CONSTITUTIONALITY OF PERPU NUMBER 2 OF 2022 CONCERNING JOB CREATION BASED ON THE RULING OF THE CONSTITUTIONAL COURT NUMBER 91/PUU-XVIII/2020

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Abstract: Applicability Constitution Number 11 of 2020 concerning Job Creation changes several arrangements previous employment arranged in Constitution Number 13 of 2003 Concerning Employment give rise to various polemic in proven implementation with he sued Constitution Number 11 of 2020 concerning Job Creation to Court The resulting constitution decision that Constitution the must repair, especially those related with employment. Because of That Government through the President set Regulation Government Replacement Law (PERPU) Number 2 of 2022 concerning Job Creation as an answer to the polemic and emptiness of the law that occurred. Study This is a study law normative with the use approach legislation and approach conceptual study about the constitutionality of PERPU Number 2 of 2022 concerning Job Creation which has been determined by the President Republic of Indonesia. PERPU is made only if a situation is critical. PERPU 2/2022 was created when the Job Creation Law was declared to need to be revised because it was decided by the MK to be in conflict with the Constitution, while the Covid 19 conditions required the state to continue to maintain economic stability,
therefore PERPU 2/2022 was issued, however, this PERPU was also challenged by the MK because it is considered that some of the content does not reflect any form of protection for workers. Apart from that, the applicant's argument for a judicial review of PERPU also argued that PERPU 2/2022 was made even though it was not in a critical situation.

**Keywords:** Constitutionality, Law Number 11 of 2020, PERPU Number 2 of 2022.

**Introduction**

Based on Article 1 paragraph (3) of the Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) it is stated that Indonesia is a legal state. The concept of the State of Law in the *Civil Law System* in Continental Europe was initially developed using the German term "rechtstaat" which was initiated by several leading legal experts in the world, including Immanuel Kant, Paul Laband, Friedrich Julius Stahl, Fichte, and others. Meanwhile, in the *Common Law System*, it is known as "Rule of Law" which was initiated by AV Dicey.\(^1\)

Furthermore, based on the opinions of Julius Stahl and AV Dicey previously, Miriam Budiarjo then explained the 4 (four) elements of rechtstaat as follows:

1. There is recognition of Human Rights (HAM);
2. There is a separation of powers to ensure the fulfillment of these rights;
3. Government based on regulations (wetgeving van bestuur);
4. Administrative justice in disputes.\(^2\)

The concept of a rule of law (rechtstaat) indicates that a state is governed by law (rules/norms). All State actions through its Government instruments must be based on applicable law. The

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concept of the State of Law (rechtsstaat) then developed from the original concept of the State of Law Formally (Formill Rechtsstaat) which occurred in the 19th century, towards the State of Material Law (Materiel Rechtsstaat) in the 21st century. The concept of the rule of law means that the state not only limits state power but also oversees the state government to carry out its obligations to improve the welfare of the people. For the State’s obligations to be fulfilled, the rule of law must be strong, which is interpreted as not being under the intervention of any power that does not want the State to take sides in improving the welfare of its people.

In Indonesia, which uses Pancasila as its state ideology, it uses legal regulations that reflect the state's ideology. Therefore, in Indonesia, the rule of law is not only interpreted as Rechtsstaat, but Indonesia as a state based on the rule of Pancasila, which is better understood as a state of law that bases its ideals on what is contained in Pancasila. The explanation of the 1945 NRI Constitution states that Pancasila is the legal ideal (rechtsidee) of the Indonesian state. As a rechtsidee, Pancasila is in a position that covers the basic laws that apply. Pancasila is the highest norm that determines the basis for the legitimacy of a legal norm in the legal norm system in Indonesia.³

The aim of the Unitary State of the Republic of Indonesia is contained in the 4th paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, namely to protect the entire Indonesian nation and all of Indonesia’s blood and to promote the general welfare, make the life of the nation intelligent and participate in implementing world order. It is necessary to underline the State’s objectives regarding "advancing general welfare", one of which is the State’s intervention in the field of employment.

