

An Analysis of Constitutional Court Verdict Number 28/Puu-Xi/2013 on Law Number 17 of 2012 About Cooperatives

Marsitiningih¹, Wafa Nihayati Inayah^{2✉}, Ade Muhammad Syamkirana Putra³

¹ Faculty of Law, Universitas Muhammadiyah Purwokerto

² Student of Doctorate Degree in Law, Universitas Jenderal Soedirman

³ Student of Doctorate Degree in Law, Universitas Islam Sultan Agung Semarang

Abstract

Article 33 paragraph (1) of the 1945 Constitution and its Explanation which refers to the notion of a typical corporate structure because of the definition of cooperatives in Law Number 17 of 2012 concerning Cooperatives, it turns out that the philosophy is not in accordance with the nature of the economic structure as a joint venture and the kinship-based principle contained in Article 33 paragraph (1) of the 1945 Constitution. Similarly, this understanding has apparently been elaborated in other articles in Law Number 17 of 2012 concerning Cooperatives, thus making the rights and obligations of members by making the supervisory authority too extensively and a capital scheme that prioritizes material and financial capital that overrides social capital which is precisely the fundamental characteristic of cooperatives as a distinct entity of economic actors based on the 1945 Constitution. On the other hand, cooperatives are the same and no different from limited liability companies. This has made cooperatives lose their constitutional soul as an entity of typical economic actors for a nation with a mutual cooperation philosophy.

Keywords: Cooperatives, Constitutional Court Verdict, Economy

Abstrak

Pasal 33 ayat (1) UUD 1945 dan Penjelasannya yang merujuk pada pengertian sebagai bangun perusahaan yang khas oleh karena pengertian koperasi dalam Undang-Undang Nomor 17 tahun 2012 tentang Perkoperasian, ternyata filosofinya tidak sesuai dengan hakikat susunan perekonomian sebagai usaha bersama dan berdasarkan asas kekeluargaan yang termuat di dalam Pasal 33 ayat (1) UUD 1945. Demikian pula pengertian tersebut ternyata telah dielaborasi dalam pasal-pasal lain di dalam Undang-Undang Nomor 17 tahun 2012 tentang Perkoperasian, sehingga membuat hak dan kewajiban anggota menjadikan kewenangan pengawas terlalu luas, dan skema permodalan yang mengutamakan modal materiil dan finansial, mengesampingkan modal sosial yang justru menjadi ciri fundamental koperasi sebagai suatu entitas khas pelaku ekonomi berdasarkan UUD 1945. Pada sisi lain koperasi menjadi sama dan tidak berbeda dengan Perseroan Terbatas, sehingga hal demikian telah menjadikan koperasi kehilangan jiwa konstitusionalnya sebagai entitas pelaku ekonomi khas bagi bangsa yang berfilosofi gotong royong.

Kata kunci: Koperasi, Putusan Mahkamah Konstitusi, Perekonomian

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Introduction

As stated in Article 1 point 3 of the 1945 Constitution of the Republic of Indonesia, Indonesia is a constitutional state and implements its power based on law. One of the characteristics of the Indonesian Law State is the recognition and protection of human rights based on legal provisions and not the will of a person or group as the basis of power (H. Abdul Latif, 2007). In the Constitution of the State of Indonesia, namely the 1945 Constitution of the Republic of Indonesia (from now on abbreviated as UUD NRI 1945), Article 1 paragraph (3) emphasizes that the State

of Indonesia is a State of law. This means that every action of the government and state apparatus organs towards its people must be based on applicable law, which is determined by the people/ their representatives in the people's representative body. In the 3rd amendment of UUD NRI 1945, a new judicial power institution was formed, namely the Constitutional Court, which has the role of upholding the Constitution and the principles of a democratic Indonesian Law State, with one of its powers to review a statutory regulation against the Constitution. A Cooperative is an organization with a long history. It has the ideal concept that is consistent with the vision and cooperative movement originating in the 1945 Constitution of the Republic of Indonesia to place the character or characteristics of Indonesian cooperatives as people's economic organizations, social in nature, consisting of people or cooperative legal entities and coded the principle of togetherness and kinship.

