Republic of the Philippines
Supreme Court
Manila

EN BANC

QUEZON FOR ENVIRONMENT, ATIMONAN POWER TO THE PEOPLE, PHILIPPINE MOVEMENT FOR CLIMATE JUSTICE (PCMJ) INCORPORATED CENTER FOR ENERGY, ENVIRONMENT AND DEVELOPMENT (CEED) INCORPORATED SANLAKAS, MONSIGNOR EMMANUEL MA. L. VILLAREAL, REV. FR. WARREN R. PUNO, REYNALDO UPALDA, FR. EDWIN GARIGUEZ, GERARD ARANCES, BIBIANO RIVERA, JR., MARIE MARGARUERITE LOPEZ, and ERWIN PUHAWAN,

Petitioners,

- versus -

HON. SALVADOR MEDIALDEA, in his capacity as EXECUTIVE SECRETARY, SENIOR UNDERSECRETARY JESUS CRISTINO P. POSADAS, in his capacity as Chair of the ENERGY INVESTMENT COORDINATING COUNCIL, and JOHN AND JANE DOES,

Respondents.

G.R. No. 249678

Present:

GESMUNDO, *C.J.*,
LEONEN,
CAGUIOA,
HERNANDO,*
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.
GAERLAN,**
ROSARIO,
LOPEZ, J.
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, *JJ.*

Promulgated:

November 5, 2024

x---x

D E C I S I O N

* On official business but left a vote.

** On official leave.

SINGH, *J.*:

Before the Court is a Petition for *Certiorari* for the Issuance of Environmental Protection Order with Prayer for Temporary Environmental Protection Order,[1] seeking to declare Executive Order No. 30, Series of 2017 (Executive Order No. 30)[2] and other relevant issuances null, void, and unconstitutional, and to enjoin respondents from implementing said Executive Order No. 30.

The Facts

On June 28, 2017, then President Rodrigo Roa Duterte issued Executive Order No. 30 entitled "Creating the Energy Investment Coordinating Council in Order to Streamline the Regulatory Procedures Affecting Energy Projects."

Executive Order No. 30 mandates the Energy Investment Coordinating Council (EICC) to spearhead and coordinate national government efforts to harmonize, integrate, and streamline regulatory processes, requirements, and forms relevant to the development of energy investments in the country, primarily on Energy Projects of National Significance (EPNS).[3]

The EICC shall have the following functions:

a) Establish a simplified approval process, and harmonize the relevant rules and regulations of all government agencies involved in obtaining permits and regulatory approvals, to expedite the development and implementation of EPNS and other energy projects;

b) Prepare rules governing the resolution of inter-agency issues affecting the timely and efficient implementation of EPNS and other energy projects;

c) Maintain a database of information and a web-based monitoring system which shall be the vehicle for information exchange on the updates on the applications of EPNS and other energy projects;

d) Create inter-agency sub-committees as may be necessary to fulfill its mandate;

e) Submit a quarterly progress report to the Office of the President; and

f) Perform such other functions as may be necessary and incidental to attain the objectives of this Order.[4]

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1 *Rollo*, pp. 3–75.

2 (2017) Creating the Energy Investment Coordinating Council in order to Streamline the Regulatory Procedures Affecting Energy Projects.

3 Executive Order No. 30 (2017), sec. 3.

4 Executive Order No. 30 (2017), sec. 5.

In promulgating rules, regulations, and processes, the EICC shall adhere to the following baselines in the processing of EPNS:

> a) *Presumption of Prior Approvals.* Government agencies and instrumentalities that receive an application for a permit involving EPNS shall process such applications without awaiting the action of any other agency. The processing agency shall act on the presumption that the relevant permits from other government agencies had already been issued.
>
> b) *Action within Thirty (30) Days.* Government agencies and instrumentalities shall act upon applications for permits involving EPNS within a specified processing timeframe not exceeding thirty (30) days from the submission of complete documentary requirements. Should such application be denied, the denial should be made in writing, expressly providing the grounds therefor. If no decision is made within the specified processing timeframe, the approving authority may no longer deny the application and shall issue the relevant permit within five (5) working days after the lapse of such processing timeframe.
>
> No deviation from the baselines shall be allowed except when absolutely necessary either to enable an agency to comply with a specific statutory directive or to avoid prejudicing the public interest. All regulations and procedures taken up in the EICC which deviate from such baselines, and the justifications therefor, shall be included in the reports of the EICC to the Office of the President.[5]

On October 25, 2019, the petitioners instituted the present action in the nature of (i) a verified Petition for the Issuance of an Environmental Protection Order (EPO) with prayer for a Temporary Environmental Protection Order (TEPO), pursuant to Rule 2, Section 8 and Rule 5, Section 3 of the Rules of Procedure for Environmental Cases,[6] and (ii) a Petition for Environmental *Certiorari*.[7]

Petitioners Quezon for Environment and Atimonan Power to the People, Monsignor Emmanuel Ma. L. Villareal, Rev. Fr. Warren R. Puno, and Reynaldo Upalda claim that they are residents of the Province of Quezon where the first coal-fired power plant certified as EPNS is located, and that they have been personally aggrieved by the issuance of Executive Order No. 30.[8]

Petitioners Philippine Movement for Climate Justice (PMCJ), Center for Energy, Environment, and Development (CEED), Incorporated SANLAKAS, Fr. Edwin Gariguez, Gerard Arances, Bibiano Rivera, Jr.,

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5 Executive Order No. 30 (2017), sec. 7.
6 *Rollo*, p. 5.
7 *Id.* at 6.
8 *Id.* at 11–12.

Marie Marguerite Lopez, and Erwin Puhawan are residents of Metro Manila, Filipino citizens, and electric consumers.[9]

Collectively, all the petitioners invoke their constitutional right to a balanced and healthful ecology under Section 16, Article II of the Constitution,[10] and the Precautionary Principle[11] under the Rules of Procedure on Environmental Cases (RPEC) in assailing the constitutionality of Executive Order No. 30.

The arguments of the petitioners

The petitioners argue that Executive Order No. 30 was issued beyond the scope of the executive powers contending that it failed to meet the requisites of a valid administrative issuance. Specifically, they assail that:

a) the promulgation of Executive Order No. 30 was not authorized by the legislature as the Electric Power Industry Reform Act of 2001 (EPIRA) and the Department of Energy Act of 1992 (DOE Act)[12] do not explicitly authorize the President to issue an executive order setting baselines and granting additional rights to energy projects;[13]

b) the issuance of Executive Order No. 30 did not undergo the required notice and hearing;[14]

c) Executive Order No. 30 was issued outside the scope of authority granted by the legislature as it places acceleration of total electrification the topmost priority without regard to the quality, reliability, affordability of the electric power supply and the socially and environmentally compatible energy sources and infrastructure which the EPIRA evinces;[15] and

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9 *Id.* at 12.

10 CONST., art. II, sec.16 provides:
SEC. 16. The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

11 A.M. No. 09-6-8-SC, April 13, 2010, The Rules of Procedure For Environmental Cases, Rule 20 (Precautionary Principle):
SEC. 1. *Applicability.* - When there is a lack of full scientific certainty in establishing a causal link between human activity and environmental effect, the court shall apply the precautionary principle in resolving the case before it.
The constitutional right of the people to a balanced and healthful ecology shall be given the benefit of the doubt.
SEC. 2. *Standards for application.* - In applying the precautionary principle, the following factors, among others, may be considered: (1) threats to human life or health; (2) inequity to present or future generations; or (3) prejudice to the environment without legal consideration of the environmental rights of those affected.

12 Republic Act No. 7638, Department of Energy Act of 1992.

13 *Rollo,* p. 22.

14 *Id.* at 22–23.

