



THE CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA

THE SUMMARY OF THE DECISION  
OF CASE NUMBER 46/PUU-XIX/2021

Concerning

Merger of Various Government Research Institutes into One National  
Research and Innovation Agency (*Badan Riset dan Inovasi Nasional* or BRIN)

<b>Petitioner</b>	: Heru Susetyo
<b>Type of Case</b>	: Review of Law Number 11 of 2020 concerning Job Creation (UU 11/2020) against the 1945 Constitution of the Republic of Indonesia (UUD 1945).
<b>Subject Matter</b>	: Material Review of the word "integrated" in Article 121 of Law 11/2020 which contains the amendment to Article 48 paragraph (1) of Law 11/2019 and the phrase "among other things" in the Elucidation of Article 121 of Law 11/2020 which contains the amendment to the Elucidation of Article 48 paragraph (1) Law 11/2019 are in contrary to the 1945 Constitution.
<b>Verdict</b>	: To declare that the Petitioner's petition is inadmissible:
<b>Date of Decision</b>	: Wednesday, December 15, 2021
<b>Overview of Decision</b>	:

Whereas the Petitioner is an individual Indonesian citizen, who is a Researcher at the Research and Publication Institute of the Faculty of Law, Universitas Indonesia and as a Member of the Regional Research Council of DKI Jakarta Province who has his constitutional rights guaranteed in Article 28D paragraph (1) of the 1945 Constitution.

In relation to the authority of the Court, since the Petitioner's petition is a petition to review the constitutionality of legal norms, *in casu* Law Number 11 of 2020 concerning Job Creation, therefore the Court has the authority to review the *a quo* petition.

Whereas according to the Petitioner, the word "integrated" in Article 121 of Law 11/2020 which contains the amendment to Article 48 paragraph (1) of Law 11/2019 and the word **[sic!]** "among other things" in the Elucidation of Article 121 of Law 11/2020 which contains the amendment to the Elucidation of Article 48 paragraph (1) of Law 11/2019, have given rise to multiple interpretations resulting in legal uncertainty whether it is only coordination or institutional fusion.

Whereas the Petitioner as a researcher who works at the Regional Research Council of DKI Jakarta, feels that his rights have been impaired by the establishment of the National Research and Innovation Agency (*Badan Riset dan Inovasi Nasional* or BRIN) because it has eliminated all science and technology institutions which were merged into one roof or in a single container in the form of the hierarchical organization BRIN which controls bureaucratically to the regional level through the Regional Research and Innovation Agency (*Badan Riset dan Inovasi Daerah* or BRIDA). This will cause the employee status of the Petitioner who is not a State Civil Apparatus (*Aparatur Sipil Negara* or ASN) to be threatened, the Petitioner can no longer work at BRIDA as a substitute for the Regional Research Council (*Dewan Riset Daerah* or DRD), given the existence of a new institution, namely BRIN which oversees BRIDA.

Based on all of the Petitioner's descriptions in explaining his legal position as described above, regardless of whether or not the Petitioners' arguments regarding the unconstitutionality of the legal norms being petitioned for review is proven, according to the Court, the Petitioners have the legal standing to file the *a quo* petition.

That against the *a quo* petition, the Court has held a trial with the agenda of Listening to the Statements of the DPR (House of Representatives) and the President, but in the trial the DPR submitted a request to postpone the submission of its statement [vide the Minutes of the Session on November 15, 2021] and the President has sent a letter of request number PPE.PP.06.02-1978 dated November 10, 2021 regarding a request for a trial schedule which essentially requests that the submission of the statement be postponed at the next trial. Because Law 11/2020 has been decided by the Court in the Decision of the Constitutional Court Number 91/PUU-XVIII/2020 regarding the formal review of Law 11/2020 on November 25, 2021, with a verdict which is essentially declare as follows:

1. To declare that the petition of Petitioner I and Petitioner II is inadmissible;
2. To grant the petition of Petitioner III, Petitioner IV, Petitioner V, and Petitioner VI in part;
3. To declare that the establishment of Law Number 11 of 2020 concerning Job Creation (State Gazette of the Republic of Indonesia of 2020 Number 245, Supplement to the State Gazette of the Republic of Indonesia Number 6573) is in contrary to the 1945 Constitution of the Republic of Indonesia and it does not have conditionally binding legal force as long as it is not interpreted as "no corrections have been made within 2 (two) years since this decision was declared";
4. To declare that Law Number 11 of 2020 concerning Job Creation (State Gazette of the Republic of Indonesia of 2020 Number 245, Supplement to the State Gazette of the Republic of Indonesia Number 6573) is still in effect until corrections are made to the establishment in accordance with the time limit as determined in this decision;
5. To order the legislators to make corrections within a maximum period of 2 (two) years since this decision is declared and if within that time limit no corrections are made then Law Number 11 of 2020 concerning Job Creation (State Gazette of the Republic of Indonesia of 2020 Number 245, Supplement to the State Gazette of the Republic of Indonesia Number 6573) shall become permanently unconstitutional;
6. To state that if within a period of 2 (two) years the legislators cannot complete the corrections of Law Number 11 of 2020 concerning Job Creation (State Gazette of the Republic of Indonesia of 2020 Number 245, Supplement to the State Gazette of the Republic of Indonesia Number 6573) then the law or articles or material contained in the law which have been revoked or amended by Law Number 11 of 2020 concerning Job Creation (State Gazette of the Republic of Indonesia of 2020 Number 245, Supplement to the State Gazette of the Republic of Indonesia Number 6573) shall be declared as valid again;
7. To suspend all strategic and broad-impact actions/policies, and it is also not permissible to issue new implementing regulations relating to Law Number 11 of 2020 concerning Job Creation (State Gazette of the Republic of Indonesia of 2020 Number 245, Supplement to the State Gazette of the Republic of Indonesia Number 6573);
8. To order the recording of this decision in the State Gazette of the Republic of Indonesia as appropriate;
9. To dismiss the Petitioners' petition for the rest/remainder.

In the decision regarding the formal review of Law 11/2020, there were 4 (four) Constitutional Justices who submitted dissenting opinions, namely Constitutional Justice Arief Hidayat, Constitutional Justice Anwar Usman, Constitutional Justice Daniel Yusmic P. Foekh, and Constitutional Justice Manahan MP Sitompul.

Whereas in relation to the decision on the petition for a formal review of Law 11/2020, the Court in the trial [vide the Minutes of Session on December 7, 2021] with the agenda for the Advanced Trial Review and the Court's Explanation, confirmation from the Petitioner has been requested regarding the continuation of the *a quo* petition, whether to withdraw/revoke the *a quo* petition or to continue to submit the *a quo* petition to the Court. In relation to the confirmation made by the Court, the Petitioner stated that he continues to submit the *a quo* petition to the Court.

Based on the decision of the Constitutional Court Number 91/PUU-XVIII/2020, it has been stated that Law 11/2020 is conditionally unconstitutional and the decision has binding legal force since it was declared. Therefore, the petition for material review submitted by the *a quo* Petitioner is no longer relevant to continue, because the object of the petition submitted by the Petitioner no longer have the substance of the law for which the review is being petitioned. Moreover, by considering the principle of fast, simple, and low-cost justice [vide Article 2 paragraph (4) of Law Number 48 of 2009 concerning Judicial Power], then based on the provisions of Article 54 of the Constitutional Court Law there is no longer any urgency for the Court to hear the statements of the parties as referred to in Article 54 of the Constitutional Court Law. Therefore, the petition for a material review of Law 11/2020 must be declared as a lost object. Whereas other matters of the Petitioners' petition are deemed irrelevant, so that they shall not be considered further.

Based on the considerations above, the Court subsequently issued a decision which declared that the Petitioner's petition is inadmissible.