The Constitutional Court is one of the institutions of judicial power in the Indonesian constitutional system, which has a vital role in upholding the constitution and the principles of a democratic Indonesian Law State in accordance with its authorities and obligations as stipulated in UUD NRI 1945. This role is not separate from the legal ideals (*recthsidee*) contained in the Preamble of UUD NRI 1945, namely the vision of building and realizing a democratic social order and government based on law, as well as realizing social welfare and justice. The Constitutional Court, in Verdict Number 28/PUU-XI/2013 dated May 28 2013, stated, among other things, that Law Number 17 of 2012 concerning Cooperatives does not have binding legal force because it is contrary to the 1945 Constitution of the Republic of Indonesia (Agus Sahbani, December 16, 2021).

Based on the essence of the change in Law Number 25 of 1992 to Law Number 17 of 2012 about Cooperatives, many things that have not been regulated in Law Number 25 of 1992 are then regulated in the new Cooperative Law. Law Number 17 of 2012 about Cooperatives by regulation should accommodate the needs of national cooperative actors following the current global era. Some of the new things regulated in this Cooperatives Law are, in fact, not under the mandate of the Constitution of the Republic of Indonesia Article 33 paragraph (1). This condition has become a new problem in the world of national cooperatives where the new law was canceled, and the old law is no longer relevant to current developments, so a new regulation in the world of cooperatives must be immediately formed so that it becomes a legal basis that explicitly accommodates national cooperative needs. Thus the state, in this case, has played its role well. Based on the importance of replacing Law Number 17 of 2012, the interpretation carried out by the Constitutional Court as the institution authorized to interpret the 1945 Constitution of the Republic of Indonesia becomes an essential basis. Interpretation by the Constitutional Court is critical because it can be used as a reference in forming laws by the 1945 Constitution of the Republic of Indonesia.

Research Problems

Based on the background above, this paper will discuss issues regarding the following matters: *First*. How is the analysis of Constitutional Court Verdict Number 28/PUU-XI/2013; *Second*, What are the Implications of Constitutional Court Verdict Number 28/PUU-XI/2013 for cooperatives.

Research Methods

The research method is a procedure or way of obtaining correct knowledge or truth through systematic steps. The description of the research method clearly contains the research method used by the researcher, the use of the method has implications for data collection and analysis techniques, and research conclusions. The approach method used in this study, namely: Normative juridical approach, namely law is conceptualized as norms, rules, principles or dogmas/jurisprudence. The normative juridical research stage used library research (literature review). In this study, library materials are the basic research data which is classified as secondary data (Ali 2009). The normative juridical research method is also known as doctrinal legal research. (Amirudin and Asikin 2003). The data used in this research were secondary data, consisting of 3 (three) legal materials, namely primary, secondary, and tertiary legal materials.

