



THE CONSTITUTIONAL COURT OF
THE REPUBLIC OF INDONESIA

THE SUMMARY OF THE DECISION
OF CASE NUMBER 87/PUU-XVIII/2020

Concerning

Constitutionality of the Labor Cluster in the Job Creation Act

Petitioner	: Deni Sunarya and Muhammad Hafidz
Type of Case	: Review of Law Number 11 of 2020 concerning Job Creation (UU 11/2020) against the 1945 Constitution of the Republic of Indonesia (UUD 1945).
Subject Matter	: Article 4 letter b, Article 6, Article 81 number 13, number 15, number 18, number 19, number 25, number 29, Elucidation of number 42 and number 44 of Law 11/2020 contradicts Article 22A, Article 27 paragraph (2), Article 28D paragraph (1) and paragraph (2) of the 1945 Constitution
Verdict	: On Preliminary Injunction: To Dismiss the Petitioner's Preliminary Injunction Petition On the Merits: To Declare that the Petitioner's petition is inadmissible.
Date of Decision	: Thursday, November 25, 2021.
Overview of Decision	:

The Petitioner argues that as a Federation of Trade Unions as a worker/labor organization that has a function as a means and channel for aspirations in fighting for the rights and interests of its members, which in this case is represented by Deni Sunarya and Muhammad Hafidz as the General Chairman and General Secretary, they feel that their existence has been harmed by the enactment of the Law 11/2020.

In relation to the authority of the Court, since the Petitioner is petitioned for a judicial review of the Law *in casu* Law 11/2020 against the 1945 Constitution, the Court has the authority to hear the *a quo* petition.

Regarding the legal position, the Court is of the opinion that the Petitioner has clearly outlined and explained his qualifications as an organization that has an interest in the protection and enforcement of the basic rights of workers/laborers who are members of a trade union/labor union which can be represented by the General Chairman and the General Secretary. In such qualifications, the Petitioners have also specifically explained their constitutional rights which in their opinion are potentially harmed by the application of the norms petitioned for review, which include the right to obtain guarantees and protection for work, remuneration and decent living as well as fair treatment in an employment relationship. Thus, it has been seen that there is a causal relationship between the Petitioner's assumption regarding the loss of constitutional rights and the enactment of the norms of the law petitioned for review, so that if the petition is granted, such loss will not occur. Therefore, regardless of whether the Petitioner's argument is proven or not regarding the unconstitutionality of the legal norms requested for review, according to the Court, the Petitioners has the legal standing to act as Petitioners in the *a quo* petition.

With regard to the petition for preliminary injunction of the Applicant who in principle petitioned for the postponement the application of Article 81 of Law 11/2020 until there is a decision on the *a quo* petition, The Court is of the opinion that the reason for the petition for preliminary injunction filed by the Petitioner is closely related to the subject matter of the Petitioner's petition, so that it is not appropriate to use such reason for the petition for preliminary injunction. As for the subject matter of the Petitioner's petition, because of the *a quo* petition has been clear, then the Court is of the opinion that there is no urgency to request the statements from the parties as mentioned in Article 54 of the Constitutional Court Law.

Whereas the subject matter of the Petitioners has turned out to be against Law 11/2020 has been declared conditionally unconstitutional in the Decision of the Constitutional Court Number 91/PUU-XVIII/2020, dated November 25, 2021, which has been stated previously. with a verdict which in the subject matter of the petition has declared:

1. To declare that the petition of Petitioner I and Petitioner II cannot be accepted;
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 contrary to the 1945 Constitution of the Republic of Indonesia and does not have conditional 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 after 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), the law or articles or material content of the law which has 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 to be valid again;
6. 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);
7. To order the recording of this decision in the State Gazette of the Republic of Indonesia as appropriate;
8. To dismiss the Petitioners' petition for the rest/remainder.

Thus, for the *a quo* petition for material review, it is no longer relevant to continue the examination, because the object of the petition submitted by the Petitioner is no longer 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], the *a quo* petition for material review must be declared as lost object.

Based on the entire description of the considerations mentioned above, because the Petitioner's petition for preliminary injunction is unreasonable according to law and the Petitioner's petition has lost its object, therefore although the Court has the authority to hear the *a quo* petition The applicant has legal standing, the Court does not consider other matters from the petition any further.

Accordingly, the Court subsequently declares the verdicts as follows:

On Preliminary Injunction:

To Dismiss the Petitioner's Preliminary Injunction Petition

On the Merits:

To Declare that the Petitioner's petition is inadmissible.