15 *Id.* at 23–24.

d) the issuance of Executive Order No. 30 was unreasonable by imposing arbitrary baselines and has an overly broad definition of the word "significant" in the determination of projects to be certified as EPNS.[16]

The petitioners further that Executive Order No. 30 is unconstitutional as it grants rights to EPNS which are in contravention to other existing laws. The petitioners contend that under Executive Order No. 30, EPNS enjoy the presumption of prior approval, inferring that pre-requisite permits and documents such as the Environmental Compliance Certificate (ECC) or the Free and Prior Informed Consent (FPIC) may be dispensed with, for being unnecessary and complex for an approval process.[17] They also argue that the right of action within thirty 30 days under Executive Order No. 30 dispenses with established procedures regardless of the complexity and technicality of the application; moreover, the automatic approval in case of inaction pressures the approving agencies to resolve applications within an unreasonable stringent period of 30 days at the expense of affected communities and stakeholders.[18]

The petitioners claim that according to the Department of Energy (DOE), a conventional power plant project based on existing laws and rules takes 1,109 days to process and complete.[19] They furthered that critical regulatory requirements are too complex that the 30-day processing period would be absurd, illustrating the following: (a) the ECC issued by the Department of Environment and Natural Resources (DENR) that ensures all the likely impacts of the project on the environment have been studied and that appropriate measures to prevent and mitigate the impact shall be observed, which may take as short as 15 days or as long as 120 days;[20] (b) the FPIC issued by the National Commission on Indigenous Peoples (NCIP), pursuant to the Indigenous Peoples Rights Act of 1997 (IPRA), that requires the consensus of all members of the Indigenous Cultural Communities, also undergoes a series of processes under the law;[21] (c) the water permit issued by the National Water Resources Board pursuant to Presidential Decree No. 1067, ensuring that water resources are conserved and protected, has a 90-day minimum processing period;[22] and (d) the Land Use Conversion Order issued by the Department of Agrarian Reform (DAR), which refers to the act or process of changing the current physical land, also undergoes a series of processes.[23] The petitioners argue that Executive Order No. 30 runs counter to the aforementioned laws and regulations.

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16 *Id.* at 24.
17 *Id.* at 26.
18 *Id.*
19 *Id.* at 33.
20 *Id.* at 35.
21 *Id.* at 35–38.
22 *Id.* at 38.
23 *Id.*

The petitioners also contend that Executive Order No. 30 contravenes the letter and spirit of Republic Act No. 9513 or the Renewable Energy Act of 2008,[24] that declares as a State policy the acceleration of the exploration and development of renewable energy sources through the adoption of sustainable energy development strategies in order to reduce the country's dependence on fossil fuels.[25] According to the petitioners, Executive Order No. 30 violates Republic Act No. 9513 as it would expedite coal-fired power plant projects in the country.[26]

The petitioners also assert that Executive Order No. 30 is unconstitutional as it violates due process. They point out that Executive Order No. 30 and its Implementing Rules and Regulations (IRR) do not mandate publication, notice, and hearing and do not provide mechanisms for intervention, opposition, or appeal in the certification proceedings for EPNS.[27]

In support of their prayer for the issuance of TEPO and EPO, the petitioners allege that there is an extreme urgency to enjoin the respondents from implementing Executive Order No. 30 to protect and/or preserve the environment and as residents of the Province of Quezon, they will suffer grave injustice and irreparable injury from the ongoing construction and anticipated operations of Atimonan One Energy, Inc. for a 2x600 MW coal-fired power plant. They further allege that there are continuing threats to human life or health due to the continuous certification of coal-fired power plants and/or fossil fuel projects as EPNS, and that there would be inequity to the present and future generations should the certification of energy projects as EPNS be expedited pursuant to Executive Order No. 30.[28]

In a Resolution,[29] dated November 5, 2019, the Court *En Banc* denied the petitioners' prayer for a TEPO and required the respondents to comment on the Petition.

The arguments of the respondents

On February 28, 2020, the respondents, through the Office of the Solicitor General (OSG), submitted their Comment[30] arguing that (1) the petitioners availed of an improper remedy in assailing the constitutionality of Executive Order No. 30, and that (2) Executive Order No. 30 was issued within the scope of the executive powers of the President.

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24 (2008).
25 *Rollo*, pp. 41–42.
26 *Id.* at 42.
27 *Id.* at 45.
28 *Id.* at 46–48.
29 *Id.* at 111.
30 *Id.* at 134–185.

Procedurally, the respondents assert that the present Petition is not an environmental suit pursuant to the RPEC as it does not seek the issuance of any of the special civil actions thereunder, such as the writ of *kalikasan* and the writ of continuing *mandamus*.[31] They argue that the action is primarily a petition under Rule 65 of the Rules of Court with an attempt to apply the provisional remedies of EPO and TEPO under the RPEC.[32]

The respondents further assert that the precautionary principle does not apply in the instant case, citing *Mosqueda v. Pilipino Banana Growers & Exporters Association, Inc.*,[33] as it is a risk management principle premised on empirical studies and, thus, requires scientific inquiry. The petitioners failed to provide such empirical evidence.[34]

The respondents likewise contend that the Petition failed to establish the requisites for a valid exercise of the power of judicial review. They claim that (a) the Petition failed to present an actual case or justiciable controversy as it simply wants to prevent the expansion of the coal industry, which cannot be attributed to Executive Order No. 30;[35] (b) the Petition is not ripe for adjudication as it fails to show how Executive Order No. 30 poses any direct, concrete, and adverse effect on the petitioners;[36] (c) the petitioners are not the proper parties as they failed to show that they are in any way being denied of some right or privilege, neither are they subjected to or threatened to be subjected to any penalty under Executive Order No. 30;[37] and (d) the constitutionality of Executive Order No. 30 is not the *lis mota* of the instant case as the petitioners' environmental concerns may be best addressed in their separate opposition to the alleged irregularities of the Atimonan One Energy, Inc.'s certification, as well as in their pending appeal with the Office of the President.[38]

The respondents also argue that the petitioners violated the principle of the hierarchy of courts when they filed directly with this Court. The petitioners failed to show how only a direct resort to the Court would achieve their purpose and why relief cannot be obtained otherwise.[39]

Substantively, the respondents assert that Executive Order No. 30was issued within the scope of the President's executive powers, which includes the power to prescribe procedural rules for agencies and offices under the executive department pursuant to the "take care power" of the President.[40] As such, the President can validly require his subordinates within the executive

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31 *Id.* at 139–140.
32 *Id.* at 140.
33 793 Phil. 17 (2016) [Per J. Bersamin, *En Banc*].
34 *Rollo*, pp. 142–143.
35 *Id.* at 145–146.
36 *Id.* at 146–147.
37 *Id.* at 148.
38 *Id.* at 149–150.
39 *Id.* at 151.
40 *Id.* at 152–155

department to act on a given matter within a specified timeframe; this includes streamlining the department's procedural processes in the interest of economy and efficiency.[41]

As regards the 30-day processing period, the respondents asseverate that said period is merely a baseline, a model, or a criterion in the crafting of rules, regulations, and processes by the EICC and not necessarily a mandate to uniformly adopt and immediately implement in the regulatory processes of concerned departments, agencies, bureaus, and agencies.[42] Contrary to the petitioners' claim, Executive Order No. 30 is not violative of Presidential Decree No. 1586 or the Establishment of the Environmental Impact Statement System,[43] the IPRA, Presidential Decree No. 1067 or the Water Code of the Philippines,[44] Republic Act No. 6657 or the Comprehensive Agrarian Reform Law of 1988 (CARL), and Republic No. 8749 or the Philippine Clean Air Act of 1999 (Clean Air Act).[45]

Respondents further argue that Executive Order No. 30 operationalizes the policies under the Constitution and applicable laws,[46] it prescribes clear rules and standards in accord with the Constitution and applicable laws,[47] it does not contravene the letter and spirit of the Renewable Energy Act,[48] and it does not violate due process.[49]

On September 30, 2020, the petitioners filed their Reply[50] insisting that the Petition falls within the scope of RPEC as it is an environmental suit. They further allege that while the RPEC does not provide for a special civil action on "environmental *certiorari*," the scope of the RPEC must be interpreted to include such.[51] They also argue that they have sufficiently established their entitlement to a TEPO;[52] that they were able to establish the requisites for judicial review;[53] that the Petition raises a purely legal question that falls under the exception to the doctrine of hierarchy of courts;[54] and maintain that Executive Order No. 30 is invalid or unconstitutional.[55]

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41 *Id.* at 155.
42 *Id.* at 157–158.
43 Entitled "ESTABLISHING AN ENVIRONMENTAL IMPACT STATEMENT SYSTEM, INCLUDING OTHER ENVIRONMENTAL MANAGEMENT RELATED MEASURES AND FOR OTHER PURPOSES," approved on June 11, 1978.
44 (1976). A Decree Instituting A Water Code, Thereby Revising And Consolidating The Laws Governing The Ownership, Appropriation, Utilization, Exploitation, Development, Conservation And Protection Of Water Resources.
45 *Rollo*, pp. 159–166.
46 *Id.* at 166.
47 *Id.* at 172.
48 *Id.* at 177.
49 *Id.* at 178.
50 *Id.* at 188–235.
51 *Id.* at 192.
52 *Id.*
53 *Id.* at 197.
54 *Id.* at 201.
55 *Id.* at 203.

