



**THE CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**THE SUMMARY OF THE DECISION
OF CASE NUMBER 45/PUU-XVIII/2020**

Concerning

Different Treatments Against State Officials in the Covid-19 Law

- Petitioner** : **Sururudin**
- Type of Case** : Review of Law Number 2 of 2020 on the Stipulation of the Government Regulation in Lieu of Law Number 1 of 2020 regarding the State's Financial Policy and Fiscal Stability for the Mitigation of the Coronavirus Disease 2019 (Covid-19) Pandemic and/or in Order to Face Threats That Endanger the National Economy and/or the Stability of the Financial System into Law Against the 1945 Constitution of the Republic of Indonesia (UUD 1945).
- Subject Matter** : Material Review of Article 2, Article 12 paragraph (2), Article 27, and Article 28 points (3) and number (10) of Attachment to Law 2/2020 against the 1945 Constitution.
- Verdict** : 1. To declare that the Petitioner's petition throughout the Article 27 paragraph (1) and paragraph (3) of Attachment to Law Number 2 of 2020 on the Stipulation of the Government Regulation in Lieu of Law Number 1 of 2020 regarding the State's Financial Policy and Fiscal Stability for the Mitigation of the Coronavirus Disease 2019 (Covid-19) Pandemic and/or in Order to Face Threats That Endanger the National Economy and/or the Stability of the Financial System into Law (State Gazette of the Republic of Indonesia of 2020 Number 134, Supplement to the State Gazette of the Republic of Indonesia Number 6516) is inadmissible;
2. To dismiss the Petitioner's petition for the rest/remainder.
- Date of Decision** : Thursday, October 28, 2021
- Overview of Decision** :

Whereas the Petitioner is an individual Indonesian citizen who declares himself to be a taxpayer.

Regarding the authority of the Court, due to the petition of the Petitioner regarding the Material Review of Article 2, Article 12 paragraph (2), Article 27, and Article 28 paragraph (3) and (10) of Attachment to Law Number 2 of 2020 on the Stipulation of the Government Regulation in Lieu of Law Number 1 of 2020 regarding the State's Financial Policy and Fiscal Stability for the Mitigation of the Coronavirus Disease 2019 (Covid-19) Pandemic and/or in Order to Face Threats That Endanger the National Economy and/or the Stability of the Financial System into Law (UU 2 /2020) against the 1945 Constitution, the Court has the authority to hear the *a quo* petition.

Regarding the legal standing of the Petitioner, there is a fact that in the discussion of the budget it has clearly overrode the functions of the DPR (House of Representatives), namely the legislative function, budget function, and supervisory function, thus violating Article 20 of the 1945 Constitution. This is closely related to the fact that the Petitioner is an Indonesian citizen who is a tax payer which has also given a "constitutional mandate" to the DPR in the election process so that the DPR should have the authority to determine the APBN (State Budget) together with the President after obtaining consideration from the DPD (Regional Representative Council). Therefore the potential constitutional impairment of the Petitioner will not occur if the Petitioner's *a quo* petition is granted.

Whereas in relation to the subject matter of the petition, the Court in its legal considerations declares as follows:

- 1) Whereas with respect to Article 27 paragraph (1) and paragraph (3) of Attachment to Law 2/2020, the Court has considered its constitutionality and has declared the terms of the constitutional meaning of *a quo* norms. Therefore, since the decision was declared, although there were 3 (three) Constitutional Justices who submitted dissenting opinions, namely Constitutional Justice Anwar Usman, Constitutional Justice Arief Hidayat, and Constitutional Justice Daniel Yusmic P. Foekh regarding Article 27 paragraph (1) and paragraph (3) Attachment to Law 2/2020, the constitutional meaning of Article 27 paragraph (1) and paragraph (3) of Attachment to Law 2/2020 is as the Verdict in the Constitutional Court Decision Number 37 /PUU-XVIII/2020, it is no longer the complete norm as petitioned for review by the Petitioner. With this decision, the norms of Article 27 paragraph (1) and paragraph (3) of Attachment to Law 2/2020 which unconstitutionality is argued by the Petitioners have lost their object so that they are irrelevant for further consideration.
- 2) Whereas with regard to Article 27 paragraph (2) of Attachment to Law 2/2020 the Court has decided regarding the constitutionality of Article 27 paragraph (2) of Attachment to *a quo* Law in the Constitutional Court Decision Number 37/PUU-XVIII/2020, which declares that Article 27 paragraph (2) of Attachment to Law 2/2020 is constitutional. Because the constitutional issues raised by the Petitioners regarding the reasons for reviewing Article 27 paragraph (2) of Attachment to Law 2/2020 are essentially the same as the constitutional issues as already considered by the Court in the *a quo* Decision of the Constitutional Court Number 37/PUU-XVIII/2020, therefore the legal considerations in the above decision *mutatis mutandis* shall apply to the *a quo* petition, especially with regard to the constitutionality of Article 27 paragraph (2) of Attachment to Law 2/2020. Therefore, the Petitioner's proposition regarding the unconstitutionality of Article 27 paragraph (2) of Attachment to Law 2/2020 is unreasonable according to law.
- 3) Whereas with regard to the Petitioners' argument regarding the review of the material norms of Article 2, Article 12 paragraph (2) and Article 28 point 3 and number 10 of Attachment to Law 2/2020, the Court has also considered in the Sub-Paragraph **[3.18.1]** of the Decision of the Constitutional Court Number 37/PUU-XVIII/2020, dated October 28, 2021, which has been previously stated, which declares: "...Whereas with regard to matters as argued by the Petitioners above, after careful scrutiny, the arguments of the relevant Petitioners have turned out to be closely related and based on a specific argument, namely the concerns of the Petitioners regarding the use of state finances in dealing with the Covid 19 pandemic. Regarding the arguments of the Petitioners, the Court is of the opinion that the government's choice of policy as stated in the norms that were reviewed above by the Petitioners is a choice of policy issued by the Government because of the urgency of the situation or emergency condition. In this case, the policy in handling the Covid-19 pandemic which must be in touch with financial or budget matters, including in this case the possibility of the assumption of misuse of

state finances as referred. Therefore, the Court can understand the policy choices made by the Government because the government does have very limited options in handling the Covid-19 pandemic which of course requires an unpredictable budget burden as the state budget burden under normal circumstances. Therefore, the Court does not immediately negate the concerns of all parties, including in this case the Petitioners, regarding the disruption of financial stability which is used to focus on handling the Covid-19 pandemic. Therefore, in relation to the issue of title expansion which the Petitioners were concerned about, it has automatically been answered with an *a quo* affirmation from the Court. However, in such a dilemmatic situation, the Court affirms that there is no constitutionality issue related to the relevant norms above as long as it is only related to the handling of the Covid-19 pandemic. Therefore, the arguments of the Petitioners regarding the unconstitutionality of the articles mentioned above are unreasonable according to law.”

Whereas based on the entire description of the legal considerations above, the Court is of the opinion that the Petitioners' argument in relation to Article 2, Article 12 paragraph (2), Article 27 paragraph (2), Article 28 point 3 and number 10 of Attachment to Law 2/2020, the legal considerations for Constitutional Court Decision Number 37/PUU-XVIII/2020 *mutatis mutandis* shall apply to the legal considerations for the Decision of the *a quo* case so that the Petitioner's petition is unreasonable according to law. As for the Petitioner's petition with respect to Article 27 paragraph (1) and paragraph (3) of Attachment to Law 2/2020 is a lost object. Meanwhile, the other arguments and other matters of the Petitioner's petition are deemed irrelevant and therefore shall not be considered further and shall be declared as unreasonable according to law.

Accordingly, the Court issued a decision which verdicts declare as follows:

1. To declare that the Petitioner's petition throughout the Article 27 paragraph (1) and paragraph (3) of Attachment to Law Number 2 of 2020 on the Stipulation of the Government Regulation in Lieu of Law Number 1 of 2020 regarding the State's Financial Policy and Fiscal Stability for the Mitigation of the Coronavirus Disease 2019 (Covid-19) Pandemic and/or in Order to Face Threats That Endanger the National Economy and/or the Stability of the Financial System into Law (State Gazette of the Republic of Indonesia of 2020 Number 134, Supplement to the State Gazette of the Republic of Indonesia Number 6516) is inadmissible;
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