Discussion

Analysis of the Constitutional Court Verdict Number 28/PUU-XI/2013

8 (eight) petitioners sent a request for review of the material of Law Number 17 of 2012 concerning Cooperatives was filed through an application letter dated February 13, 2013 (Constitutional Court Verdict Number 28/PUU-XI/2013 2013); namely the Republic of Indonesia Employee Cooperative Association (GKPRI)) East Java Province (Petitioner I), East Java Village Unit Cooperative Center (Petitioner II), East Java Women's Cooperative Center (Puskowanjati) (Petitioner III), East Java An-nisa' Cooperative Center (Petitioner IV), Center East Java Assakinah BUEKA Cooperative (Petitioner V), Indonesian Dairy Cooperative Association (Petitioner VI), Agung Haryono (Petitioner VII), and Mulyono (Petitioner VIII). One of the articles petitioned for judicial review is Article 1 point 1 of Law Number 17 of 2012 about Cooperatives. With the provisions of Article 1 number 1 of Law Number 17 of 2012 about Cooperatives which stipulates that cooperatives are established by individuals, the result is prioritizing the prosperity of the individual person, not the prosperity of the members. (Constitutional Court Verdict Number 28/PUU-XI/2013 2013) Article 33, paragraph (1) of the 1945 Constitution contains the notion of an economic system, namely a joint venture (not an individual business) that must be based on kinship. (Constitutional Court Verdict Number 28/PUU-XI /2013 2013) The Petitioner believes that the philosophical basis of cooperatives as regulated in Law Number 17 of 2012 about Cooperatives is capitalism, the main characteristics of which are prioritization of capital and individualism. (Constitutional Court Verdict Number 28/PUU-XI/2013 2013) Capitalism is an ideology or understanding that believes that capital is the primary source to be able to run the economic system in a country. (Pacha W, Bachtiar, and Benemay 2008) In contrast to cooperatives, whose main characteristics prioritize grouping of people and collectivism; as a result, the constitutional rights of the Petitioners to conduct joint ventures based on the principle of kinship as guaranteed in Article 33 paragraph (1) of the 1945 Constitution were ignored by argument. If capitalism is based on an understanding of the importance of the role of capital in economic activity, then cooperatives prioritize the role of humans in fostering capital. The Petitioners also submitted several expert opinions, which included the opinion of Muchamad Ali Safa'at, stated as follows:

- a. The legal politics of Law Number 17 of 2012 concerning Cooperatives is to strengthen cooperatives, which is stated in the considerations of the law, which aims to compete with other business entities by making arrangements that facilitate the entry of capital from outside cooperatives into cooperatives.
- b. The regulation of cooperatives more tends to and reduces cooperatives as private legal entities that will try to make a profit, not as an economic movement.

In response to the request, the President delivered an opening statement orally and in writing at the court session on May 2 2013, and submitted the written statement received. Registrar of the Court on 21 May 2013 and submitted additional written answers/clarifications received on 19 June 2013 and 19 July 2013 (Verdict of the Constitutional Court Number 28/PUU-XI/2013 2013), which principally stated that one of the directions The legal politics of Law Number 17 of 2012 concerning Cooperatives is to create cooperatives that grow strong, healthy, independent, and resilient, while still maintaining the principle of kinship—referring to Article 33 paragraph (1) of the 1945 Constitution which refers to the considerations of Law Number 17 of 2012 concerning Cooperatives as the philosophical basis and direction of legal renewal of Law Number 17 of 2012 concerning Cooperatives which continues to emphasize the principle of kinship and economic democracy. Besides being influenced by legal politics in its formation, legislation must also pay attention to the hierarchy of statutory regulations to become a good regulation. There is a hierarchy and preference principle in discussions about laws and regulations (Marzuki 2009).

Furthermore, regarding the request for judicial review of Law Number 17 of 2012 concerning Cooperatives, the DPR stated that the provisions of Article 1 point 1 of Law Number 17 of 2012 concerning Cooperatives are not contradictory and are in line with the principle of "joint venture based on on the principle of kinship" as referred to in Article 33 paragraph (1) of the 1945 Constitution.

The Constitutional Court, in its Verdict Number 28/PUU-XI/2013 dated May 28, 2014, stated that before considering the subject matter of the petition, it must first consider the authority of the Constitutional Court to hear the petition (Marzuki 2009) based on the following provisions:

