



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

**THE SUMMARY OF THE DECISION
OF CASE NUMBER 108/PUU-XVIII/2020**

Concerning

Legal Uncertainty Due to Misrepresentation of Norms

- Petitioner** : **Ignatius Supriyadi, et al**
- Type of Case** : Review of Law Number 11 of 2020 concerning Job Creation (hereinafter referred to as Law 11/2020) against the 1945 Constitution of the Republic of Indonesia (UUD 1945).
- Subject Matter** : Referral Error in
1. The phrase "as referred to in Article 5 paragraph (1) letter a" in Article 6 of Law 11/2020;
 2. The phrase "as referred to in paragraph (6)" in paragraph (8) of Article 26 of Law Number 26 of 2007 concerning Spatial Planning in Article 17 number 16 of Law 11/2020;
 3. The phrase "as referred to in paragraph (2)" in paragraph (3) of Article 47A of Law Number 28 of 2002 concerning Buildings in Article 24 number 44 of Law 11/2020;
 4. The phrase "as referred to in paragraph (1)" in paragraph (3) of Article 35 of Law Number 6 of 2017 concerning Architects in Article 25 number 10 of Law 11/2020;
 5. The phrase "paragraph (1), paragraph (2), and" in paragraph (4) of Article 35 of Law Number 31 of 2004 on Fisheries in Article 27 number 14 of Law 11/2020;
 6. The phrase "as referred to in paragraph (5)" in paragraph (6) of Article 13 of Law Number 18 of 2009 concerning Livestock and Animal Health in Article 34 point 2 of Law 11/2020;
 7. The phrase "or paragraph (4)" in paragraph (1) of Article 56 of Law Number 21 of 2014 on Geothermal (Law 21/2014) in Article 41 number 25 of Law 11/2020;
 8. The phrase "c. Exploitation, and utilization; and/or" in paragraph (2) of Article 56 of Law 21/2014 in Article 41 number 25 of Law 11/2020;
 9. The phrase "as referred to in paragraph (2)" in paragraph (4) of Article 55 of Law Number 1 of 2011 concerning Housing and Settlement Areas in Article 50 point 9 of Law 11/2020;
 10. The phrase "as referred to in paragraph (1)" in paragraph (5) of Article 84 of Law Number 2 of 2017 concerning Construction Services (UU 2/2007) in Article 52 number 27 of Law 11/2020;

11. The phrase "as referred to in paragraph (3)" in paragraph (6) of Article 84 of Law 2/2007 in Article 52 number 27 of Law 11/2020;
12. The phrase "as referred to in paragraph (2)" of Article 46D of Law Number 40 of 2004 concerning the National Social Security System in Article 82 number 2 of Law 11/2020;
13. The phrase "as referred to in paragraph (7)" in paragraph (7) Article 157 of Law Number 28 of 2009 concerning Regional Taxes and Regional Levies (UU 28/2009) in Article 114 number 5 of Law 11/2020;
14. The phrase "as referred to in paragraph (7)" in paragraph (8) of Article 157 of Law 28/2009 in Article 114 number 5 of Law 11/2020;
15. The phrase "as referred to in paragraph (7)" in paragraph (9) of Article 157 of Law 28/2009 in Article 114 number 5 of Law 11/2020;
16. The phrase "as referred to in paragraph (7)" in paragraph (10) Article 157 of Law 28/2009 in Article 114 number 5 of Law 11/2020;
17. The phrase "paragraph (1)" in Article 73 of Law Number 41 of 2009 concerning Protection of Sustainable Food Agricultural Land in Article 124 number 2 of Law 11/2020;
18. Article 40 paragraph (1) of Law Number 39 of 2009 concerning Special Economic Zones in Article 150 number 31 of Law 11/2020;
19. The phrase "as referred to in Article 141 letter b" in paragraph (1) of Article 151 of Law 11/2020;
20. The phrase "as referred to in paragraph (3)" in paragraph (5) of Article 53 of Law Number 30 of 2014 concerning Government Administration in Article 175 number 6 of Law 11/2020.

are in contrary to the principle of legal certainty as regulated in Article 28D paragraph (1) of the 1945 Constitution, and the guarantee of legal protection as regulated in Article 28I paragraph (1) of the 1945 Constitution;

Verdict : To declare that the Petitioners' petition is inadmissible
Date of Decision : Thursday, November 25, 2021.
Overview of Decision :

The Petitioners are Indonesian citizens who work as advocates who are also taxpayers, who feel that their constitutional rights have been impaired as a result of the enactment of the norms petitioned for review.

With respect to the authority of the Court, because of the petition to review the constitutionality of legal norms, *in casu* Law 11 of 2020 concerning Job Creation against the 1945 Constitution, the Court has the authority to hear the petition of the Petitioner;

Regarding the legal standing of the Petitioners, the Court is of the opinion that the Petitioners have been able to explain specifically the impairment of their constitutional rights which, according to the Petitioners' opinion, has the potential to occur, namely the potential for legal uncertainty when the Petitioners provide legal services to clients who request legal explanations related to the norms of the Law petitioned for review which the Petitioners deem to be error in referral. Therefore, the Petitioners have been able to describe the existence of a causal relationship between the Petitioners' perceived constitutional impairment/potential impairment and the enactment of the norm petitioned for review, so that if the petition is granted, such impairment will not occur. Therefore, the Court is of the opinion that the Petitioners have the legal standing to file the *a quo* petition.

Regarding the merits of the petition of the Petitioners, the Court considers that in relation to the formal review of Law 11/2020 the Court has decided in the decision of the Constitutional Court Number 91/PUU-XVIII/2020, dated November 25, 2021, which has been stated before in the verdict of such subject matter which has declared::

On the Merits:

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;

According to the Court, based on the decision of the Constitutional Court Number 91/PUU-XVIII/2020, it has been stated that Law 11/2020 has been declared conditionally unconstitutional and the decision in question has binding legal force since it was declared. Therefore, the *a quo* petition for material review is no longer relevant to continue, because the object of the petition submitted by the Petitioners 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], the *a quo* petition for material review must be declared as lost object. Therefore, the Petitioners' petition is considered irrelevant, so it shall not be considered any further.

Accordingly, the Court subsequently issued a decision which declared that the petition of the Petitioners is inadmissible;