Initially, the relationship between a person and another person was regulated within the scope of civil law, including the

³ Law and Democracy Education Module, Pancasila and Constitution Education Center, Jakarta: Court Constitution Republic of Indonesia, 2016, 11.
relationship between a person who works and an employer. Gradually, this relationship metamorphosed into a more complex relationship in the field of work. Starting from this concept, a legal regime was born which is known as Employment Law. The position of Employment Law is related to aspects of Civil Law, aspects of State Administrative Law (including Administrative Law and Constitutional Law), and aspects of Criminal Law. This depends on the fields involved as follows:

1. If it is related to the Employment Agreement, it includes rights and obligations that have been mutually agreed upon and only involves the parties (Employee-Employer), then this concerns aspects of Civil Law;
2. If it is related to employment licensing, determining Minimum Wages, ratifying Company Regulations, registering Collective Labor Agreements (PKB), registering Trade Unions, and so on, then this concerns aspects of State Administrative Law (Administrative Law and Constitutional Law);
3. If it is related to violations of the Employment Law, then this concerns aspects of Criminal Law.4

Regarding the latest employment regulations on 30 December 2022, President Joko Widodo issued a Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation (hereinafter referred to as PERPU 2/2022). In point letter f of the consideration, PERPU 2/2022 is stipulated to implement the Constitutional Court Decision Number 91/PUU-XVIII/2020 which states that it is necessary to make improvements through the replacement of Law Number 11 of 2020 concerning Job Creation (hereinafter referred to as Law 11/2020). Apart from that, in point letter h in the considerations considering PERPU 2/2022, it is stated that conditions occurring in Indonesia related to the economy and

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employment are the cause of the enactment of PERPU 2/2022 as regulated in Article 22 paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

When referring to the concept of *Trias Politica* (*Separation of Power*), the President's power as a state superstructure institution will only be limited to the power to implement laws. However, in the development of the theory of division of power, there is also a concept of *checks and balances* which makes *Trias Politica* more flexible, which was originally known as the concept of *Separation of Power* to become *Distribution of Power*. The principle of *Checks and Balances* also directs the country to be more democratic and eliminates the principle of dictatorship in its administration. The purpose of *Checks and Balances* is to realize *Good Governance*.

In Indonesia, according to Josef M. Monteiro, the President's authority is divided into the following: President's power in the field of forming laws and regulations; Presidential powers in the judicial sector; and Presidential Power in the field of Foreign Relations. More details regarding the President's authority as regulated in the 1945 Constitution of the Republic of Indonesia are as follows:

1. The President holds governmental powers according to the Constitution (*Vide*: Article 4 paragraph (1) of the 1945 Constitution of the Republic of Indonesia);
2. The President holds the power to form laws with the approval of the council (*Vide*: Article 5 paragraph (1) of the 1945 Constitution of the Republic of Indonesia);
3. The President determines government regulations to implement the law (*Vide*: Article 5 paragraph (2) of the 1945 Constitution of the Republic of Indonesia);

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4. The President holds supreme power over the Army, Navy and Air Force (Vide: Article 10 of the 1945 Constitution of the Republic of Indonesia);

5. The President, with the approval of the DPR, declares war, makes peace and agreements with other countries which have broad and fundamental consequences for the lives of the people related to the state’s financial burden (Vide: Article 11 of the 1945 Constitution of the Republic of Indonesia);

6. The President declared a state of danger. The conditions and consequences of a dangerous situation are determined by law (Vide: Article 12 of the 1945 Constitution of the Republic of Indonesia);

7. The President appoints Ambassadors and Consuls and receives Ambassadors from other countries (Vide: Article 13 of the 1945 Constitution of the Republic of Indonesia);

8. The President grants clemency, amnesty, abolition, and rehabilitation (Vide: Article 14 of the 1945 Constitution of the Republic of Indonesia);

9. Forming an advisory council whose task is to provide advice and considerations to the President which is further regulated in law;

10. The President gives titles, decorations, and other signs of honor (Vide: Article 15 of the 1945 Constitution of the Republic of Indonesia);

11. The President has the authority to appoint and dismiss Ministers (Vide: Article 17 of the 1945 Constitution of the Republic of Indonesia);

12. Submit a Draft Law (RUU) concerning the State Revenue and Expenditure Budget (APBN) for discussion with the House of Representatives (DPR) taking into account the considerations of the Regional Representative Council (DPD);
13. Appoint Supreme Court Judges proposed by the Judicial Commission and obtain approval from the House of Representatives (DPR);

14. To appoint Constitutional Judges to the Constitutional Court who are nominated each by three people from the Supreme Court, three people from the House of Representatives (DPR), and three people from the President;

15. The President has the right to stipulate government regulations instead of laws in cases of compelling urgency (Vide: Article 22 paragraph (1) of the 1945 Constitution of the Republic of Indonesia);