- 1) Article 24C paragraph (1) of the 1945 Constitution, which reads:
"The Constitutional Court has the authority to try at the first and last levels whose Verdict is final to review laws against the Constitution...";
- 2) Article 10 paragraph (1) of Law Number 24 of 2003 concerning the Constitutional Court (State Gazette of the Republic of Indonesia of 2003 Number 98, Supplement to the State Gazette of the Republic of Indonesia Number 4316) as amended several times, most recently by Law Number 4 of 2014 regarding the Stipulation of Government Regulation instead of Law Number 1 of 2013 concerning the Second Amendment to Law Number 24 of 2003 concerning the Constitutional Court to become a Law (State Gazette of the Republic of Indonesia of 2014 Number 5, Supplement to the State Gazette of the Republic of Indonesia Number 5493), which after this referred to as the Constitutional Court Law, which reads as follows:

- (1) *The Constitutional Court has the authority to try at the first and last levels whose Verdict is final for:*
- a. *examining laws against the 1945 Constitution of the Republic of Indonesia;*
 - b. *deciding disputes over the authority of state institutions whose powers are granted by the 1945 Constitution;*
 - c. *deciding on the dissolution of political parties; and*
 - d. *deciding disputes about the results of general elections."; and*
- 3) Article 29 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power, which reads as follows:
- (1) *The Constitutional Court has the authority to try at the first and last levels whose Verdict is final for:*
- a. *examining the Act against the 1945 Constitution of the Republic of Indonesia."*

Furthermore, the Constitutional Court considered the legal standing of the Petitioners to submit a request for judicial review of Law Number 17 of 2012 concerning the Cooperatives and decided that the Petitioners who had legal standing to file a request for judicial review) against Law Number 17 of 2012 concerning Cooperatives based on the provisions of Article 51 paragraph (1) of the Constitutional Court Law, along with the explanations of the Petitioners namely Petitioner III, Petitioner V, Petitioner VI, Petitioner VII, and Petitioner VIII. Regarding the request for judicial review, the President and the DPR provide opinions and explanations to the Constitutional Court regarding the matters being petitioned. After hearing the statements of the President and the DPR, the Constitutional Court stated several opinions, which among other things, related to the formulation of Article 1 point 1 of Law Number 17 of 2012 concerning Cooperatives, that the formulation "cooperatives are legal entities" does not contain a substantive meaning regarding cooperatives as referred to in Article 33 paragraph (1) of the 1945 Constitution and its Explanation. Thus, the Petitioner's argument stating that the meaning of cooperatives in Article 1 point 1 of Law Number 17 of 2012 concerning Cooperatives is intended to contain individualism, according to the Constitutional Court, is grounded according to law. ^{Ibid.} To decide whether or not the formulation of Article 1 point 1 of Law Number 17 of 2012 concerning Cooperatives contradicts the cooperative principle contained in Article 33 paragraph (1) of the 1945 Constitution, the Constitutional Court reviewed the formulation regarding the definition of cooperatives in several previous laws regarding cooperatives. These have been revoked and declared null and void by a replacement law, including Law Number 79 of 1958 concerning Cooperative Associations, Law Number 12 of 1967 concerning Principles of Cooperatives, and Law Number 25 of 1992 concerning Cooperatives. This, according to the author, is very careful because to know the legal politics of statutory regulation, we can see it from the formulation in the general provisions of the statutory regulation:

Furthermore, the Constitutional Court, in its Verdict, stated that:

- a. Petition of Petitioner I, Petitioner II and Petitioner IV cannot be accepted;
- b. Granted the requests of Petitioner III, Petitioner V, Petitioner VI, Petitioner VII, and Petitioner VIII;

- 1) Law Number 17 of 2012 concerning Cooperatives is contrary to the 1945 Constitution of the Republic of Indonesia;
 - 2) Law Number 17 of 2012 concerning Cooperatives does not have binding legal force; and
 - 3) Temporarily reinstating Law 25/1992 until a new law is enacted.
- c. Order the publication of the Verdict in the State Gazette of the Republic of Indonesia as appropriate.

