



THE CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

THE SUMMARY OF THE DECISION
OF CASE NUMBER 60/PUU-XVIII/2020

Concerning

Formal Review of Law Number 3 of 2020 concerning
the Amendment to Law Number 4 of 2009 concerning Mineral and Coal Mining

Petitioner	: H. Alirman Sori, et al.
Type of Case	: Review of Law Number 3 of 2020 concerning Amendment to Law Number 4 of 2009 concerning Mineral and Coal Mining (UU 3/2020) against the 1945 Constitution of the Republic of Indonesia (UUD 1945).
Subject Matter	: Formal Review of Law 3/2020 against the 1945 Constitution.
Verdict	: On Preliminary Injunction To dismiss the Petitioners' petition for preliminary injunction On the Merits To dismiss the Petitioners' petition in its entirety.
Date of Decision	: Wednesday, October 27, 2021.
Overview of Decision	:

The Petitioners consist of individual Indonesian citizens who each work as DPD (Regional Representative Council) members, Regional Heads, as well as activists who have an interest in the governance of Indonesian mineral and coal mining. In addition, among the Petitioners, there are legal entities in the form of associations that are engaged in the fields of religion, humanity, and nationality in which their activities are carried out with endeavours and efforts, including trying to strengthen the unity and integrity of the Indonesian nation to realize a just and equitable prosperity and welfare for all the people of Indonesia. According to the Petitioners, the process of establishing Law 3/2020 has violated the procedural establishment of laws so that it reflects the process of establishing unconstitutional laws and regulations. According to the Petitioners, this violates the constitutional rights of the Petitioners as regulated in Article 28D paragraph (1) of the 1945 Constitution.

Regarding the authority of the Constitutional Court (Mahkamah), since the petition of the Petitioners is a formal review of the law, *in casu* Law 3/2020, the Court has the authority to hear the *a quo* petition.

Whereas in relation to the deadline for submitting the petition, because Law 3/2020 was promulgated on June 10, 2020 and the petition of the Petitioners was accepted by the Court on July 10, 2020 based on the Deed of Receipt of the Petition Document Number 142/PAN.MK/2020, thus the petition of the Petitioners is still submitted within the limit for submitting a petition for a formal review of a law, while in relation to the time limit to complete

the formal review. Due to the *a quo* case was in the trial period when the Constitutional Court Decision Number 79/PUU-XVII/2019 was declared, then the *a quo* case was not included in the category that is bound by the requirements of a period of 60 (sixty) business days since the time it is recorded in the BRPK to be resolved by the Court because the Constitutional Court Decision Number 79/PUU-XVII/2019 was declared and has binding legal force on May 4, 2021 so that it cannot be applied retroactively to the *a quo* petition. Likewise, the procedures for review can be carried out separately or *splitsing* between formal review and material review, in the *a quo* petition, it has not yet been implemented.

Whereas with respect to the legal standing of the Petitioners, Petitioner I and Petitioner II stated that they were members of the DPD who thought they were not involved in the discussion of the Mineral and Coal Mining Bill which was later ratified as Law 3/2020 so that the process had violated the fulfilment of the requirements for the establishment of Law 3/2020 where *a quo* Petitioner I and Petitioner II as members of the DPD has the legal standing to apply for a formal review. Since the argument is closely related to one of the reasons for submitting a formal petition in the subject matter of the petition of the Petitioners, namely that the discussion of the Mineral and Coal Mining Bill did not involve the DPD, the existence or absence of the legal standing of Petitioner I and Petitioner II must be considered together with the subject matter of the petition. Petitioner III can act alone without having to work together with the DPRD as long as the relevant provisions which constitutionality are disputed are provisions relating to their rights and/or authorities. Therefore, regardless of whether or not the argument of Petitioner III is proven regarding the unconstitutionality of the establishment of Law 3/2020 against the 1945 Constitution, the Court is of the opinion that there is a direct causal relationship/linkage between Petitioner III and the Law which is petitioned for formal review. Therefore, Petitioner III has the legal standing to file the *a quo* petition. As for the other Petitioners, namely Petitioner IV, Petitioner V, Petitioner VI, Petitioner VII, and Petitioner VIII according to the Court, regardless of whether or not the arguments of the Petitioners regarding the unconstitutionality of the establishment of Law 3/2020 against the 1945 Constitution are proven, the Court is of the opinion that the *a quo* Petitioners have clearly described their position and activities which are closely related to the amendment in the law on mineral and coal mining so that there is a direct causal relationship/linkage between the Petitioners and the Law petitioned for formal review. Therefore, Petitioner IV, Petitioner V, Petitioner VI, Petitioner VII, and Petitioner VIII have the legal standing to file the *a quo* petition.

