 (three) Constitutional Justices, namely Anwar Usman, Daniel Yusmic P. Foekh, and Arsul Sani express dissenting opinions on the grounds that Petitioner I does not have legal standing, as he has failed to demonstrate the existence

of a specific and actual constitutional loss, or at least a potential loss, arising from the enactment of the norm *a quo* that personally affects him.

With respect to the subject matter of the petition, the granting of Land Rights in the National Capital area for the periods stipulated in Law 21/2023 constitutes an effort to ensure legal certainty, ease of doing business, and the optimization of investment, as well as to support the development of the National Capital, without abandoning the principle of the social function of Land Rights as referred to in Article 6 of the Fundamental Agrarian Law, nor the principle of State control or supervision through evaluation mechanisms at subsequent stages in the granting of Land Rights in the National Capital area. The provisions governing the granting of Land Rights in the National Capital under Law 21/2023 do not negate the fundamental objectives and principles of national agrarian law as embodied in the Fundamental Agrarian Law, namely the realization of the greatest prosperity of the people within the framework of a just and prosperous society. This is also in accordance with the mandate of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states: *“The earth, water, and natural resources contained therein are controlled by the State and utilized for the greatest prosperity of the people.”* The establishment of a longer term of Land Rights in the National Capital region may be viewed as a competitive policy in the global and regional context, without sacrificing social principles or State control, as evaluation and monitoring mechanisms for land ownership continue to be actively carried out by the State.

Whereas, pursuant to all the legal considerations set forth above, with respect to the petition *a quo*, the Court should have dismissed the petition *a quo*.