The statement of the Constitutional Court in its ruling is also following the provisions stipulated in Article 57 paragraph (1), paragraph (2), and paragraph (3) of the Constitutional Court Law, which reads as follows:

- (1) Verdict of the Constitutional Court whose ruling states that the content of paragraphs, articles, and/or parts of laws is contrary to the 1945 Constitution of the Republic of Indonesia, the contents of these paragraphs, articles, and/or parts of laws do not have binding legal force.*
- (2) The Verdict of the Constitutional Court, whose ruling stated that the formulation of the law does not comply with the provisions for the formation of laws based on the 1945 Constitution of the Republic of Indonesia, the law does not have binding legal force.*
- (3) The Verdict of the Constitutional Court granting the request must be published in the State Gazette within a period of no later than 30 (thirty) working days from the pronouncement of the Verdict."*

Implications of the Constitutional Court Verdict Number 28/PUU-XI/2013 for Cooperatives

The direction of forming statutory regulations is legal politics as a tool for the state to achieve its goals (MD 2011). The formation of law goes through a very long process, starting from drafting the law, then entering into the National Legislation Program, first-level discussions, second-level discussions, and ratifying the draft law into law (Astawa and Na'a 2008). After becoming a law, it is common for a law that has cost a lot of money and takes a very long time not to be as effective as expected, and even a law was canceled not long after it came into force. (Fuady 2009)

Law Number 17 of 2012, in fact, is no longer under the nature of the structure of the National economy. What should be made the fundamental basis of national cooperatives is the concept of collectivism, not the concept of capitalism, which has characteristics based on the principle of kinship and economic democracy so that cooperatives can play a role as the pillars of the national economy. The mandate of Article 33 paragraph (1) of the 1945 Constitution of the Republic of Indonesia clearly states that the economy is structured based on the principle of kinship, which is based on mutual cooperation. So that in reality, Law No. 17 of 2012 is not in accordance with the visions and mandate of the 1945 Constitution of the Republic of Indonesia. The Sociological Basis of every human being as a social being definitely needs one another, who then mingle and gather to meet their needs. This then unites them in a forum, namely a cooperative. Capital schemes that prioritize material and financial capital then set aside social capital, which is the main fundamental characteristic of cooperatives as a distinct entity of economic actors based on the 1945 Constitution of the Republic of Indonesia. This is the same, and there is no difference with a Limited Liability Company (PT).

Article 33, paragraph (1) of the 1945 Constitution, which reads: "The economy is structured as a joint venture based on the principle of kinship," is the basic basis for forming cooperatives in Indonesia. Law Number 17 of 2012 concerning Cooperatives (State Gazette of the Republic of Indonesia of 2012 Number 212, Supplement to the State Gazette of the Republic of Indonesia Number 5355), from now on referred to as Law Number 17 of 2012 concerning Cooperatives, has not been in effect for a long time, namely only in a period of approx. 1 (one) year 7 (seven) months because several articles in Law Number 17 of 2012 concerning Cooperatives were declared contrary to the 1945 Constitution and caused constitutional harm to certain parties, so certain parties who were harmed applied judicial review constitutionality of the Act. Law Number 17 of 2012 concerning Cooperatives as a political product was ratified on October 29, 2012, by President Susilo Bambang Yudhoyono, promulgated on October 30, 2012, and came into force on the date of promulgation. Law Number 17 of 2012 concerning Cooperatives was drafted to replace Law Number 25 of 1992 concerning Cooperatives (State Gazette of the Republic of Indonesia of 1992 Number 116, Supplement to the State Gazette of the Republic of Indonesia Number 3502), hereinafter referred to as Law 25/1992, wherein the basis for considering Law Number 17 of 2012 concerning Cooperatives it was stated that Law 25/1992 was deemed necessary to be replaced because it was no longer under legal requirements and the development of cooperatives in society. The revocation of Law 25/1992 is included in Article 124 paragraph (1) of Law Number 17 of 2012 concerning Cooperatives, which states that at the time Law Number 17 of 2012 concerning Cooperatives came into effect, Law 25/1992 was revoked and declared invalid.