On November 29, 2022, the Court issued a Resolution directing the parties to submit their respective memoranda.

Both parties complied and essentially reiterated their arguments in their respective submissions.

The Issues

1. Did the petitioners avail of the correct remedy? If so, is the Petition ripe for judicial review?

2. Are Executive Order No. 30 and its relevant issuances unconstitutional?

The Ruling of the Court

The Petition must be dismissed.

Preliminarily, the Court notes the baffling recourse of the petitioners to the remedies available under two different existing rules in challenging the validity or constitutionality of Executive Order No. 30.

The petitioners described their action as an environmental suit in the nature of a verified petition for the issuance of TEPO/EPO and environmental *certiorari*.[56] They simultaneously availed of the remedies under the Rules of Court as well as under the RPEC which, while not inconsistent, are not cumulative.

The action is a petition for certiorari invoking the Court's judicial power of review, and not an environmental suit

The RPEC is a special set of rules specifically promulgated to provide a simplified, speedy, and inexpensive procedure for the enforcement of environmental rights and duties recognized under the Constitution, existing laws, rules and regulations, and international agreements.[57] The Court formulated the RPEC to address the procedural concerns peculiar to environmental cases.[58] Rule I, Section 2 of RPEC provides:

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56 *Id.* at 5–6.

57 A.M. No. 09-6-8-SC (2010), sec. 3(b).

58 See Annotations to the Rules of Procedure For Environmental Cases.

> SECTION 2. *Scope.* — These Rules shall govern the procedure in civil, criminal and special civil actions before the Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts and Municipal Circuit Trial Courts involving *enforcement or violations of environmental and other related laws, rules and regulations such as but not limited to the following:* . . . [.] (Emphasis supplied)

The literal meaning of the quoted provision is clear: only actions—civil, criminal, and special civil—involving the enforcement or violations of environmental laws, rules, and regulations are covered by the RPEC. The present Petition purports to be an environmental suit, however, the issue it raises does not fall within the scope of the RPEC, which does not provide for remedies to question the validity or constitutionality of environmental laws, rules, and regulations. That, instead, falls within the functions of a petition for *certiorari*.[59]

The Court also clarifies that the *precautionary principle* under Section 1, Rule 20 of the RPEC does not operate as a demandable right. In *International Service for the Acquisition of Agri-Biotech Applications, Inc. v. Greenpeace Southeast Asia (Phils.)*,[60] the Court explained the precautionary principle as an instrument of evidence:

> [The] precautionary principle finds direct application in the evaluation of evidence in cases before the courts. The precautionary principle bridges the gap in cases where scientific certainty in factual findings cannot be achieved. By applying the precautionary principle, the court may construe a set of facts as warranting either judicial action or inaction, with the goal of preserving and protecting the environment. This may be further evinced from the second paragraph where bias is created in favor of the constitutional right of the people to a balanced and healthful ecology. In effect, the precautionary principle shifts the burden of evidence of harm away from those likely to suffer harm and onto those desiring to change the status quo. An application of the precautionary principle to the rules on evidence will enable courts to tackle future environmental problems before ironclad scientific consensus emerges.
>
> For purposes of evidence, the precautionary principle should be treated as a principle of last resort, where application of the regular Rules of Evidence would cause in an inequitable result for the environmental plaintiff — (a) settings in which the risks of harm are uncertain; (b) settings in which harm might be irreversible and what is lost is irreplaceable; and (c) settings in which the harm that might result would be serious. When these features — uncertainty, the possibility of irreversible harm, and the possibility of serious harm — coincide, the case for the precautionary principle is strongest. When in doubt, cases must be resolved in favor of the constitutional right to a balanced and healthful ecology. Parenthetically,

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59 See *Gios-Samar, Inc. v. DOTC*, 849 Phil. 120, 149–150 (2019) [Per J. Jardeleza, *En Banc*] and *Araullo v. Aquino III*, 737 Phil. 457, 531 (2014) [Per J. Bersamin, *En Banc*].

60 774 Phil. 508 (2015) [Per J. Villarama, Jr., *En Banc*].

> judicial adjudication is one of the strongest fora in which the precautionary principle may find applicability.[61] (Citations omitted)

Here, the petitioners erroneously applied said principle to assail the constitutionality of Executive Order No. 30.

In any case, considering that the Petition essentially questions the validity or constitutionality of Executive Order No. 30, the Court shall treat this Petition simply as a special civil action for *certiorari,* pursuant to the Court's expanded power of judicial review.

The issues brought forth by petitioners warrant judicial review

The Court's power of judicial review, which includes the power "to declare executive and legislative acts void if violative of the Constitution,"[62] is embodied in Article VIII, Section 1 of the Constitution:

> Section 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.
>
> Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

Thus, judicial power includes the duty of the courts of justice not only "to settle actual controversies involving rights which are legally demandable and enforceable," but also "to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government."[63]

Settled is the rule that under the Court's expanded jurisdiction, the writs of *certiorari* and prohibition are appropriate remedies to raise constitutional issues and to review and/or prohibit or nullify, on the ground of grave abuse of discretion, any act of any branch or instrumentality of the government involving the exercise of discretion on the part of the government, even if the latter does not exercise judicial, quasi-judicial or ministerial functions.[64]

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61 *Id.* at 665. See also *Citizens for a Green and Peaceful Camiguin, Inc., et al. v. King Energy Generation, Inc., et al.,* 906 Phil. 33, 39–42 (2021) [Per J. Zalameda, *En Banc*].

62 *Palencia v. People,* 875 Phil. 827, 845 (2020) [Per J. Leonen, Third Division], citing *Angara v. Electoral Commission,* 63 Phil. 139, 139–140 (1936) [Per J. Laurel, *En Banc*].

63 *Council of Teachers and Staff of Colleges and Universities of the Philippines v. Secretary of Education et al.*, 841 Phil. 724, 784 (2018) [Per J. Caguioa, *En Banc*].

64 *Agcaoili, Jr. v. Fariñas*, 835 Phil. 405, 435 (2018) [Per J. Tijam, *En Banc*]; *Villanueva v. Judicial and Bar Council*, 757 Phil. 534, 544 (2015) [Per J. Reyes, *En Banc*]; *Jardeleza v. Sereno*, 741 Phil. 460, 491

In *Araullo v. Aquino III*,[65] the Court explained that the remedies of *certiorari* and prohibition may be issued to correct errors of jurisdiction committed not only by a tribunal, corporation, board, or officer exercising judicial, quasi-judicial, or ministerial functions but also to set right, undo, and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, even if the latter does not exercise judicial, quasi-judicial, or ministerial functions. The Court has been thereby entrusted expressly or by necessary implication with both the duty and the obligation of determining, in appropriate cases, the validity of any assailed legislative or executive action. This entrustment is consistent with the republican system of checks and balances.[66]

In *Bureau of Customs Employees Association v. Biazon*,[67] the Court held that the expanded *certiorari* jurisdiction of the Court was properly invoked via a petition for *certiorari*, prohibition, and injunction under Rule 65 of the Rules of Court, to challenge the administrative issuances of the Department of Finance and the Bureau of Customs relating to policies on the payment of overtime work rendered by personnel of the Bureau of Customs.

As such, it is settled that if any governmental branch or instrumentality is shown to have gravely abused its discretion amounting to lack or excess of jurisdiction, and has overstepped the delimitations of its powers, courts may "set right, undo, or restrain" such act by way of certiorari and prohibition.[68]

But, before the Court can properly resolve the issue of the constitutionality of Executive Order No. 30, it is imperative that the requisites for the exercise of judicial review be first established, thus:

a) there must be an actual case or controversy calling for the exercise of judicial power;

b) the person challenging the act must have the standing to question the validity of the subject act or issuance; otherwise stated, he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement;

c) the question of constitutionality must be raised at the earliest opportunity; and

d) the issue of constitutionality must be the very *lis mota* of the case.[69]

(2014) [Per J. Mendoza, *En Banc*], citing *Araullo v. Aquino*, 737 Phil. 457, 531 (2014) [Per J. Bersamin, *En Banc*].