In John Locke’s opinion, the highest power is legislative power because of its function in forming laws. Legislative power is a form of popular legitimacy that has been given to the state in carrying out the direction and goals of the state based on law. Thus, the state cannot be arbitrary in determining the policies it makes. Legislative power is limited by the people as the holder of supreme sovereignty (Vide: Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia). John Locke also added that "The Legislative power of every commonwealth, in every form of government, is subject to the following limits to the trust that is put in them by the society and by the law of God and the law of nature. First, they are to govern by published establishment law, not to be varied in particular cases, but to have one rule for rich and poor, for the favorite of the court and the peasant at his plow. Second, the law ought to be designed for no other ultimate purpose than the good of people. Thirdly, they must not raise taxes on people’s property without their consent, whether given directly or through deputies. This is relevant only for government where the legislature is always in existence, or at least where the people have not made any provision for some part of the legislature to be chosen, from time to time, by themselves. Fourthly, the legislature
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must not transfer the power of making laws to anyone else, or place it anywhere but where the people have placed it”.

As regulated in Article 22 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, PERPU is a statutory regulatory instrument created due to the emergence of a compelling emergency. The PERPU in terms of its content must be stipulated as a law (therefore the form of the PERPU is similar to the form of a law), however, due to a compelling urgency, it is stipulated as a form of Government Regulation. Maria Farida thinks that the formation of a PERPU took a shorter time, considering that its creation was made during a compelling crisis, in making a PERPU the stages of its formation were shortened. However, it is felt that the formation of PERPU 2/2022 does not fulfill the President’s subjective requirements for issuing PERPU.

Therefore, this research wants to examine the position of PERPU in the legal and regulatory system, especially PERPU 2/2022 which was just enacted by President Joko Widodo on 30 December 2022 to replace Law 11/2020. So in this research, there are 2 (two) problem formulations that want to be studied normatively, namely: The limits of the President’s authority in determining PERPU and the constitutionality of PERPU 2/2022 which has been stipulated by President Joko Widodo. This research is about the constitutionality of PERPU 2/2022 which has been established A judicial review was carried out regarding PERPU 2/2022 through Application Number 5/PUU-XIX/2023 and Application Number 6/PUU-XIX/2023 at the Constitutional Court.

Research methods in study This is a method study juridical normative with approach provision regulation legislation (statute approach). Furthermore, use approach conceptual (conceptual

Study juridical normative is a method of study where based on data collection, assessment provision legislation, doctrines, jurisprudence, and also legal norms in society. The *statute approach* is an approach with method do review to the existence of law positively or ius constituted along with the connection with the state constitution, meanwhile, the *conceptual approach* is the leading approach to the existence of doctrines of law, principle, opinion experts, and all science which is inside law. For made as guidelines base in interpret incident the law that occurred at that time.\(^9\)

**Limitation of Authority President in Determining Regulation Government Replacement Law (PERPU)**

The Constitution sets the President for function executive about maintenance of deep state technical frame operate laws issued by the legislature (DPR). Based on Article 20 of the 1945 Constitution of the Republic of Indonesia, the President is also together with the DPR to agree to every validation Enacted law. Apart from P the President has one too authority for emit regulation that is the Regulation Government (PP). Article 12 of Law 12/2011 states that material load Regulation Government containing material for operating Constitution as it should be. Basically is during Not yet There is a law that orders, President No can publish Regulation The Government (PP). As delivered by Jimly Assiddiqie “Existence functioning rules as executor Constitution This normal also called delegated legislation as subordinate legislation, because authority for determine it originates from delegated authority from legislation by the former law (legislative)\(^11\).

Furthermore President in related matters legislation also, based on Article 22 paragraph (1) of the 1945 Constitution of the Republic of Indonesia is given power To establish PERPU.


Through this article can find the role together between the institution executives and institutions legislative in implementation function legislation is closely related to the maintenance government system.\textsuperscript{12}

That’s it big power the President must balance with the power of other State institutions (DPR) in field legislation. Lord Acton’s opinion regarding power namely "*Power tends to corrupt, absolute power corrupts absolutely*" which means every centralized power or centralized in one place, then and may misused enormous power.\textsuperscript{13}

*Separation of Power* Theory according to G. Marshall’s opinion in his literature entitled "*Constitutional Theory*" explains 5 (five) different categories as follows:

1. *Differentiation* of each function branch power, fine executive, legislative, and _judiciary;*

2. *Legal Incompatibility of Office Holding*, that of the person who occupies its position in an institution power No can concurrently position outside branch his power;

3. *Isolation, immunity, and independence*, that each organ can join in the mix or do an intervention to other organ activities;

4. *Checks and Balances*, that exists principle Where every branch controls and balances branch other powers;

5. *Coordinate Status and Lack of Accountability*, that relationship between each branch more state power nature coordinating compared to with subordinate One other.\textsuperscript{14}


\textsuperscript{13} Ibid, 281.