As above explanation, it is clear that the Constitutional Court has issued a Verdict exceeding what was requested (*Ultra Petita*) by the Petitioner, which can be seen in the opinion of the Court against the argument for the phrase "individual" in Article 1 point 1. The Court stated that it did not only consider the phrase "individual" but the whole formulation of meaning in that article. The Constitutional Court believes that an understanding is a fundamental matter in the Law, because it contains the philosophy of the entity it regulates, mainly when this understanding is associated with other articles. The emergence of *Ultra Petita* in the Constitutional Court does not have a clear legal basis because there are no provisions governing *Ultra Petita* in the 1945 Constitution, the Constitutional Court Law, and Constitutional Court Regulations. Based on the Petitioner's argument regarding the phrase "individual" in Article 1 point (1) regarding the definition of Cooperative contrary to Article 33 paragraph (1) of the 1944 Constitution because the formulation of this definition leads to individualism, the Constitutional Court stated that the Petitioner's petition had legal grounds. Cooperatives are part of the Indonesian economic structure as mandated in Article 33, paragraph (1) of the 1945 Constitution, which states, "The economy is structured as a joint venture based on the principle of kinship." The article is in Chapter XIV entitled, "National Economy and Social Welfare." Based on this title, by linking the formulation of Article 33 paragraph (1) of the 1945 Constitution, its philosophical meaning can be clearly understood.

Law Number 17 of 2012 concerning Cooperatives in the Considering Section, which includes the philosophical, sociological, and juridical basis, is used as the basis for the consideration and formation of Law Number 17 of 2012 concerning

Cooperatives. Considerations in a statutory regulation contains a brief description of the main ideas that form the background and reasons for making these statutory regulations (Tri Jata Ayu Pramesti, 2021). The philosophical basis is a consideration or reason that illustrates that the regulations made taking into account the outlook on life, awareness, and legal visions which include the mystical atmosphere and the philosophy of the Indonesian people originating from Pancasila and the Preamble to the 1945 Constitution of the Republic of Indonesia. The philosophical basis is consideration that depicts regulations are made to meet society's need in various aspects. The real sociological basis concerns empirical facts regarding the development of problems and needs of society and the state. The juridical basis is a consideration or reason that illustrates that regulations are formed to resolve legal issues or fill legal voids by taking into account existing regulations, which will be amended or revoked to guarantee legal certainty and a sense of justice for the community. This basis concerns legal issues relating to the regulated substance or material, so that it is necessary to form new laws and regulations. Some of these legal issues are outdated regulations, inharmonious or overlapping regulations, weak-effectiveness regulations due to the lower position, inadequate regulations, or regulations absence.

Based on Article 33, paragraph (1) of the 1945 Constitution and its Explanation, cooperatives are an essential part of the national or Indonesian economic structure. An economic structure must be designed following the values upheld by the nation that forms this country, values that later become its character as described earlier, namely collective values and characters, which are the opposite of individualistic values that are not adhered to by the 1945 Constitution. Based on Article 33, paragraph (1) of the 1945 Constitution and its elucidation, cooperatives are an essential part of the Indonesian economy's national economic structure or arrangement. An economic structure must be designed under the values upheld by the nation that forms this country, values that later become its character as described earlier, namely collective values and characters, which are the opposite of individualistic values that are not adhered to by the 1945 Constitution.

In considering the Constitutional Court citing Laws that were once in effect as a comparison, phrases were found about cooperatives, namely "associations, economic organizations, or people's economic organizations," in the Law before Law Number 17 of 2012 concerning Cooperatives was formulated as "Business entity." Thus, the definition of cooperatives is about who cooperatives are or, in other words, formulations that prioritize cooperatives from the perspective of subjects or as economic actors. This formulation differs from Law Number 17 of 2012 concerning Cooperatives as "legal entities." The formulation that cooperatives are legal entities does not contain a substantive meaning regarding cooperatives as referred to in Article 33 paragraph (1) of the 1945 Constitution and its explanation which refers to the understanding as a distinctive corporate structure because the definition of cooperatives in Law Number 17 of 2012 concerning Cooperatives, it turns out that its philosophy is not by the nature of the economic structure as a joint venture and based on the principle of kinship which is contained in Article 33 paragraph (1) of the 1945 Constitution. Likewise, this understanding has been elaborated in other articles in Law Number 17 of 2012 concerning Cooperatives, thus making the rights and obligations of members by making the supervisory authority too broad and a