65 737 Phil. 457 (2014) [Per J. Bersamin, *En Banc*].

66 *Id.* at 531.

67 925 Phil. 623, 625–636 [Per J. Rosario, *En Banc*].

68 *COURAGE v. Abad*, 889 Phil. 699, 701, 726 (2020) [Per J. Leonen, *En Banc*].

69 *Biraogo v. The Philippine Truth Commission of 2010*, 651 Phil. 374, 438 (2010) [Per J. Mendoza, *En Banc*], citing *Senate of the Philippines v. Ermita*, 522 Phil. 1 (2006) [Per J. Carpio Morales, *En Banc*] and *Francisco v. House of Representatives*, 460 Phil. 830, 842 (2003) [Per J. Carpio Morales, *En Banc*].

After weighing the arguments of both parties, the Court finds that the Petition meets the requirements for judicial review.

The Petition presents an actual case or controversy that necessitates the exercise of judicial review

In determining the existence of a justiciable controversy, the Court looks into the presence of a contrariety of legal rights or an "actual and an antagonistic assertion of rights by one party against the other in a controversy wherein judicial intervention is unavoidable."[70]

In *Calleja et al. v. Executive Secretary*,[71] the Court held that:

> *An actual case or controversy exists when there is a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute.* The issues presented must be definite and concrete, touching on the legal relations of parties having adverse interests. There must be a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence. Corollary thereto, the case must not be moot or academic, or based on extra-legal or other similar considerations not cognizable by a court of justice. All these are in line with the well-settled rule that this Court does not issue advisory opinions, nor does it resolve mere academic questions, abstract quandaries, hypothetical or feigned problems, or mental exercises, no matter how challenging or interesting they may be. Instead, case law requires that there is ample showing of *prima facie* grave abuse of discretion in the assailed governmental act in the context of actual, not merely theoretical, facts.
>
> Closely linked to this requirement is that the question must be ripe for adjudication. A question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it. *For a case to be considered ripe for adjudication, it is a prerequisite that something has been accomplished or performed by either branch before a court may come into the picture, and the* ***petitioner must allege the existence of an immediate or threatened injury to himself as a result of the challenged action.*** He must show that he has sustained or is immediately in danger of sustaining some direct injury as a result of the act complained of.[72] (Emphasis and underscoring supplied; Citations omitted)

Here, the petitioners assert that their constitutional right to a balanced and healthful ecology is being violated by the streamlining of government processes for permit applications by EPNS under Executive Order No. 30.[73]

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70 *Falcis III v. Civil Registrar General*, 861 Phil. 388, 438 (2019) [Per J. Leonen, *En Banc*] citing *Bacolod-Murcia Planters' Association, Inc. v. Bacolod-Murcia Milling Company, Inc.*, 140 Phil. 457, 459 (1969) [Per J. Fernando, First Division].

71 918-B Phil. 1 (2021) [Per J. Carandang, *En Banc*].

72 *Id.* at 55–57.

73 *Rollo*, p. 198.

This assertion, by itself, compels the Court to inquire into any possible incursion into the constitutional right invoked *vis-à-vis* the exercise of Executive power.

The significance and origins of the right to a healthful and balanced ecology were elucidated on by the Court in *Oposa v. Factoran,*[74] as follows:

> *While the right to a balanced and healthful ecology is to be found under the Declaration of Principles and State Policies and not under the Bill of Rights, it does not follow that it is less important than any of the civil and political rights enumerated in the latter.* Such a right belongs to a different category of rights altogether for it concerns nothing less than self-preservation and self-perpetuation — aptly and fittingly stressed by the petitioners — the advancement of which may even be said to predate all governments and constitutions. *As a matter of fact, these basic rights need not even be written in the Constitution for they are assumed to exist from the inception of humankind.* If they are now explicitly mentioned in the fundamental charter, it is because of the well-founded fear of its framers that unless the rights to a balanced and healthful ecology and to health are mandated as state policies by the Constitution itself, thereby highlighting their continuing importance and imposing upon the state a solemn obligation to preserve the first and protect and advance the second, the day would not be too far when all else would be lost not only for the present generation, but also for those to come — generations which stand to inherit nothing but parched earth incapable of sustaining life.
>
> *The right to a balanced and healthful ecology carries with it the correlative duty to refrain from impairing the environment.* During the debates on this right in one of the plenary sessions of the 1986 Constitutional Commission, the following exchange transpired between Commissioner Wilfrido Villacorta and Commissioner Adolfo Azcuna who sponsored the section in question:
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> > MR. VILLACORTA: Does this section mandate the State to provide sanctions against all forms of pollution — air, water and noise pollution?
> >
> > MR. AZCUNA: Yes, Madam President. The right to healthful (sic) environment necessarily carries with it the correlative duty of not impairing the same and, therefore, sanctions may be provided for impairment of environmental balance.
>
> The said right implies, among many other things, the judicious management and conservation of the country's forests. Without such forests, the ecological or environmental balance would be irreversibly disrupted.[75] (Emphasis supplied and citations omitted)

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74 296 Phil. 694 (1993) [Per J. Davide, Jr., *En Banc*]

75 *Id.* at 713–714.

Although the right to a healthful and balanced ecology is found in the Declaration of Principles and State Policies rather than under the Bill of Rights, this right has been highly regarded by the Court. The RPEC and the writ of *kalikasan* are no less than manifestations of this. Stemming from the Court's role as a bastion for the protection of all constitutional rights, the Court understands the importance of preserving, conserving, and protecting the country's flora and fauna for humankind's enjoyment and survival.

The right to a healthful and balanced ecology is not only an entitlement; it also confers a duty. This duty—one's duty to protect the environment—applies to all who enjoy this right. Those responsible for enforcing and implementing laws have a particular responsibility in this regard. As vanguards of the people they serve, they are not only endowed with this duty; in fact, they are expected to uphold it with the highest commitment.

Respondents assert that the Petition does not present an actual case or justiciable controversy as it simply wants to prevent the expansion of the coal industry, which cannot be attributed to Executive Order No. 30.[76] This argument, however, relies on an ostensibly definitive characterization of Executive Order No. 30, despite the petitioners' opposing claims.

In *Executive Secretary Mendoza v. Pilipinas Shell Petroluem Corporation*,[77] the Court explained that for the exercise of judicial review, actual facts resulting from the assailed law or governmental act, as applied, may not be absolutely necessary in all cases. Where a governmental act has been passed, and there exists an interpretation of said law other than one that violates constitutional rights, than that, in itself, constitutes a contrariety of rights that is capable of judicial review. As such, the petitioners' assertion of a violation of a constitutional right necessitates a thorough examination of the case's merits. After all, in determining the existence of an actual case or controversy, it is not necessary for an actual violation of a constitutional right to be established. Even a threatened violation to a constitutional right warrants judicial intervention.[78]

Thus, the Court finds the existence of an actual case or controversy which is ripe for judicial review.

The Court deems it appropriate to relax the requirements for legal standing

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[76] *Rollo,* pp. 145–146.

[77] G.R. No. 209216, February 21, 2023 [Per SAJ Leonen, *En Banc*].

[78] *Id.* at 19–22. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

Petitioners assert that they have a personal and substantial interest in the case considering that they have sustained and will continue to sustain direct injury with the continuous implementation of Executive Order No. 30.[79] In contrast, respondents claim that petitioners are not the proper parties to file the present Petition as they supposedly failed to show a denial or violation of some right or privilege, or that they are subjected to or threatened to be subjected to any penalty under Executive Order No. 30.[80] On this score, the Court finds for petitioners.