Whereas in relation to the petition for preliminary injunction, the Court is of the opinion that the reason for the petition for preliminary injunction filed by the Petitioners is related to the potential constitutional harm of the Petitioners and does not necessarily relate to urgent public interest. In addition, the alleged link between the Petitioners' petition and the efforts to save natural resources and cessation of environmental damage are related to the content or substance of Law 3/2020, while the Petitioners' petition is concerned with the process of establishing Law 3/2020 or a formal review so that the reasons for the petition for preliminary injunction becomes irrelevant to the subject matter of the petition. Therefore, the Petitioners' petition for preliminary injunction is unreasonable according to law.

Whereas formal review (*formeele toetsing*) is the review of a legal product based on the process of law establishment. In general, the criteria that can be used to assess the constitutionality of a law from a formal point of view is the extent to which the law is enacted in the appropriate form, by the appropriate institution, and according to appropriate procedures. Based on Law 12/2011 and its amendment to Law 15/2019, the stages of establishing legislation are a series of stages consisting of the stages of planning, drafting, discussing, ratifying or determining, and enacting (vide Article 1 point 1 of Law 12/2011). With regard to Law 4/2009, amendment have been planned and included in the 2015-2019 National Legislation Program as stipulated in the DPR Decree Number 06A/DPR RI/II/2014-2015 and subsequently the planning for amendment to Law 4/2009 is included in the priority National Legislation Program since 2015. Based on the DPR's statement, the Bill on Amendment to Law 4/2009 has been included in the National Legislation Program list. Then on January 22, 2020, Bill on Amendment to Law 4/2009 was re-established to be included in the 2020 Priority

National Legislation Program list.

Whereas the Petitioners argued that the Mineral and Coal Mining Bill which later became Law 3/2020 did not qualify as a Bill that could be carry over. Without intending to judge the substance or materiality of the norms of Article 71A of the *a quo* Law, according to the Court, it is necessary to first specify the elements contained in Article 71A of the *a quo* Law in order to assess that a Bill meets the requirements to be carry over by the DPR for the next period, namely: a. The Bill has entered the DIM (problem inventory list) discussion during the current DPR membership period (2015-2019); b. The results of the discussion of the Bill are submitted to the DPR for the next period (2020-2024); and c. Based on the agreement of the DPR, the President, and/or the DPD, the Bill can be re-added to the list of the mid-term National Legislation Program and/or the annual priority National Legislation Program. With regard to the Mineral and Coal Mining Bill as a carry over Bill, the Government has explained that carry over is carried out on a Bill that has been included in the conference/discussion at Level I and had a DIM during the previous period of DPR membership (2015-2019). This means that carry over gives full rights to members of the DPR for the next period, whether to agree to continue the Bill that was carried over by members of the DPR for the previous period without or with a re-deliberation of all the materials for the Mineral and Coal Mining Bill. Once again, without the Court intending to evaluate substantially or materially the provisions of Article 71A of Law 15/2019, according to the Court, the existence of this provision is to clarify the status of a Bill that has been included in the previous period's National Legislation Program and has also been determined as an annual priority and has been prepared by the DIM for the Bill. Therefore, there needs to be certainty on how the sustainability of the Bill will no longer be suspended or the entire process that has been running is repeated from the beginning, as this is explained in the General Elucidation of Law 15/2019 that "The arrangement of the mechanism for discussing the Bill that has been discussed by the DPR together with the President in one period to be discussed again in the next period to ensure the continuity in the establishment of laws; Whereas the fact is that the drafting of the Bill on Amendment to Law 4/2009 has been started since 2015 and has been included in the 2015-2019 National Legislation Program, it is an initiative proposed by the DPR which was set out in the Plenary Meeting on April 10, 2018 and then submitted to the President on April 11, 2018. There is also a fact that the DPR Legislative Body Working Meeting with the agenda for the 2020-2024 National Legislation Program Decision Making and the 2020 Priority National Legislation Program on December 5, 2019 was attended by the Minister of Law and Human Rights and the Chairperson of the DPD Law Drafting Committee. In the meeting, 248 Bills have been determined in the National Legislation Program 2020-2024 Bill, one of which is the Bill on Amendment to Law 4/2009 as a carry over Bill. This means that the DPR, the President, and the DPD have exercised their right to agree as an element of the provisions of Article 71A of Law 15/2019 that the Bill on Amendment to Law 4/2009 is re-entered the list of the mid-term National Legislation Program and/or annual priority National Legislation Program. Based on these legal facts, according to the Court, the argument of the Petitioners regarding the Mineral and Coal Mining Bill which was later ratified as Law 3/2020 did not meet the requirements of the carry over Bill based on Article 71A of Law 15/2019 is unreasonable according to law.