Mechanism More Checks and Balances written by Montesquieu in the literature is "L’Esprit of the Lois" which in English means "The Principle of Law"; "When the Legislative and Executive Power are united on the same person, or in the same body of magistrate, there can be no liberty, because apprehension may arise, less the same monarch or senate should enact tyrannical laws, to execute them in tyrannical manner".\(^{15}\)

PERPU is stipulated by the President in a way subjective. The President can determine that "p about circumstances precarious that compels" the. Court Constitution in Decision Number 138/PUU-VIII/2009 only gives limitations regarding the PERPU when a judicial review was carried out by the Petitioner, right? give time limit _ President wants to issue PERPU. Judicial Review carried out by the Court Constitution is one of the authority courts The Constitution carries out material tests on regulation legislation under the 1945 NRI Constitution with its touchstone being the 1945 Constitution of the Republic of Indonesia. The term authority is usually linked with power. The term authority also refers to power (authority) which is something right To do something or order others to do or not do something For reaching an objective certain, whereas authority (competence) or jurisdiction court For decide something.\(^{16}\) Mechanism limitation The President in creating a PERPU its formation must fulfill the formulation of Article 6 paragraph (1) of Law 12/2011 where there are principles in load material regulation legislation (the Principle of Protection, the Principle of Humanity, the Principle of Nationality, the Principle of Kinship, the Principle of Archipelago, the Principle of Bhinneka Tunggal Ika, the Principle of Justice, the Principle of Equality position in law and government, and the principle of balance, harmony, and conformity).

\(^{15}\) Ibid.

\(^{16}\) Nurlaili Rahmawati, Sigit Nurhadi Nugraha. “Constitutional Court Verdict on “Error in Object “ Lawsuit In Dispute Over Regional Election Results”, Al-Daulah: Journal of Islamic Law and Legislation, Vol. 12, no. 2, October 2022, 175.
About making something regulation legislation, CK Allen argues that:
1. Language style should besides concise and simple;
2. Selected term as much as possible worth absolute and no relative, with meaning to leave a little possible emergence difference opinion individually;
3. Should limit self in the real and actual, as well avoid self from allusions and conjectures;
4. Should not fine so that need sharpness thought readers because there are many people have level moderate understanding of course, you should not for exercise logic, but rather for thought simple things that exist in the average human being;
5. Should not confusing the main thing with exceptions, limitations, or changes, except if considered absolute need;
6. Should not “fishing debate” or debate, is dangerous give too many reasons detailed because matter this can open door conflict;
7. On everything, of course true, true considered is contain benefit practical, it should be not shake basics reason and justice as well as natural fairness; because weak regulations not necessary, and what is not fair will cause all over system regulation in bad reputation, and because that shaking state authority.17

Based on the mechanism of Checks And Balances, the authority President to create the PERPU is in the hands of the DPR based on Article 22 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, in chapter which states that If no approval (by the DPR) of the existing PERPU set must be revoked. The DPR

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is the real deal that can determine whether the PERPU can become Applicable laws _ or No.

Mechanism formation of a PERPU by the President can be seen in Article 58 jo. Article 60 Regulations President Number 87 of 2014 Concerning Regulation Implementation Constitution Number 12 of 2011 Concerning Formation Regulation Legislation (furthermore called Presidential Decree 87/2014). The mechanism preparation of PERPU by the President is as follows:

1. President assigns preparation Draft PERPU to the Minister whose duties and responsibilities he answered by material to be arranged in the PERPU as initiator;
2. In preparation for Draft PERPU, the Minister as referred to in paragraph (1) coordinates with Ministers and Ministers/ Leaders of Non-Ministerial Government Institutions and/ or Heads of related Institutions;
3. Draft PERPU that has been finished and arranged conveyed by the Minister as follows intended in Article 58 paragraph (1) to President For set;
4. Initiator compiles Design Law (RUU) concerning PERPU after PERPU is stipulated by the President.

Then President with the Repeal Bill Perpu handed it over to the DPR. If the DPR accepts it, then the bill to revoke the PERPU change becomes a Constitution The establishment of PERPU becomes Law, on the other hand, if the DPR rejects the PERPU Bill then must be revoked and declared No applies.