The issue of legal standing requires an analysis of whether a party has a personal and substantial interest in that they have sustained, or will sustain, direct injury as a result of the government act being challenged.[81]

The Court, in *Galicto v. Aquino III,*[82] explained the crux of the question of standing and the purpose for said requirement, as follows:

> [*The*] *gist of the question on standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions."* This requirement of standing relates to the constitutional mandate that this Court settle only actual cases or controversies.
>
> Thus, *as a general rule, a party is allowed to "raise a constitutional question" when (1) he can show that he will personally suffer some actual or threatened injury because of the allegedly illegal conduct of the government; (2) the injury is fairly traceable to the challenged action; and (3) the injury is likely to be redressed by a favorable action.*
>
> Jurisprudence defines interest as "material interest, an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest. By real interest is meant a present substantial interest, as distinguished from a mere expectancy or a future, contingent, subordinate, or consequential interest."[83] (Emphasis supplied and citations omitted)

Notwithstanding, as pointed by the Court in *Initiatives for Dialogue and Empowerment through Alternative Legal Services, Inc, et al. v. Senate, et al.*,[84] the Court has, on numerous occasions, relaxed the requirement of legal

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79 *Id.* at 199.

80 *Id.* at 148.

81 *Initiatives for Dialogue and Empowerment through Alternative Legal Services, Inc. v. Senate,* G.R. No. 184635, June 13, 2023 [Per J. Leonen, *En Banc*] at 32, citing *Galicto v. Aquino III*, 683 Phil. 141 (2012) [Per J. Brion, *En Banc*]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

82 *Galicto v. Aquino III, Id.*

83 *Id.* at 170–171.

84 G.R. No. 184635, June 13, 2023 [Per J. Leonen, *En Banc*].

standing even when the petition failed to sufficiently establish a personal and substantial interest.

In one case in particular, *Funa v. Villar,*[85] the Court, citing *David v. Macapagal-Arroyo*,[86] explained that the rule on legal standing may be relaxed when a constitutional issue of critical significance is at stake:

> However, the Court has time and again acted liberally on the locus standi requirements and has accorded certain individuals, not otherwise directly injured, or with material interest affected, by a Government act, standing to sue provided a constitutional issue of critical significance is at stake. *The rule on locus standi is after all a mere procedural technicality in relation to which the Court, in a catena of cases involving a subject of transcendental import, has waived, or relaxed, thus allowing non-traditional plaintiffs, such as concerned citizens, taxpayers, voters or legislators, to sue in the public interest, albeit they may not have been personally injured by the operation of a law or any other government act.* In *David*, the Court laid out the bare minimum norm before the so-called "non-traditional suitors" may be extended standing to sue, thusly:
>
> 1.) For taxpayers, there must be a claim of illegal disbursement of public funds or that the tax measure is unconstitutional;
>
> 2.) For voters, there must be a showing of obvious interest in the validity of the election law in question;
>
> 3.) *For concerned citizens, there must be a showing that the issues raised are of transcendental importance which must be settled early;* and
>
> 4.) For legislators, there must be a claim that the official action complained of infringes their prerogatives as legislators.[87] (Emphasis supplied; citations omitted)

Among the many issues presented before the Court, petitioners, specifically those who are residents of Atimonan, Quezon, assert that the implementation of Executive Order No. 30 led to the unlawful expedited processing of permits for coal power plants, thus causing them to suffer negative environmental impacts. To resolve this, however, would require the Court to determine the validity of Executive Order No. 30, and whether any of the injuries suffered by petitioners are attributable to its issuance and implementation. This would inevitably require a resolution on the merits of the case.

Accordingly, given the constitutional questions at hand, the Court deems it proper to relax the requirement on standing. The Court's ruling on this Petition would have far-reaching implications for the energy industry *vis-à-vis* the right to a balanced and healthful ecology, potentially setting a

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85 686 Phil. 571 (2012) [Per J. Velasco, Jr., *En Banc*].
86 522 Phil. 705 (2006) [Per J. Sandoval-Gutierrez, *En Banc*].
87 686 Phil. 571, 585–586 (2012) [Per J. Velasco, Jr. *En Banc*].

precedent on the extent of Executive power and the remedies available to challenge policies related to the environment.

The Court's present disposition is in line with the Court's previous rulings in *Oposa v. Factoran*[88] and *Resident Marine Mammals v. Reyes,*[89] both of which involve the invocation of the right to a balanced and healthful ecology, wherein the Court eased the procedural requirements for legal standing to allow the Court to rule on the merits of each case.

Hence, in liberally applying procedural rules, the requirement of legal standing is met.

The constitutional issues were raised at the earliest opportunity via direct resort to the Court, risking a breach of the doctrine of hierarchy of courts

Seeking judicial review at the earliest opportunity does not mean immediately elevating the matter to this Court.[90] Earliest opportunity means that the question of unconstitutionality of the act in question should have been immediately raised in the proceedings in the court below.[91] Otherwise, it will not be considered on appeal.[92]

Although two years have passed since the issuance of Executive Order No. 30 before the petitioners brought the present Petition, the Court finds no reason to take this against the petitioners. Aside from the fact that IRR was issued only on April 25, 2018,[93] the length of time from Executive Order No. 30's issuance up to the filing of the Petition is not the primary consideration in determining the fulfillment of this requisite. What matters is that the Petition raised all its claims on the invalidity of Executive Order No. 30 at the soonest possible moment through the Petition. Here, the Petition was filed directly to this Court to assail the validity of Executive Order No. 30 and its IRR. However, by doing so, respondents assert a violation of the doctrine of hierarchy of courts.[94] In response, petitioners submit that the Petition raises purely legal questions and falls under the recognized exceptions of said doctrine to justify their direct resort to the Court.[95]

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88 296 Phil. 694 (1993) [Per J. Davide, Jr., *En Banc*].
89 758 Phil. 724 (2015) [Per J. Leonardo-De Castro, *En Banc*].
90 *Arceta v. Hon. Mangrobang,* 476 Phil. 106, 114–115 (2004) [Per J. Quisumbing, *En Banc*].
91 *Id.* at 115.
92 *Venus Commercial Co., Inc. v. Department of Health,* 916 Phil. 16, 34–35 (2021) [Per J. Lazaro-Javier, First Division] citing *Matibag v. Benipayo et al.*, 429 Phil. 554 (2002) [Per J. Carpio, *En Banc*].
93 Department Circular No. DC2018-04-0013 or the Implementing Rules and Regulations of Executive Order No. 30, Series of 2017, Creating the Energy Investment Coordinating Council in order to streamline the Regulatory Procedures affecting Energy Projects.
94 *Rollo,* pp. 150–151.
95 *Id.* at 201–203.

Given that the Petition raises a variety of substantial issues—from the procedural validity of Executive Order No. 30 to the expedited approval of coal-fired power plants—the Court does not agree with the petitioners' characterization of their Petition, as it involves a blend of factual and legal questions. Despite this, the Court resolves to give due course to the Petition, considering that it involves genuine issues of constitutionality that are of transcendental importance, and must be resolved at the most immediate time.[96]

The issues regarding the constitutionality of Executive Order No. 30 and its IRR are the lis mota of the case

The requisite on *lis mota* refers to the question of constitutionality being the crux of the case. This requisite is derived from the presumption of validity accorded to the executive and legislative acts of co-equal branches of the government.[97] Given the presumed validity of an executive act, the petitioner who claims otherwise has the burden of showing that the case cannot be resolved unless the constitutional question raised is determined by the Court.[98]

Here, petitioners raise the invalidity of Executive Order No. 30 and its IRR arguing that it was issued beyond the scope of the President's powers.[99] In particular, petitioners posit that Executive Order No. 30 imposed arbitrary baselines and has an overly broad definition of the word "significant" in the determination of projects to be certified as EPNS, which are contrary to existing environmental laws like the EPIRA, DOE Act, among others.[100] Aside from these, petitioners argue that Executive Order No. 30 is unconstitutional as it violates due process as it does not mandate publication, notice and hearing, and it does provide mechanisms for intervention, opposition or appeal in the certification proceedings for EPNS.[101]

Such questions of constitutionality are the *lis mota* of the consolidated cases.

The constitutionality of Executive Order No. No. 30 and related issuances

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96 *See Diocese of Bacolod v. COMELEC*, 751 Phil. 301 (2015) [Per J. Leonen, *En Banc*].
97 *General v. Urro*, 662 Phil. 132, 144–145 (2011) [Per J. Brion, *En Banc*].
98 *Id.* at 145.
99 *Rollo*, p. 22–24.
100 *Id.* at 24.
101 *Id.* at 45.