In relation to the Petitioners' argument that the discussion of Law 3/2020 violates the principle of openness. In relation to the principle of openness, the Elucidation of Article 5 letter g of Law 12/2011 explains that what is meant by the principle of openness is: "whereas in the establishment of laws and regulations starting from planning, drafting, discussing, ratifying or determining, and enacting are transparent and open. Therefore, all levels of society have the widest opportunity to provide input in the establishment of laws and regulations". Based on these provisions, as long as there are no obstacles for all levels of society to get the widest opportunity to provide input in the establishment of laws and regulations, it cannot be said that the establishment of laws and regulations violates the principle of openness. Whereas the provisions of Article 254 paragraph (3) of the 2020 DPR Code of Conduct states that "all types of DPR meetings are held in the DPR building, unless otherwise specified, meetings can be held outside the DPR building with the approval of the DPR leaders". Based on this provision, it is possible for the DPR to hold meetings outside of the DPR building, as it has been done for

several meetings of the Mineral and Coal Mining Bill Working Committee with the Government from February 20-26, 2020. These meetings were carried out in accordance with the schedule for the DPR meeting for the Second Session of the 2019-2020 Session which was decided in the Consultation Meeting in Lieu of the DPR RI Deliberative Body Meeting between the Leaders of the DPR RI and the Leaders of the Factions on December 16, 2019 (vide Attachment XXVI of DPR's Statement). Therefore, the meeting to discuss the Mineral and Coal Mining Bill can still be held even outside of the DPR building to maximize and support the effectiveness of the tasks and functions of legislation. After observing the statements and evidence submitted by the Petitioners, the principle of openness is not solely related to the form of conferences and meetings held by the DPR, but rather to how the general public gets the widest possible access or opportunity to provide input in the establishment of laws and regulations. However, there is no evidence that can convince the Court that a violation has occurred in terms of the public was not being given access or opportunities to provide input in the process of deliberation of the Mineral and Coal Mining Bill. The government and the DPR have proven that during the drafting period, socialization and public discussions were carried out as a manifestation of the principle of openness to accommodate the public and stakeholder responses to the *a quo* Bill. Moreover, the Petitioners' assumption that the ratification of the Mineral and Coal Mining Bill was carried out behind closed doors is not proven, because from the evidence of the Petitioners themselves, the Petitioners were actually able to show a video recording of the DPR RI Plenary Meeting on May 12, 2020 with one of the agendas for the ratification of the Mineral and Coal Mining Bill which, according to the Petitioners, was sourced from Parliament TV (exhibit P-27). Based on the above facts, according to the Court, the arguments of the Petitioners regarding the discussion of the Mineral and Coal Mining Bill did not meet the principle of openness are unreasonable according to law.

In relation to the Petitioners' argument that the discussion of the Mineral and Coal Mining Bill into Law 3/2020 did not involve public participation and stakeholders and there was no public trial by the DPR so that it was a violation of Article 96 of Law 12/2011 according to the Court based on the legal facts revealed at the trial, there was no evidence that could convince the Court regarding the absence of public and stakeholders participation and involvement in the establishment of the Mineral and Coal Mining Bill. On the other hand, the President and the DPR have proven in their evidences regarding the outreach activities and public discussions that show the efforts of the President and the DPR to encourage public participation in the Mineral and Coal Mining Bill deliberation process. Based on this, the Petitioners' argument regarding the discussion of the Mineral and Coal Mining Bill did not involve public participation is unreasonable according to law.

