



CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION
FOR CASE NUMBER 47/PUU-XX/2022

Concerning

Formal Examination of the State Capital Law

Petitioner	: Mulak Sihotang
Type of Case	: Formal Examination of Law Number 3 of 2022 concerning the State Capital (Law 3/2022) against the 1945 Constitution of the Republic of Indonesia (UUD 1945)
Subject Matter	: Formal Examination of the 1945 Constitution
Verdict	: To declare that the Petitioner's petition is inadmissible.
Date of Decision	: Tuesday, May 30, 2022

Overview of Decision :

The Petitioner is an individual Indonesian citizen who believes his constitutional rights are prejudiced in the formation of the *a quo* Law.

Regarding the authority of the Court, because the Petitioner petitions for a Formal Examination of the law, *in casu* Law 3/2022 against the 1945 Constitution, therefore based on Article 24C paragraph (1) of the 1945 Constitution, Article 10 paragraph (1) letter a of Law Number 24 of 2003 concerning the Constitutional Court as last amended by Law Number 7 of 2020 concerning Third Amendment on Law Number 24 of 2003 concerning the Constitutional Court, and Article 29 paragraph (1) letter a of Law Number 48 of 2009 concerning Judicial Power, the Court has the authority to hear the *a quo* petition.

Regarding the deadline for submitting a formal examination, the Court is of the opinion that the petition for a formal examination of the law against the 1945 Constitution shall be filed within 45 days "since" the law is promulgated in the State Gazette of the Republic of Indonesia and the Supplement to the State Gazette of the Republic of Indonesia, as stated in Article 9 paragraph (2) of Constitutional Court Regulation Number 2 of 2021 concerning Proceedings in Judicial Review Cases and the Decision of the Constitutional Court Number 14/PUU-XX/2022. The Petitioner's petition which was filed on March 29, 2022 based on the Deed of Submission of the Petitioner's Petition Number 44/PUU/PAN.MK/AP3/03/2022, meanwhile the Law 3/2022 was promulgated on February 15, 2022, thus the Petitioner's petition is still submitted within the time limit for submitting the petition for the examination of the law.

Before the Court considers the legal standing and the subject matter of the Petitioner's petition, the Court shall first consider the Petitioner's petition, as follows:

1. Whereas the Court has examined the *a quo* petition in the preliminary examination trial on April 19, 2022. In such trial, the Panel Assembly in accordance with its obligations as regulated in Article 39 of the Constitutional Court Law and Article 41 paragraph (3) of the Regulation of the Constitutional Court Number 2 of 2021 concerning Proceedings in Judicial Review Cases (PMK 2/2021), has provided advice to the Petitioner to revise and clarify the matters in relation to his legal standing, *posita*, and *petitum*. The Panel of Judges has advised the Petitioner to

adjust the format and the requirements of the Petition in accordance with Article 31 paragraph (1) of the Constitutional Court Law and Article 10 paragraph (2) letter a, letter b, letter c, and letter d of PMK 2/2021;

2. Whereas based on Article 51A paragraph (2) of the Constitutional Court Law and Article 10 paragraph (2) letter b and letter c of PMK 2/2022, the Petitioner's petition can be described as follows:

- The Petitioner did not clearly describe the loss of the constitutional rights as the result of the formation of Law 3/2022 and only mentioned the articles in the 1945 Constitution which he considered to be harmed in relation to his constitutional rights. In addition, the description in the legal standing section contains a number of arguments that are irrelevant to the presumption of the constitutional loss of the Petitioner. Thus, the description cannot explain the existence of a causal relationship between the *a quo* norms and the Petitioner's actual or potential losses.
- In the reasons for the petition (*posita*) section, the Petitioner did not explain clearly and in detail regarding the constitutionality issue in the formation process of Law 3/2022 which he considers to be not fulfilling the formal requirements for the formation of Law 3/2022. The Petitioner only described the matters which, according to the Petitioner, should be considered in the formation process Law 3/2022. The Court is of the opinion that these matters are irrelevant to be used as arguments in questioning the formation process Law 3/2022.
- In the *Petitum* section number 2, the Petitioner petitions for a formal examination of Law 3/2022 which is in contrary to the 1945 Constitution. However in the *Petitum* number 3, the Petitioner petitions for Article 1 paragraph (2), Article 1 paragraph (8), Article 4, Article 5 paragraph (4) Law 3/2022 to be declared as in contrary to the 1945 Constitution without any elaboration on the presumption of the constitutional loss caused by the promulgation of the norms of Article 1 paragraph (2), Article 1 paragraph (8), Article 4, Article 5 paragraph (4) of Law 3/2022. In the *posita* section, the Petitioner also did not elaborate on the reasons for the conflicting norms of the *a quo* articles and the 1945 Constitution

Based on all of the aforementioned legal considerations, the Court is of the opinion that the Petitioners' petition is unclear on the legal standing, *posita* and *petitum* section. Therefore, the petition of the Petitioner is unclear (vague).

Accordingly, the Court issued a decision which verdict states that the Petitioner's petition is inadmissible.