



THE CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA

THE SUMMARY OF THE DECISION  
OF CASE NUMBER 47/PUU-XVIII/2020

Concerning

**Legal Uncertainty in Village Fund Allocation Due to the Covid-19 Pandemic**

<b>Petitioner</b>	: Triono, et al.
<b>Type of Case</b>	: 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 (UU 2/2020) against the 1945 Constitution of the Republic of Indonesia (UUD 1945).
<b>Subject Matter</b>	: The invalidity of Article 72 paragraph (2) of Law Number 6 of 2014 concerning Village (Village Law) as regulated in Article 28 point 8 of Attachment to Law 2/2020 is in contrary to the principle of budget transparency guaranteed by Article 23 paragraph (1) and the principle of legal certainty guaranteed by Article 28 paragraph (1) of the 1945 Constitution;
<b>Verdict</b>	: To dismiss the Petitioner's petition in its entirety
<b>Date of Decision</b>	: Thursday, October 28, 2021.
<b>Overview of Decision</b>	:

Petitioners I to Petitioners XXI are village heads, while Petitioners XXII to Petitioners XXVII are members of the Village Consultative Body (*Badan Permusyawaratan Desa* or BPD). According to the Petitioners, the Village Head and BPD Members have interests in the Village Fund as the largest source of village financial income. With the existence of Article 28 point 8 of Law 2/2020 which states that Article 72 paragraph (2) of the Village Law does not apply, the Petitioners are worried that the Village Fund will no longer be obtained by the village.

Regarding the authority of the Court, the Petitioners in their petition stated that the norm being reviewed is Article 28 paragraph (1) of Attachment to Law 2/2020, in this regard the Court considered that such referral was incorrect because the correct way to refer it was Article 28 point 8 of Attachment to Law 2/2020. However, the Court can understand the intent of the Petitioners' petition, namely to review the constitutionality of Article 28 point 8 of Attachment to Law 2/2020. Furthermore, it is considered as a petition for review of the constitutionality of Article 28 point 8 of Attachment to Law 2/2020 to the 1945 Constitution, therefore the Court has the authority to hear the *a quo* petition.

Regarding the legal position of the Petitioners, the Court is of the opinion that the Petitioners have been able to specifically describe the existence of a causal relationship (*causal verband*) between the enactment of the norms petitioned to be reviewed by the

Petitioners with the presumption of impairment or potential constitutional impairment of the Petitioners as regulated in the 1945 Constitution. The Covid-19 pandemic, which is a health emergency that has hit the whole world, has directly affected the economy of every country, both micro and macro. One of the efforts made by the government to control the impact of the Covid-19 pandemic on the economy is to make policies, one of which is the issuance of Law 2/2020 which regulates state financial policies during the Covid-19 pandemic. The implementation of this emergency policy on state finances will have an impact on all levels of society, including the Petitioners as Indonesian citizens, especially in their positions as village heads and members of the Village Consultative Body who are responsible for the safety and welfare of the village communities they lead. Therefore, according to the Court, the Petitioners have been able to explain the perceived constitutional impairment or potential constitutional impairment that will be experienced by the Petitioners with the enactment of the norm of Article 28 point 8 of Attachment to Law 2/2020. The presumption of the relevant factual and potential impairments does not occur and shall not occur if the *a quo* petition of the Petitioners is granted. Therefore, the Court is of the opinion that the Petitioners have the legal standing to file the *a quo* petition.

Regarding the main point of the Petitioners' petition, the Court concluded that in fact the Petitioners did not question the adjustment of the budget allocation due to the Covid-19 pandemic, but what the Petitioners were concerned about was the enactment of Article 28 point 8 of Attachment to Law 2/2020 which stated that Article 72 paragraph (a) of Village Law is no longer valid, thus the village funds that have been channelled to villages in Indonesia have lost their legal basis. Regarding this, the Court through Decision Number 37/PUU-XVIII/2020 stated that it was constitutional. However, according to the Court, the Petitioners' concerns regarding the substance of Article 28 point 8 of Attachment to Law 2/2020 are intertwined with the absence of a time limit for the enactment of Law 2/2020 as set forth in Article 29 of Attachment to Law 2/2020, therefore the Court cites legal considerations of Constitutional Court Decision Number 37/PUU- XVIII/2020 related to Article 29 of Attachment to Law 2/2020, namely in paragraph [3.18]. Based on the quote from the legal considerations, in addition to the normative provisions of Article 72 paragraph (2) of the Village Law which is no longer enforced because it has been absorbed in the normative provisions of Article 28 point 8 of Attachment to Law 2/2020 and has been declared constitutional, the Court also affirms that the Law 2/2020 must have a time limit, so that it is temporary, namely until the Covid-19 pandemic ends as ordered by the Constitutional Court Decision Number 37/PUU-XVIII/2020 which basically gives the interpretation that the Government must announce the end of the pandemic and the end of the enactment of the *a quo* Law. Therefore, the Petitioners' concern that village funds will no longer be received as a result of the invalidity of Article 72 paragraph (2) of the Village Law as regulated in Article 28 number 8 of Attachment to Law 2/2020 becomes legally unreasonable. Because according to the legal considerations of the Constitutional Court Decision Number 37/PUU- XVIII/2020, the provisions that were declared invalid became valid again after Law 2/2020 was declared invalid.

According to the Court, because the Constitutional Court Decision Number 37/PUU-XVIII/2020 has provided clarity so that there is no longer legal uncertainty, then Article 28 point 8 of Attachment to Law 2/2020 which is related to Article 29 of Attachment to Law 2/2020 is not in contrary to the 1945 Constitution. Therefore, the legal considerations of the Constitutional Court Decision Number 37/PUU-XVIII/2020 as long as it relates to Article 28 point 8 which is related to Article 29 of Attachment to Law 2/2020 shall apply *mutatis mutandis* to legal considerations in the *a quo* petition, therefore the argument for the *a quo* petition of the Petitioners must be declared unreasonable according to law.

Based on the legal considerations above, the Court is of the opinion that the normative provisions of Article 28 point 8 of Attachment to Law 2/2020 are constitutional, and with respect to other matters of the Petitioners' petition which are also deemed irrelevant, they shall not be considered further and must be declared unreasonable according to law.

Accordingly, the Court subsequently issued a decision which dismiss the petition of the

Petitioners in its entirety.