capital scheme that prioritizes material and financial capital that overrides social capital, which is precisely the fundamental characteristic of cooperatives as a typical entity of economic actors based on the 1945 Constitution. On the other hand, cooperatives have become the same and no different from Limited Liability Companies, which has made cooperatives lose their constitutional soul as a distinct economic actor entity for a nation with a cooperation philosophy. If the petition of the Petitioners only concerns particular articles, and one of these articles contains material content of substantial norms which are the heart of Law Number 17 of 2012 concerning Cooperatives so that even if it is only regarding understanding, it is declared contrary to the 1945 Constitution and does not have binding legal force, then causing the other articles in Law Number 17 of 2012 concerning Cooperatives to no more extend function. Therefore, the Constitutional Court stated that the petition of the Petitioners must be stated to be legally justified for all the points of the application argued.

After the review of Law Number 17 of 2012 concerning Cooperatives was finalized, this law is no longer a guideline for cooperatives in carrying out their role since it was enacted in a plenary session open to the public. The legal system, especially as the personification of the state, is not a system of norms coordinated with one another but a hierarchy of norms with different levels. (Asshiddiqie and Safa'at 2006) The formation of laws is part of the activity in regulating society which consists of a combination of human individuals with all their dimensions. (Rahardjo 1998) A law can be defined in good quality if it has sustainable characteristics, which can be assessed from the point of view of success in achieving goals. (Yuliandri 2010) The Rulings of the Verdict stated that Law Number 17 of 2012 concerning Cooperatives is contrary to the 1945 Constitution of the Republic of Indonesia. Also, the Constitutional Court stated that Law Number 17 of 2012 did not have a binding legal force. Hence, the Constitutional Court temporarily re-enacted Law Number 25 of 1992 concerning Cooperatives until the enactment of the new one. Thus, the applicants' constitutional rights are fulfilled again and are no longer harmed by Law Number 17 of 2012 concerning Cooperatives.

Verdicts issued by the Constitutional Court have the force of law since they are pronounced in a plenary session open to the public. Verdicts issued by the Constitutional Court contain a retroactive principle; namely, they are not retroactive but are prospective in the future (Forward Looking). The meaning is that all legal actions carried out based on Law Number 17 of 2012 concerning Cooperatives before being declared as having no binding legal force remain valid and protected by law. After being pronounced in a plenary session open to the public, all actions based on Law Number 17 The year 2012 are illegitimate and not protected by law.

Cooperatives established based on Law Number 17 of 2012 concerning Cooperatives are still recognized as cooperatives as stipulated in the transitional provisions of Article 121 paragraph (1) of Law Number 17 of 2012 concerning Cooperatives, but with the annulment of this Law the cooperatives established based on this Law, the Statutes (AD) and Bylaws (ART) must be adjusted according to Law Number 25 of 1992 which are temporarily enforced until a new law is formed. Likewise, for cooperatives that were founded based on Law Number 25 of 1992 and have made changes to the Articles of Association (AD) and Bylaws (ART) according to Law Number 17 of 2012 until later the Law was declared by the Constitutional

Court to be contrary to the UUD NRI 1945 and does not have permanent legal force. The cooperative must again make changes to the Articles of Association (AD) and Bylaws (ART) by Law Number 25 of 1992, which the Constitutional Court temporarily enforced.