**Constitutionality of PERPU 2/2022 in the National Legal System**

As opinion from Rett R. Ludwikowsk states "The President, as the sole executive, is elected as head of state and head of the government ". In the system of government presidential No only sets the President as the center power executive just but also as state power. It means President Not only as head of state (chief of
state) but also as head of government (chief of executive). The president is as head of government which means that the President owns the power To carry out the Constitution. Carry out order Constitution meaningful No only power For make Regulation Government and Regulation President as means For carry out the law, however in a way substantial carry out Constitution own meaning power For reach country goals.

Constitutionalism is understanding or desired flow _ and restrictions on power (Power Limited Powe ). The connection with the State or Government is that Constitutionalism is something understood or desired flow _ restrictions on State power (Limitation of State Power) or restrictions on Government power (Limitation of Government or Limited Government).

Regulation Government Replacement the Law (PERPU) is regulation legislation as arranged in Article 7 of Law Number 12 of 2011 jo. Constitution Number 13 of 2022 Concerning Change Second on the Law Number 12 of 2011 Concerning Formation Regulation Legislation (UU 13/2022). PERPU is Regulation Legislation written text containing binding legal norms _ in a way general and established or determined by the Government. Furthermore based on Article 11 of Law 12/2011 jo. Law 13/2022 material the contents of the PERPU are The same as the material load on a Law (UU).

The thing that is "cause" of the issuance of PERPU 2/2022 is that since Decision Supreme Court Constitution Number 91/PUU - XVIII/2020 regarding the judicial review which states that Law 11/2020 is declared contradictory with the constitution as well as No has strength law tie in a way conditional throughout No interpreted as “no done repair in 2 (two ) years since decision be

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spoken "So Law 11/2020 becomes Still still applies until repair material by grace time as has been determined in the verdict.

MK via the decision also mandates that the legislative do repair by a period of a maximum of 2 (2) years since the decision is made. If in grace time the No done repair then Law 11/2020 becomes unconstitutional in a way permanent. Then if in grace 2 (two) years shaper Constitution No can finish improvements to Law 11/2020 then Constitution or articles or material load existing laws _ revoked or amended by Law 11/2020 stated applies return.

Temporary That For maintain level Power buy public in matter This Worker No the more fall, then Government through the Minister of Manpower publish Regulation of the Minister of Manpower Number 18 of 2022 Concerning Minimum Wage Determination (for furthermore called Minister of Manpower Regulation 18/2022) on November 16 2022 and start entered into force on November 17, 2022. Deep matter the government (Minister of Manpower) is wrong Decision Court Constitution Number 91/PUU-XVIII/2020 states that all action strategic and publishing policies and regulation executor must be suspended.

Minister of Manpower Regulation 18/2022 a product the government (Minister of Manpower) regulates about Immediate determination of the 2023 Minimum Wage submitted for a judicial review to the Supreme Court with Case Number 72P/HUM/2022. That’s what happens next initiate the Government (President) to publish something governing instrument _ about Employment which is hierarchy No contradictory with Law 11/2020 and so on technical No violate Decision Court Constitution Number 91/PUU-XVIII/2020, then set is PERPU 2/2022 as realize the country’s goals, namely realize a prosperous, just and prosperous Indonesian society. As for the country, it is necessary To make various efforts To fulfill the right of inhabitants of his country to decent work and living _ for humanity.

Central Government through PERPU 2/2022 feels the need To take policy To create and expand Work through enhancement investment and encourage development and improvement of
quality Cooperatives and Micro, Small, and Medium Enterprises (MSMEs). Can increase Creation and expansion work, necessary growth economy stable and consistent rise every time year, goal For increase growth economy the moment This middle faced with condition weakening world economy at the same time with increase rate price and compounded with exists Covid-19 pandemic.

That matter is by the opinion Jimmy Asshiddiqie explained about condition material For determination of PERPU as follows: First, there is an urgent need For Act or reasonable necessity; Second, the time available limited (limited time) or there is crunch time; And Third, no available other alternatives or according to reasonable reasoning (beyond reasonable doubt). The PERPU determination is the only road when alternatives other than estimated No will succeed in execution.21

President in enacting PERPU 2/2022 according to SE Finer is due to several nature of circumstances compelling urgency (emergency) as _ follows:

1. Circumstances Emergency Because happen war (State of War);
2. Circumstances Emergency Because tension including inside disaster natural or tension social Because something conflict (State of Tension);
3. Circumstances Emergency Because of the internal interests of the government that compel (Innere Notstand).