It should be stressed that governmental acts enjoy the legal presumption of validity or constitutionality.[102] In *Julie Parcon-Song v. Lilia Parcon,*[103] the Court explained:

> As a rule, the courts will not resolve the constitutionality of a law, if the controversy can be settled on other grounds. The policy of the courts is to avoid ruling on constitutional questions and to presume that the acts of the political departments are valid, absent a clear and unmistakable showing to the contrary. To doubt is to sustain. This presumption is based on the doctrine of separation of powers. This means that the measure had first been carefully studied by the legislative and executive departments and found to be in accord with the Constitution before it was finally enacted and approved.[104]

Thus, petitioners have the burden to sufficiently overcome this presumption and convincingly demonstrate the unconstitutionality of Executive Order No. 30 and its IRR.

To summarize, petitioners submit the following arguments:

Firstly, Executive Order No. 30 was supposedly issued beyond the scope of the President's executive power. The EPIRA and the DOE Act of 1992 do not explicitly authorize the President to issue an executive order setting baselines and granting additional rights to energy projects.[105]

Secondly, the baselines provided in Section 7 of Executive Order No. 30 on the processing of permits and other regulatory approvals of EPNS, such as the presumption of prior approval, action within 30 days, and automatic approval, are not granted in any other law and contravenes environmental laws.[106]

Thirdly, Section 2 of Executive Order No. 30 provides an overly broad definition of the word "significant" in the determination of projects to be certified as EPNS.[107]

Lastly, Executive Order No. 30 and its IRR do not mandate publication, notice and hearing. Neither do they provide for any rules of intervention, opposition, and appeal in the certification proceedings of EPNS. Thus, affected communities and stakeholders are denied due process in opposing

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102 *See NAWASA v. Reyes*, 130 Phil. 939, 947 (1968) [Per J. Angeles, *En Banc*].
103 876 Phil. 364 (2020) [Per J. Leonen, *En Banc*].
104 *Id.* at 401.
105 *Rollo*, p. 22.
106 *Id.* at 25–44.
107 *Id.* at 24.

applications for Certificate of Energy Project of National Significance (CEPNS).[108]

The Court finds these unmeritorious.

Executive Order No. 30, s. 2017, was validly issued as it is within the scope of the President's executive power

Petitioners argue that Executive Order No. 30 is unconstitutional for having been issued beyond the scope of the President's executive power. Citing *Executive Secretary v. Southwing Heavy Industries*,[109] petitioners claim that Executive Order No. 30 failed to comply with the requisites of a valid administrative issuance:

a.) Its promulgation must be authorized by the legislature;

b.) It must be promulgated in accordance with the prescribed procedure;

c.) It must be within the scope of the authority given by the legislature; and

d.) It must be reasonable.[110]

Petitioners are mistaken.

It is well settled that the President exercises control over all the executive departments, bureaus, and offices.[111] This power of control over the executive branch not only applies to all executive employees,[112] but it likewise extends to all matters relating to internal administration,[113] matters of administrative detail or of subordinate or temporary interest which may only concern a particular executive officer or office,[114] and executive governmental operations,[115] among others.

The President's power of control over the Executive is translated into written policies through rulemaking. Such is referred to as the Ordinance Power of the President, which is recognized under Book III, Title I, Chapter 2 of Executive Order No. 292, as amended, or the Administrative Code of 1987. Specifically, Section 2 empowers the President to issue executive

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108 *Id.* at 44–48.
109 518 Phil 103 (2006) [Per J. Ynares-Santiago, *En Banc*].
110 *Id.* at 117.
111 CONST., art. VII, sec. 17. *See also* ADM. CODE, Book III, Title I, Chapter 2, sec.1.
112 *National Electrification Administration v. Commission on Audit,* 427 Phil. 464, 485 (2002) [Per J. Carpio, *En Banc*].
113 ADM. CODE, Book III, Title I, Chapter 2, sec.6.
114 *Id.* sec. 5.
115 *Id.* sec. 3.

orders, which are of general or permanent character, in the implementation or execution of the President's constitutional or statutory powers.

It is clear that Executive Order No. 30 was issued pursuant to the President's Ordinance Power. By virtue of his power of control and supervision over the executive department, the President can validly require his subordinates to act on a matter within a specified timeframe.[116] In a broader sense, the President is empowered to streamline executive processes in the interest of economy and efficiency;[117] provided that the exercise of these prerogatives operate within the framework of existing laws.

In *Kilusang Mayo Uno, et al. v. Director-General, National Economic and Development Authority*,[118] the Court held that under the power of control, the President can direct all entities within the Executive Branch, "in the exercise of their functions under existing laws, to adopt a uniform ID data collection and ID format to achieve savings, efficiency, reliability, compatibility, and convenience to the public."[119]

Similarly in this case, the President, in the exercise of the power of control, may validly direct the DOE, as the primary government agency in charge of energy development and utilization,[120] to comply with its mandate within the direction set forth by the President under Section 7 of Executive Order No. 30.

To this end, Executive Order No. 30 cites the EPIRA and the DOE Act as its statutory bases for creating the EICC to streamline the regulatory procedures affecting energy procedures. Further, respondents, through the OSG, posit that Executive Order No. 30 is consistent with Republic Act No. 9485, otherwise known as the Anti-Red Tape Act of 2007, as amended by Republic Act No. 11032, also known as the Ease of Doing Business and Efficient Government Service Delivery Act of 2018 (Ease of Doing Business Act).[121]

Although the EPIRA and the DOE Act do not expressly authorize the President to streamline procedures for the certification proceedings of EPNS, these statutes neither prohibit nor limit the power of the President to do the same. In fact, the policy considerations behind the EPIRA and DOE Act

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116 *Rollo*, p. 155.
117 *Id.*
118 521 Phil. 732 (2006) [Per J. Carpio, *En Banc*].
119 *Id.* at 752.
120 Republic Act No. 7638 (1992), sec. 4, Department of Energy Act of 1992. To carry out the above-declared policy, there is hereby created the Department of Energy, hereinafter referred to as the Department, which shall prepare, integrate, coordinate, supervise, and control all plans, programs, projects, and activities of the Government relative to energy exploration, development, utilization, distribution, and conservation.
121 *Rollo*, p. 171.

reflect the Legislature's desire to rationalize and accelerate energy development, utilization, and distribution for the benefit of the country. As cited by Executive Order No. 30, Section 2 of the EPIRA declares the policy of the State to ensure and accelerate the total electrification of the country and to assure socially and environmentally compatible energy sources and infrastructure:

> Section 2. *Declaration of Policy.* - It is hereby declared the policy of the State:
>
> (a) To ensure and accelerate the total electrification of the country;
>
> (b) To ensure the quality, reliability, security and affordability of the supply of electric power;
>
> . . . .
>
> (g) To assure socially and environmentally compatible energy sources and infrastructure;
>
> . . . .

Likewise, Section 23 of the DOE Act demands expedient action from all government agencies relative to the processing of energy projects, which may include the processing of CEPNS:

> SECTION 23. Relationship with Other Government Departments. — The Department and its priority projects shall enjoy preferential attention from the Department of Environment and Natural Resources relative to the exploration, development, exploitation, and extraction of petroleum, coal, and geothermal resources, and in the matter of providing technical support necessary for the establishment of power-generating plants.
>
> *Upon request of the Department or any of its bureaus, all government agencies with functions relative to the approval of the projects of the Department or its duly authorized and endorsed entities, whether government or private, shall act upon and resolve the matter within ten (10) calendar days. Toward this end, the Secretary, with the approval of the President, may establish an interagency secretariat for the purpose of expediting the approval of said projects.* (Emphasis supplied)

Although the Anti-Red Tape Act was amended in 2018 by the Ease of Doing Business Act,[122] the policy of "[adopting] simplified requirements and procedures [to] reduce red tape and expedite transactions in government"[123] was already in place when the former statute took effect in 2007. The fact that the Ease of Doing Business Act took effect after the issuance of Executive Order No. 30 does not negate the consonance between the two. The enactment of the Ease of Doing Business Act one year after Executive Order No. 30 took

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[122] Republic Act No. 11032 (2018), Ease of Doing Business and Efficient Government Service Delivery Act of 2018.