In relation to the arguments of the Petitioners that the discussion of the Mineral and Coal Mining Bill did not involve the Regional Representatives Council (DPD) so that it was a violation of Law 12/2011, Law 17/2014, and the DPR Code of Conduct, according to the DPR Court, the DPR has explained that the DPD was involved from the planning stage of the Mineral and Coal Mining Bill (Amendment to Law 4 /2009), namely in the 2015-2019 National Legislation Program Determination Meeting, the 2020-2024 National Legislation Program Determination Meeting, and the 2020 Priority National Legislation Program Reconstruction Meeting which includes the Mineral and Coal Mining Bill (Amendment to Law 4/2009). The government is of the opinion that the DPD's involvement in the deliberation of the Mineral and Coal Mining Bill has been carried out properly and comprehensively, as evidenced by: a. There is DPD approval on the carry over of the Mineral and Coal Mining Bill as reflected in the DPR Decree Number 1/DPRI/II/2019-2020 dated January 22, 2020; b. There is a conference/meeting to discuss the Mineral and Coal Mining Bill in accordance with the invitation of the DPR RI as evidenced in the Short Report of the Mineral and Coal Mining Bill Committee Meeting of the DPR RI Commission VII with the Leader of the Committee II DPD RI; and c. There is a written view from Committee II DPD on the Mineral and Coal Mining Bill on April 27, 2020. It is a legal fact that the DPD has been involved in the discussion of the Mineral and Coal Mining Bill, this is especially evidenced by the DPD RI Decree Number 32/DPD RI/III/2019-2020 concerning the Views and Opinions of the DPD RI on the Bill on Amendment to Law Number 4 of 2009 concerning Mineral and Coal Mining, dated May 12, 2020. Therefore, the Petitioners' argument

regarding the discussion of Law 3/2020 not involving the DPD is unreasonable according to law.

Based on these legal facts, regarding the legal standing of Petitioner I and Petitioner II who argued their constitutional impairment on the DPD's non-involvement in the discussion and ratification of the Mineral and Coal Mining Bill, the argument is not proven because the DPD has been institutionally involved in the discussion and ratification of the Mineral and Coal Mining Bill. Although Petitioner I and Petitioner II as members of the DPD are related to the process of deliberation and preparation of the Mineral and Coal Mining Bill, the *a quo* Petitioners' arguments regarding the non-involvement of the DPD in the discussion and ratification of the Mineral and Coal Mining Bill which later became Law 3/2020 is not proven. Based on these considerations, according to the Court, Petitioner I and Petitioner II have no legal standing to file the *a quo* petition.

In relation to the Petitioners' argument that the discussion of the Mineral and Coal Mining Bill into Law 3/2020 did not involve and/or accept the aspirations of the local government, according to the Court there is no provision regarding the obligation of legislators to involve local governments in the discussion and ratification of the bill. Article 18A paragraph (2) which states that financial relations, public services, utilization of natural resources and other resources between the central government and regional governments are regulated and implemented fairly and in harmony based on the law, does not necessarily mean that the process of discussion and ratification of a bill must include local government separately from elements of the central government. In the discussion and ratification of the bill, the interests of regional elements have been represented by the DPD which is the embodiment of representatives of each region where DPD members have been democratically elected to represent regional interests in the legislation process. Therefore, the Petitioners' argument regarding the discussion of the Mineral and Coal Mining Bill which was later ratified into Law 3/2020 did not involve and accept the aspirations of the regional government is unreasonable according to law.

