



THE CONSTITUTIONAL COURT

REPUBLIC OF INDONESIA

SUMMARY OF DECISIONS

CASE NUMBER 15/PUU-XVIII/2020

Concerning

**The Constitutional Court May Not Make Criminalization Policies in the Road
Traffic and Transportation Law**

- Petitioner** : **Novan Lailathul Rizky, dkk.**
- Case** : Examination of Law of the Republic of Indonesia Number 22 of 2009 concerning Road Traffic and Transportation (LLAJ Law) against the 1945 Constitution of the Republic of Indonesia (UUD 1945).
- Case of Lawsuit** : Article 311 paragraph (1) of the LLAJ Law is detrimental to the Petitioners and therefore it is contrary to the 1945 Constitution if the phrase "Anyone who deliberately drives a Motor Vehicle in a way or condition endangering life or property" is not interpreted "including drivers who have not entered adulthood in a manner law, then against people who deliberately give / lend motorized

vehicles".

Injunction : Reject the Petitioners' Petition.

Date of Desicion : Thursday, June 25, 2020.

Desicion Overview :

The Petitioners in the a quo case are Indonesian citizens (WNI), namely Novan Lailathul Rizky, et al., Who gave power to Viktor Santoso Tandiasa and Yohanes Mahatma Pambudianto.

In relation to the authority to examine, the Court is of the opinion that adjudicating the Petitioners' petition, namely adjudicating the constitutionality of the Road Traffic and Transportation (LLAJ Law), is the authority of the Court. The Court has the authority to request information from the parties involved in the formation of laws as regulated in Article 54 of the Constitutional Court Law, however in the a quo case the Court did not ask the legislators for information because according to the Court the substance of the Petitioners' petition was clear.

The five Petitioners who are Indonesian citizens, have student status, and are motorbike riders / users, according to the Court have a constitutional interest in the review of the LLAJ Law and therefore the Court stated that the Petitioners have the legal standing to submit the a quo petition.

The Petitioners submitted a petition for constitutionality review of Article 311 paragraph (1) of the LLAJ Law against the 1945 Constitution, which in essence the Petitioners argued for the phrase "Everyone who deliberately drives a Motor Vehicle in a manner or condition that is endangering his life or property" in Article 311 paragraph (1) The LLAJ Law contradicts the 1945 Constitution and does not have binding legal force as long as it is not interpreted as "including drivers who have not entered the legal age of maturity, therefore people who deliberately give / lend motorized vehicles"

Regarding the petition, the Court is of the opinion that the Petitioners' petition

contains a request for additional criminal offenses / criminal offenses (criminal policy) by interpreting Article 311 paragraph (1) of the LLAJ Law, or in other words, additional offenses are made by giving additional meaning to Article 311 paragraph (1) LLAJ Law.

The addition of the criminal offense referred to is in terms of making the act / action of a person who permits or lends a motorized vehicle to a minor, which then the child referred to in driving has endangered other motorists, as a criminal offense even though previously it was not a criminal offense regulated in Article 311 paragraph (1) LLAJ Law.

With regard to the Petitioners' petition for the Court to carry out a criminal policy, the Court is of the opinion that the main function of the Court as an institution that is in the area of the judicial function is to adjudicate the application / embodiment of the norms of the 1945 Constitution into government laws / regulations in lieu of laws. The Court does not have the authority to qualify an act into an offense / criminal act because such policy is closely related to measures to limit the rights and freedoms of a person where such restrictions based on Article 28J paragraph (2) of the 1945 Constitution, which regulates Human Rights, are the exclusive authority of the constitution. law in this case the parliament together with the President.

Apart from the Court's inability to carry out such a criminalization policy, the Court through a quo decision encourages that the meaning of Article 311 paragraph (1) of the LLAJ Law as intended by the Petitioners is proposed to the legislature to be discussed as a criminal policy in order to prevent road accidents caused by motorists. Motorized vehicles that are still minors. Based on the above legal considerations, the Court in its ruling rejected the Petitioners' petition.