Circumstances, this emergency is by the Venice Commission in Europe explained as follows: “state of tension covers the conditions that precede a state of defense, such as a situation approaching civil war or preparation for international war. Internal State of Emergency, covers natural disasters, grave accidents, threats to the free democratic order in the federation or the land, or dangers to public security or order”.22

Court Constitution in Decision Number 138/PUU-VIII/2009 provides an explanation regarding PERPU is necessary if there is a matter as follows: **First,** happen urgent need _ To finish the problem law in a way fast based on Constitution; **Second,** legislation is needed the Not yet There is so that happen emptiness law or There is Constitution but No adequate; and **Third,** emptiness law the No can overcome with method make Constitution in a way procedure normal Because will need quite a long time meanwhile urgent situation _ the need confirmed For resolved.

As for PERPU as follows: What is meant by Article 22 paragraph (1) of the 1945 Constitution of the Republic of Indonesia is a replacement law, because of compelling urgency, then _ the constitution gives the right to the President To determine whether PERPU or not give right to legislative for make regulation as replacement Constitution. This matters because if regulation submitted to the legislative then the manufacturing process legislation in the legislature will need a long time, p This causes taking decisions is at in hand its number of members Lots of parties, and many interests, meanwhile existing problems _ need to be handled promptly and quickly.

As for PERPU 2/2022, which was stipulated on December 30 2022 by President Joko Widodo, the direct submitted lawsuit testing material (judicial review) to the Constitutional Court. There are 2 (two) lawsuits regarding PERPU 2/2022, namely Case Number 5/PUU-XIX/2023 and Case Number 6/PUU-XIX/2023. Applicant state that PERPU 2/2022 is contradictory with Article 1 paragraph (3), Article 22 paragraph (1), and Article 22A of the 1945 Constitution of the Republic of Indonesia and Decision Court Constitution Number 138/PUU-VII/2009 and Decision Court Constitution Number 91/PUU-XVIII/2020.23

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According to proposition Applicant Case Number 5/PUU-XIX/2023, subjectivity President For must issue a PERPU based on objective circumstances. If be measured out of 3 (three) rejects measuring as there is in Decision Supreme Court Constitution Number 138/PUU-VII/2009, the existence of PERPU 2/2022 No fulfill condition Because during This Government uses Law 11/2020 to carry out need urge in solution problem incoming law in room scope, and duration This No happen emptiness law.

Furthermore, to Case Number 6/PUU-XXI/2023, Petitioner postulates that as many as 55 (fifty-five) articles in PERPU 2/2022 are contradictory with the 1945 Constitution of the Republic of Indonesia. The petitioner mentioned that the norms contained in PERPU 2/2022 remove right constitutional of the Workers / Laborers who have been guaranteed in the 1945 NRI Constitution and Law 13/2003. In the field of Employment Law Applicant postulates No see exists emptiness law because moment This Still there is Law 13/2003 and several regulation legislation others still applies in Indonesia.24

Conclusions

President as Head of State and at the same time Head of Government in charge function executives are also given authority in the 1945 Constitution of the Republic of Indonesia in field legislation. Apart from giving an agreement together with the DPR, the President can also establish PERPU. PERPU 2/2022 stipulated by President Joko Widodo is road middle on polemic employment that occurs in Indonesia caused by the epidemic the Covid-19 pandemic that brought a change in sector economy and industry. PERPU 2/2022 is an answer from Decision Court Constitution Number 91/PUU-XVIII/2020 which mandates Law 11/2020 to be quickly repaired. Of course, Law 11/2020 changes massively in field employment, and Law 11/2020 says no to the

24 Ibid.

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maximum extent of Law 13/2003 in giving rights to Workers. President in such authority _ big still is at in existing corridors of the rule of law mechanism Checks and Balances in its maintenance. For The DPR is one of the existing High State Institutions as a "balancer" of authority President in determination PERPU. Such a thing because the DPR is the one who decides what is the PERPU. enforced or No.

Possible advice given related to study This is for the DPR to immediately revise Law 11/2020 as follows Decision Court Constitution Number 91/PUU-XVIII/2020, remembering the Court Constitution only gives a time limit of up to 2 (two) years since the decision is read. Furthermore forward needs to be arranged about the authority Court Constitution in test material against PERPU. Considering that PERPU is something instrument established by law _ in circumstances urgent and when the PERPU comes into force Already There is approval by the DPR.

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