



CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION
FOR CASE NUMBER 54/PUU-XX/2022

Concerning

Formal Examination of the State Capital Law

Petitioner	: Muhammad Busyro Muqoddas, et al.
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 Law 3/2022 against the 1945 Constitution.
Verdict	: The Petitioners' petition is inadmissible.
Date of Decision	: Tuesday, May 31, 2022.
Overview of Decision	:

The Petitioners argue that as individuals, Indonesian citizens and public legal entities, they believe that they in a disadvantaged position due to the promulgation of Law Number 3 of 2022 concerning the State Capital (Law 3/2022) because the formation process of Law 3/2022 does not accommodate meaningful participation.

Regarding the authority of the Court, because the Petitioners petition for a formal examination of the law, *in casu* Law 3/2022, against the 1945 Constitution, the Court has the authority to hear and decide on the *a quo* Petition.

Regarding the deadline for submitting a petition for a formal examination, the Court considers the following:

The Decision of the Constitutional Court Number 27/PUU-VII/2009, dated June 16, 2010, Paragraph **[3.34]** states that:

“Considering that regardless of the decision in relation to the subject matter of the *a quo* petition, the Court deems it necessary to provide a time limit or deadline for a law to be formally examined. The consideration regarding the limitation of this deadline is needed because the characteristics of a formal examination are different from a material examination. A Law that is formed not based on the procedures as determined by the 1945 Constitution will be easier to identify than a Law whose substance is in contrary to the 1945 Constitution. For legal certainty, the status of a Law needs to be able to be determined quickly whether it has been legally made or not, because a formal examination shall cause the law to be cancelled from the start. The Court considers that the deadline of 45 (forty-five) days since the Law is published in the State Gazette is a sufficient time to file a formal examination of the Law;

Whereas Article 1 number 12 of Law Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Establishment of Legislation (Law 15/2019) states that:

"The promulgation is the recordings of laws and regulations in the State Gazette of the Republic of Indonesia, the Supplement to the State Gazette of the Republic of Indonesia, the Official Gazette of the Republic of Indonesia, the Supplement to the Official Gazette of the Republic of Indonesia, the Regional Gazette, the Supplement to the Regional Gazette, or the Official Regional Gazette."

Whereas regarding the matters as stated above, based on the legal considerations in the Decision of the Constitutional Court Number 14/PUU-XX/2022, dated April 20, 2022, in Paragraph [3.3] numbers 3 to 5 which in principal declare as follows:

3. Whereas referring to the Decision of the Constitutional Court Number 27/PUU-VII/2009 above, what is meant by the phrase "45 (forty-five) days since the Law is published in the State Gazette is sufficient time to file a formal examination of the Law" then such matter is emphasized in Article 9 paragraph (2) of the Constitutional Court Regulation Number 2 of 2021 concerning Proceedings in Judicial Review Cases, which states that "the Petition for a formal examination as referred to in Article 2 paragraph (2) shall be submitted within a maximum period of 45 (forty-five) days since the law or *Perppu* is promulgated in the State Gazette of the Republic of Indonesia;
4. Whereas the Petitioners have submitted the petition for a formal examination of Law 7/2021 to the Constitutional Court on January 21, 2022 based on the Deed of Submission of the Petitioner's Petition Number 10/PUU/PAN.MK/AP3/01/2022 and recorded in the Electronic Constitutional Case Registration Book (*Buku Registrasi Perkara Konstitusi Elektronik* or e-BRPK) on January 26, 2022 under the Number 14/PUU-XX/2022;
5. Whereas based on the aforementioned legal facts, since Law 7/2021 was promulgated on October 29, 2021, the 45-day deadline since the *a quo* Law is promulgated in the State Gazette shall be on December 12, 2021. Accordingly, the petition for a formal examination of Law 7/2021, submitted by the Petitioners in the petition dated January 21, 2022, was submitted past the deadline for the petition submission as determined by number 1 and number 3 above".

Whereas based on the legal facts as described above, there are two Whereas in relation to two terms regarding the submission time, which is 45 (forty-five) days for a formal examination, namely "after" and "since" a law is promulgated in the State Gazette of the Republic of Indonesia and the Supplement to the State Gazette of the Republic of Indonesia;

Whereas regarding the submission of a petition for a formal examination that is submitted "since" the law, for which a formal examination is being petitioned, was promulgated in the State Gazette of the Republic of Indonesia and the Supplement to the State Gazette of the Republic of Indonesia, the Court is of the opinion that to provide legal certainty in the petition submission for a formal examination of the law against the 1945 Constitution. If the petition for a formal examination of the law against the 1945 Constitution is submitted "after" it was promulgated in the State Gazette of the Republic of Indonesia and the Supplement to the State Gazette of the Republic of Indonesia, such interpretation may or has the potential to create legal uncertainty. This is because, although the meaning of "after" can be interpreted as shortly after 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, it can also be interpreted after some time later. This is different from the meaning of "since" which is more definite and concrete, namely the calculation shall take effect from the time 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. Therefore, 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 confirmed in Article 9 paragraph (2) of the Constitutional Court Regulation Number 2 of 2021 concerning Proceedings in of Judicial Review Cases and the Decision of the Constitutional Court Number 14/PUU-XX/2022, dated April 20, 2022;

Whereas in the *a quo* case, the Petitioners submitted the petition for a formal examination of Law 3/2022 to the Constitutional Court on April 1, 2022 based on the Deed of Submission of the Petitioner's Petition Number 49/PUU/PAN.MK/AP3/04/2022 and recorded in the Electronic Constitutional Case Registration Book (*Buku Registrasi Perkara Konstitusi Elektronik* or e-BRPK) on April 7, 2022 under the Number 54/PUU-XX/2022. Meanwhile, Law 3/2022 was promulgated on February 15, 2022 in the State Gazette of the Republic of Indonesia of 2022 Number 41, the Supplement to the State Gazette of the Republic of Indonesia Number 6766. Therefore the petition of the Petitioners was submitted on the 46th (forty-sixth) day since Law 3 /2022 was promulgated in the State Gazette of the Republic of Indonesia of 2022 Number 41 and the Supplement to the State Gazette of the Republic of Indonesia Number 6766;

Whereas based on the aforementioned legal facts, therefore the petition of the Petitioners in relation to the formal examination of Law 3/2022 against the 1945 Constitution has passed the deadline of 45 (forty-five) days since Law 3/2022 was promulgated. Therefore, the petition of the Petitioners does not fulfil the formal requirements for petition submission for a formal examination to the Constitutional Court.

Whereas because the Petitioners' petition for a formal examination was submitted past the deadline for petition submission, the legal standing and the subject matter of the Petitioners' petition for a formal examination, as well as any other matters shall not be considered any further. Accordingly, the Petitioners' petition is inadmissible;

Regarding the *a quo* petition, the Court decided that the Petitioner's petition is inadmissible.