In relation to the arguments of the Petitioners that the meeting and decision making in the Commission VII Working Meeting and the DPR Plenary Meeting did not meet the requirements because the Level I decision making at the Commission VII DPR working meeting with the Minister of Energy and Mineral Resources which represents the Government on May 11, 2020 was carried out virtually and the decision making at the Level II in the plenary meeting on May 12, 2020 was also carried out virtually, namely without the physical presence or the physical presence of DPR members carried out by faction representatives, according to the Court, physical presence in the plenary meeting of decision-making is a must, but in fulfilling these conditions it must be considered on a case-by-case basis by looking at the overall conditions at the time the discussion and ratification of the Bill was carried out. At the time the Mineral and Coal Mining Bill was discussed and ratified, on March 11, 2020, the World Health Organization (WHO) had declared that Corona Virus Disease 2019 (Covid-19) had become a pandemic in most countries around the world, including Indonesia. . In fact, the spread of Covid-19 has showed an increase from time to time and has caused fatalities, as well as greater material losses which have implications for social, economic, and community welfare aspects. With regard to the Covid-19 pandemic, legally formally since April 13, 2020, the President has declared the Covid-19 pandemic a national disaster through Presidential Decree of the Republic of Indonesia Number 12 of 2020 concerning Determination of Non-Natural Disasters for the Spread of Corona Virus Disease 2019 (Covid-19) as National Disasters (Keppres 12/2020). In fact, the Court also knows that at the time the Presidential Decree 12/2020 was issued, the community was facing the threat of the Covid-19 Pandemic, which spread relatively quickly and with a high fatality rate, so it is important for all parties to take precautions to prevent the spread. In relation to these conditions, the provisions regarding DPR meetings in certain circumstances are also accommodated in Article 254 paragraph (4) of the 2020 DPR Code of Conduct which states: "All types of DPR meetings are attended by Members, except in certain circumstances, namely dangerous situations, compelling urgency, extraordinary circumstances, conflict situations, natural disasters, and certain other

circumstances that ensure there is a national urgency the meeting can be held virtually by using information and communication technology." Although the Court in its previous decision emphasized that physical presence in the process of establishing laws, including mutual agreement, is necessary, but it must also take into account that the Plenary Meeting for the ratification of the Mineral and Coal Mining Bill was held on May 12, 2020 or after the date the Covid-19 pandemic was stipulated as a non-natural national disasters. Therefore, holding a virtual meeting is a form of prudence from all parties that needs to be done to prevent the spread of the virus, including by keeping a distance or doing physical distancing and reduce meetings in closed rooms. This is not only carried out for the activities of the DPR RI Plenary Meeting, but for all other official state activities, including the implementation of executive and judicial authority. In the midst of the agenda for the ratification of the Mineral and Coal Mining Bill, there are important national policies to be carried out in an effort to prevent the spread of Covid-19, therefore holding a virtual meeting as a substitute for physical presence in the meeting room can be said to be the best choice in completing the discussion and ratification of the Bill, including the Mineral and Coal Mining Bill. In addition, there is no evidence of objections from the Meeting participants who cannot be physically present, so it cannot be said that the virtual participation of DPR members in the ratification of the Mineral and Coal Mining Bill at the DPR RI Plenary Meeting on May 12, 2020 has resulted in the non-fulfilment of the quorum requirements for passing the *a quo* Bill. According to the Court, physical presence in the ratification of the Bill is absolute as long as there is no strong reason to deviate from this requirement. Therefore, the ratification of the Mineral and Coal Mining Bill at the Plenary Meeting on May 12, 2020, based on the reasons stated above, the virtual presence of members must be equated with physical attendance so that they still fulfil the quorum. Based on the description of the legal considerations above, the argument of the Petitioners regarding the ratification of the Mineral and Coal Mining Bill in the DPR Plenary Meeting does not meet the requirements is unreasonable according to law.

Regarding the Petitioners' argument that the establishment of Law 3/2020 should be in the form of a replacement law, not an amendment law, according to the Court the phrase "better" in the provisions of Point 237 of Attachment II to Law 12/2011 means suggestions, namely in the context of providing advice and not a necessity to be implemented by the legislators. Therefore, the non-fulfilment of such technical requirements cannot be used as an excuse that the drafting of a law is formally flawed. Thus, the Petitioners' argument that Law 3/2020 should be made in the form of a replacement law, not an amendment law is unreasonable according to law.

Therefore, in its decision, the Court issued a decision which verdicts state as follows:

On Preliminary Injunction

To dismiss the Petitioners' petition for preliminary injunction

On the Merits

To dismiss the Petitioners' petition in its entirety.

DISSENTING OPINIONS

Regarding the *a quo* decision of the Constitutional Court, 3 (three) Constitutional Justices, namely Constitutional Justice Wahiduddin Adams, Constitutional Justice Suhartoyo, and Constitutional Justice Saldi Isra had dissenting opinions regarding the petition for a formal review of Law 3/2020, which was basically on the grounds as follows:

Whereas there are two important notes that we need to state which are related to the formal legitimacy of the carry over Bill, *in casu* the validity of the carry over Mineral and Coal Mining Bill.