Suppose the Constitutional Court examines at the first and final levels and is final. In that case, any Verdict issued by the Constitutional Court cannot be submitted again as a case at any level, including to the Supreme Court. Even though the Supreme Court has the same authority to review laws, if the Constitutional Court has notified that there is a review of law against the Constitution, the Supreme Court cannot conduct a review related to the case notified by the Constitutional Court if the review under the law is in the examination stage, the Supreme Court must stop examining the case.

Thus, if the Constitutional Court reviews a law declared to have no binding legal force and is contrary to the 1945 Constitution, it will no longer function. As a result, the Law on Cooperatives was returned to the old Law, namely Law Number 25 of 1992, to fill the legal void as the basis for Cooperative operations and to avoid uncertainty and injustice from all forms of cooperative activities until the Government enacts the Cooperative Law which new. The basis in Law Number 17 of 2012 must be readjusted to Law Number 25 of 1992, for example, changes to the articles of association of cooperatives must be made in accordance with the Cooperative Law currently in effect, as well as in terms of the legality of establishing cooperatives that have been determined by law. The notary deed must also be readjusted to Law Number 25 of 1992.

Conclusion

The Verdict of the Constitutional Court Number 28/PUU-XI/2013, which states that Law 17/2012 does not have binding legal force because it is proven to be contrary to the 1945 Constitution, is following the authority of the Supreme Court of Justice as stipulated in Article 24C paragraph (1) of the 1945 Constitution, Article 10 paragraph (1) of the Constitutional Supreme Court Law, Article 29 paragraph (1) of the Judicial Powers Act, and under the provisions governing the implications of a statutory regulation that is contrary to the 1945 Constitution as stipulated in Article 57 paragraph (1), paragraph (2), and paragraph (3) of the Constitutional Court Law. Based on the provisions of Article 10 paragraph (2) letter d of Law 12/2011 as amended by Law 15/2019, which reads: "Following up on the Verdict of the Constitutional Court is carried out by the DPR or the President.", the President and the DPR must immediately complete the discussion of the bill on cooperatives considering that the reinstatement of Law 25/1992 is only temporary until a new law is enacted. Materials from the bill on cooperatives should be able to keep up with economic developments in the digital era, such as accommodating regulations regarding the use of e-commerce technology that can be applied to support the economic activities of cooperative business entities while still considering cooperative values and principles.

After the review of Law Number 17 of 2012 concerning Cooperatives was finalized, now this Law is no longer used as a guideline for cooperatives in carrying out their role since it was enacted in a plenary session open to the public. The Verdict stated that Law Number 17 of 2012 concerning Cooperatives was contrary to

the 1945 Constitution of the Republic of Indonesia. The Constitutional Court also stated that Law Number 17 of 2012 concerning Cooperatives did not have binding legal force. Hence, the Constitutional Court Re-enacted Law Number 25 1992 concerning Cooperatives for the time being until the formation of a new Law. Thus, the applicants' constitutional rights are fulfilled again and are no longer harmed by Law Number 17 of 2012 concerning Cooperatives. Verdicts issued by the Constitutional Court have the force of law since they are pronounced in a plenary session open to the public. Verdicts issued by the Constitutional Court contain a retroactive principle; namely, they are not retroactive but are prospective in the future (forward-looking). The meaning is that all legal actions carried out based on Law Number 17 of 2012 concerning Cooperatives before being declared as having no binding legal force remain valid and protected by law, and after being pronounced in a plenary session open to the public, all actions based on Law Number 17 of 2012 concerning Cooperatives that are illegal and not protected by law. Cooperatives established based on Law Number 17 of 2012 concerning Cooperatives are still recognized as cooperatives as stipulated in the transitional provisions of Article 121 paragraph (1) of Law Number 17 of 2012 concerning Cooperatives. Still, with the cancellation of this Law, cooperatives established based on The law must adjust the articles of association (AD) and bylaws (ART) under Law Number 25 of 1992, which is in temporary effect until a new law is formed.

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