[123] Republic Act No. 9485 (2007), sec. 2, Anti-Red Tape Act of 2007.

effect only reflects the desire of government to rationalize and streamline its processes. Verily, the terms of Executive Order No. 30 find further support through legislative ratification.

Thus, Executive Order No. 30 is valid considering that it is a mere offshoot of the President's power of control. The President has plenary authority to issue rules affecting the processes, structure, and overall operationalization of the executive department so long as they are consistent with existing legislation.

The baselines provided in Section 7 of Executive Order No. 30 are in consonance with existing environmental laws and regulations

In essence, petitioners argue that Executive Order No. 30 is invalid because Section 7, which covers the processing of permits and other regulatory approvals of EPNS, such as the presumption of prior approval, action within 30 days, and automatic approval, are not granted in any other law and contravenes environmental laws.[124] Particularly, petitioners claim that it is impossible and absurd to process all 114 permits or regulatory approvals listed in Annex A of Executive Order No. 30's IRR within 30 days.[125] In requiring a shorter processing timeframe, petitioners posit that the requirements for an ECC, FPIC, water permit, and Land Use and Conversion Order are sacrificed.[126]

These claims are erroneous.

It must be emphasized that Section 7 of Executive Order No. 30 only provides for baselines to facilitate the crafting or rules, regulations, and processes by the EICC to be adopted by its member agencies:

> SECTION 7. Baselines in the Processing of EPNS. — *The rules, regulations and processes to be agreed upon within the EICC and to be adopted by its member-agencies shall adhere to the following baselines with regard to EPNS:*
>
> c) *Presumption of Prior Approvals.* Government agencies and instrumentalities that receive an application for a permit involving EPNS shall process such applications without awaiting the action of any other agency. The processing agency shall act on the presumption that the relevant permits from other government agencies had already been issued.

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124 *Rollo*, pp. 25–44.
125 *Id.* at 27.
126 *Id.*

> d) *Action within Thirty (30) Days.* Government agencies and instrumentalities shall act upon applications for permits involving EPNS within a specific processing timeframe not exceeding thirty (30) days from the submission of complete documentary requirements. Should such application be denied, the denial should be made in writing expressly providing the grounds therefor. If no decision is made within the specified processing timeframe, the approving authority may no longer deny the application and shall issue the relevant permit within five (5) working days after the lapse of such processing timeframe.
>
> No deviation from the baselines shall be allowed except when absolutely necessary either to enable an agency to comply with a specific statutory directive or to avoid prejudicing the public interest. All regulations and procedures taken up in the EICC which deviate from such baselines, and the justifications therefor, shall be included in the reports of the EICC to the Office of the President.[127] (Emphasis supplied)

Concerned member agencies are not immediately mandated to adhere to said baselines since the rules, regulations, and processes still need to be crafted, agreed upon within the EICC, and ultimately adopted. This is made clear by Section 7.1 of the IRR:

> RULE 7 - BASELINES IN THE PROCESSING OF EPNS
>
> 7.1 To ensure compliance under Rule 6, the EICC and/or other government agencies including local government units (LGUs), government owned and controlled corporations (GOCCs) and instrumentalities shall ensure that their respective timelines are adjusted accordingly. For this purpose, said government agencies are directed to submit a streamlined procedure relative to the processing of Energy Projects to the EICC within a year from the effectivity of [Executive Order No.] 30. Such submission shall serve as the baseline for processing of CEPNS. Attached is the list of documentary requirements and permits issued by all relevant government agencies as Annex A.

Although the rules, regulations, and processes to be adopted must adhere to the baselines set forth in Section 7 of Executive Order No. 30, the last paragraph of the same permits deviations from said baselines when "absolutely necessary either to enable an agency to comply with a specific statutory directive or to avoid prejudicing the public interest."

As such, it is incorrect for petitioners to claim that all permits or regulatory approvals must be processed within 30 days.[128] The 30-day timeframe is merely a baseline in the crafting of rules, regulations, or processes in the EICC to be adopted by concerned member agencies. Moreover, following the language of Section 7(b) of Executive Order No. 30,

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[127] Executive Order No. 30 (2017), sec. 7.

[128] *See Rollo*, p. 27.

the reckoning point within which to begin the thirty-day period is "from the submission of complete documentary requirements." Nonetheless, the 30-day timeframe may be extended, if necessary, to comply with a specific statutory directive or to avoid prejudice to public interest.

Petitioners likewise argue that Executive Order No. 30 and its IRR violate several environmental laws, including Presidential Decree No. 1586, Presidential Decree No. 1067 or the Water Code, IPRA, and CARL. They reason that the regulatory requirements mandated by these environmental laws are too complex to be reasonably processed within the 30-day period.

However, as pointed out by the OSG, each of the aforementioned laws are silent on the period for the processing of an application for an ECC,[129] a water permit,[130] a FPIC,[131] and a Land Use Conversion Order.[132] The current periods for the processing of these permits and approvals have been put in place through administrative rules promulgated by each of the relevant government offices or agencies. Thus, the President, through the power of

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[129] *Id.* at 159–161.

[130] *Id.* at 162–163. *See* Presidential Decree No. 1067, art. 13, 16 & 17:

> Article 13. Except as otherwise herein provided, no person, including government instrumentalities or government-owned or controlled corporations, shall appropriate water without a water right, which shall be evidenced by a document known as a water permit.
>
> Water right is the privilege granted by the government to appropriate and use water.
>
> ...
>
> Article 16. Any person who desires to obtain a water permit shall file an application with the Council who shall make known said application to the public for any protests.
>
> In determining whether to grant or deny an application, the Council shall consider the following: protests filed, if any; prior permits granted; the availability of water; the water supply needed for beneficial use; possible adverse effects; land-use economics; and other relevant factors.
>
> Upon approval of an application, a water permit shall be issued and recorded.
>
> Article 17. The right to the use of water is deemed acquired as of the date of filing of the application for a water permit in case of approved permits, or as of the date of actual use in a case where no permit is required.

[131] *Id.* at 161–162. *See* Republic Act No. 8371, sec. 59:

> SECTION 59. Certification Precondition. — All departments and other governmental agencies shall henceforth be strictly enjoined from issuing, renewing, or granting any concession, license or lease, or entering into any production sharing agreement, without prior certification from the NCIP that the area affected does not overlap with any ancestral domain. Such certification shall only be issued after a field-based investigation is conducted by the Ancestral Domains Office of the area concerned: Provided, That no certification shall be issued by the NCIP without the free and prior informed and written consent of ICCs/IPs concerned: Provided, further, That no department, government agency or government-owned or controlled corporation may issue new concession, license, lease, or production sharing agreement while there is a pending application for a CADT: Provided, finally, That the ICCs/IPs shall have the right to stop or suspend, in accordance with this Act, any project that has not satisfied the requirement of this consultation process.

[132] *Id.* at 163–164.

control, may legitimately order the issuance of rules to facilitate more expedient and efficient action on projects that have been certified as EPNS.

Evidently, none of the aforementioned laws are violated by Section 7(b) of Executive Order No. 30 through the implementation of the 30-day timeframe.

In fact, the 30-day timeframe is longer and more accommodating than the prescribed processing periods for expedited projects under the DOE Act and for activities which pose a danger to the public or involve highly technical matters under the Ease of Doing Business Act.

As mentioned, Section 23 of the DOE Act authorizes the Department of Energy to request all government agencies with functions relative to the approval of its projects to act upon a matter within 10 days:

> SECTION 23. Relationship with Other Government Departments. — The Department and its priority projects shall enjoy preferential attention from the Department of Environment and Natural Resources relative to the exploration, development, exploitation, and extraction of petroleum, coal, and geothermal resources, and in the matter of providing technical support necessary for the establishment of power-generating plants.
>
> *Upon request of the Department or any of its bureaus, all government agencies with functions relative to the approval of the projects of the Department or its duly authorized and endorsed entities, whether government or private, shall act upon and resolve the matter within ten (10) calendar days.* Toward this end, the Secretary, with the approval of the President, may establish an interagency secretariat for the purpose of expediting the approval of said projects. (Emphasis supplied)

Likewise, Section 9(b)(1) of the Ease of Doing Business Act allows for a period of 20 days to process and act upon all applications or requests involving activities which pose a danger to public health, public safety, public morals, public policy, and those involving highly technical applications:

> Sec. 9. Accessing Government Services. – The following shall [be] adopted by all government offices and agencies:
>
> . . . .
>
> (b) Action of Offices. –
>
> (1) All applications or requests submitted shall be acted upon by the assigned officer or employee within the prescribed processing time stated in the Citizen's Charter which shall not be longer than three (3) working days in the case of simple transactions and seven (7) working days in the

case of complex transactions from the date the request and/or complete *application or request was received.*

For applications or requests involving activities which pose danger to public health, public safety, public morals, public policy, and highly technical application, the prescribed processing time shall in no case be longer than twenty (20) working days or as determined by the government agency or instrumentality concerned, whichever is shorter.