First, the inconsistency of procedural arrangements regarding the "position of DIM discussion" between Law 15/2019 and DPR Regulation 2/2020. In this case, Article 71A of Law 15/2019 states explicitly the position of the DIM "has entered the discussion of the DIM". Meanwhile, Article 110 paragraph (1) of DPR Regulation 2/2020 states the position of the DIM "already has a DIM". This spread of facts clearly shows that there is a misalignment of the arrangement regarding the "position of the DIM discussion". Whether such a mismatch of arrangements is something that happened intentionally (by design) or not, we can confirm that such a mismatched arrangement causes a possibility that the requirements for a carry-over Bill to become easier. The next question, is the easing of these conditions intended to save certain Bills, including the Mineral and Coal Mining Bill? Because there is no explanation regarding this question, it is impossible for us to give a precise/definite answer. But what we can confirm is tracing the timeline, DPR Regulation 2/2020 was passed by the DPR (on April 2, 2020), long after the ratification of Law 15/2019 (on October 4, 2019).

Second, if we trace the empirical timeline (date) for the ratification of Law 15/2019 and DPR Regulation 2/2020, the ratification of the two laws and regulations was carried out after the end of the 2014-2019 DPR membership period which ends on October 1, 2019, which is marked by the event of taking the oath of membership of the DPR for the 2019-2024 period. The basic question that can be asked: is it possible for the legal product that was passed and declared effective on October 4, 2019 to be retroactively applied to the legal event of "carry over approval" of the Mineral and Coal Mining Bill that occurred on September 25, 2019? Likewise, the DPR Regulation which was passed by the DPR on April 2, 2020 was retroactively applied to the legal event "carry over approval" of the Mineral and Coal Mining Bill that occurred on September 25, 2019. This means that the agreement between the DPR and (the minister appointed to represent) the President on September 25th to make the Mineral and Coal Mining Bill a carry over Bill has no legal basis, except only by accepting or confirming the retroactive enforcement of Article 71A of Law 15/2019 and Article 110 paragraph (1) of DPR Regulation 2/2020. However, the retroactive petition cannot be justified because based on the preamble "Considering" letter b of Law 12/2011, "to meet the community's need for good laws and regulations, it is necessary to make regulations regarding the establishment of laws and regulations that are implemented in definite, normative, and standard manner and method that binds all institutions authorized to establish laws and regulations". In addition, retroactive enforcement will also deny the fact that prior to the ratification of Law 15/2019, the regulations that were still in effect at that time (i.e. Law 12/2011) did not regulate the issue of carrying over Bills to the DPR for the next period.

As long as the evidence presented and the facts revealed at the trial of the Constitutional Court, it is true that an agreement has been reached to make the Mineral and Coal Mining Bill a carry over Bill to the membership of the DPR for the 2019-2024 period. That means, one of the requirements for a carry over Bill has been met. However, the requirement of "DIM discussion" has not really happened. The non-compliance with these requirements can be traced from the DPR's statement which basically states: **The DPR meeting on September 25, 2019 only had the agenda for handing over the DIM.** Because the Mineral and Coal Mining Bill DIM was only submitted on September 25, 2019, and in the evening a new working committee (*panitia kerja* or panja) was formed, therefore within reasonable limits of reasoning, it is certain that there never were a discussion of the DIM before the submission is made on September 25, 2019 and it is true that the Court did not get any evidence at the trial regarding

this matter. In addition, from the DPR's statement, it was also known that after the meeting on the evening of September 25, 2019, there was no DPR meeting. This also means that during the membership of the DPR for the 2014-2019 period, there has never been a discussion on the DIM of the Mineral and Coal Mining Bill. That way, even if there has been an agreement on the Mineral and Coal Mining Bill as a carry over Bill to the membership of the DPR for the 2019-2024 period, even though the nomenclature carry over itself and the conditions only existed in October after Article 71A of Law 15/2019 was established and as previously considered, we did not get valid and convincing evidence that the DIM of the Mineral and Coal Mining Bill had been discussed by the DPR for the 2014-2019 period. Therefore, the two cumulatively applicable requirements that can justify the Mineral and Coal Mining Bill as a carry over Bill were not fulfilled. Based on the legal considerations above, there is no doubt for us to state that the establishment of Law 3/2020 is formally flawed.