The maximum time prescribed above may be extended only once for the same number of days, which shall be indicated in the Citizen's Charter. Prior to the lapse of the processing time, the office or agency concerned shall notify the applicant or requesting party in writing of the reason for the extension and final date of release of the government service/s requested. Such written notification shall be signed by the applicant or requesting party to serve as proof of notice.

If the application or request for license, clearance permit, certification or authorization shall require the approval of the local Sangguniang Bayan, Sangguniang Panlungsod, or the Sangguniang Panlalawigan as the case may be, the Sanggunian concerned shall be given a period of forty-five (45) working days to act on the application or request, which can be extended for another twenty (20) working days. If the local Sanggunian concerned has denied the application or request, the reason for the denial, as well as the remedial measures that may be taken by the applicant shall be cited by the concerned Sanggunian.

In cases where the cause of delay is due to force majeure or natural or man-made disasters, which result to damage or destruction of documents, and/or system failure of the computerized or automatic processing, the prescribed processing times mandated in this Act shall be suspended and appropriate adjustments shall be made. (Emphasis supplied)

Thus, Section 7 (b) of Executive Order No. 30, specifically the 30-day timeframe, does not violate any of the environmental laws cited by the petitioners.

As regards the presumption of prior approval and the provision on automatic approval, petitioners posit that these render established rules and procedure unnecessary.[133]

However, a closer evaluation of the provisions reveals otherwise.

The presumption of prior approval is found on Section 7(a) of Executive Order No. 30, and Rule 6.2 of the IRR elucidates on said presumption as follows:

PART III
GENERAL FRAMEWORK FOR THE PROCESSING OF EPNS

[133] *Id.* at 26.

RULE 6- RIGHTS UNDER CEPNS

. . . .

6.2 *The CEPNS entitles the project to be processed accordingly, without awaiting the action of other government agencies involved in the processing if such action is a precondition or a requirement for processing.* Forthwith, the processing government agency shall act on the presumption that as holder of the CEPNS, the relevant permits from other government agencies had already been issued. Such presumption extends only insofar as the permitting process is concerned. *Government agencies retain the right to enforce compliance with existing laws, rules and regulations within their jurisdiction.*

The presumption of prior approval means that the government agency which received an application for a permit involving EPNS need not wait for prior approvals or other documents from another government agency before it can start to process the application before it.

In determining the validity of said presumption, the Court agrees with the explanation of the respondents, through the OSG, as follows:

> In other words, the *presumption of prior approval only mandates a separate-parallel processing, but does not mandate that such separate-parallel processing eventually result to an approval,* as other requirements must still be submitted and complied with. ***Sans the actual receipt by the permitting agency of the documents or approvals which are preconditions for the grant, the only approval that the permitting agency can issue is a conditional one,*** which is only valid upon receipt of the complete documents or approvals necessary for the grant.
>
> To illustrate the above, a water permit requires as a prerequisite document either an ECC or Certificate of Non-Coverage (CNC) which is issued by the DENR. In accordance with the presumption of prior approval, the permitting agency, which is the National Water Resources Board (NWRB), must commence the processing of the water permit application even without its actual receipt of the ECC or CNC. The NWRB is to presume that said ECC or CNC has been issued just so it can proceed with the processing of the water permit application.
>
> The presumption of prior approval ends there. It does not authorize the automatic eventual approval by the NWRB of the water permit application just because it has been sanctioned to presume that the required ECC or CNC has been issued by the DENR. At best, the NWRB could issue a conditional water permit which is a valid water permit only upon actual issuance of all requirements, including the ECC or NCC. There is still a

> need for the actual issuance of an ECC or CNC before the applicant becomes a holder of a valid water permit.[134] (Emphasis supplied)

Evidently, the presumption of prior approval was put in place to expedite the processing of permits and approvals through separate, simultaneous processing. However, this does not mean that the approval of the document or prior approval which is a precondition to process the permit or license is dispensed with.

If a prior approval, license, or requirement is needed, the permitting agency is directed to presume that said prior approval or requirement has been met. As a result, all approvals that the permitting agency can issue are contingent upon its receipt of complete documentation or the necessary prior approvals. Contrary to petitioners' claims, the presumption of prior approval does not render unnecessary established environmental rules and procedures which necessitate the submission of pre-requisite permits and documents.

At any rate, the presumption established under Section 7(b) of Executive Order No. 30 is only disputable in nature, on a "a specie of evidence that may be accepted and acted on when there is no other evidence to uphold the contention for which it stands, or one which may be overcome by other evidence."[135] Again, the provision provides for deviation to such baseline either to enable the agency to comply with a specific statutory directive, or to avoid prejudicing the public interest. Thus, this presumption is not an ironclad rule, and may be overcome based on the justification provided, i.e., the law requires it or to avoid prejudicing the public interest.

As regards the provision on automatic approval, the Court finds the same to be valid.

Section 7(b) of Executive Order No. 30 provides that "[i]f no decision is made within the specified processing timeframe, the approving authority may no longer deny the application and shall issue the relevant permit within [five] working days after the lapse of such processing timeframe."

The aforementioned provision finds statutory support in Section 10 of the Ease of Doing Business Act:

> Section. 10. Automatic Approval or Automatic Extension of License, Clearance, Permit, Certification or Authorization. – *If a government office or agency fails to approve or disapprove an original application or request for issuance of license, clearance, permit,*

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134 *Rollo*, p. 173.

135 *Magsaysay Maritime Corporation v. Heirs of Buenaflor*, 875 Phil. 253, 264–265 (2020) [Per J. Reyes, Jr., J., First Division].

> *certification or authorization within the prescribed processing time, said application or request shall be deemed approved*: *Provided, That* all required documents have been submitted and all required fees and charges have been paid. The acknowledgment receipt together with the official receipt for payment of all required fees issued to the applicant or requesting party shall be enough proof or has the same force and effect of a license, clearance, permit, certification or authorization under this automatic approval mechanism.
>
> If a government office or agency fails to act on an application or request for renewal of a license, clearance, permit, certification or authorization subject for renewal within the prescribed processing time, said license, clearance, permit, certification or authorization shall automatically be extended: *Provided*, That the Authority, in coordination with the Civil Service Commission (CSC), Department of Trade and Industry (DTI), Securities and Exchange Commission (SEC), Department of the Interior and Local Government (DILG) and other agencies which shall formulate the IRR of this Act, shall provide a listing of simple, complex, highly technical applications, and activities which pose danger to public health, public safety, public morals or to public policy. (Emphasis supplied)

Notwithstanding that Executive Order No. 30 was issued in 2017, or before the effectivity of the Ease of Doing Business Act in 2018, the latter still provides statutory anchor for the rule on automatic approval. Indeed, when the Legislature subsequently adopts the rules provided for in an executive issuance, it is as if the Legislature adopted, approved, and ratified the administrative rule.

In *Kepco Philippines Corporation v. Commissioner of Internal Revenue*,[136] the Court held that when Congress enacted Republic Act No. 9337, which amended the National Internal Revenue Code, by adopting the imprinting requirement in value-added tax official receipts and invoices, as provided for in a previous revenue issuance, such confirms the validity of the requirement under the principle of legislative approval of administrative interpretation by reenactment.[137]

Similarly here, the fact that the Ease of Doing Business Act adopted the automatic approval mechanism provided for under Section 7(b) of Executive Order No. 30, confirms its validity, and Congress' intent to incorporate it in the written law.

In an effort to bolster their position, petitioners likewise posit that the issuance of Executive Order No. 30 is violative of Renewable Energy Act,[138] and the country's nationally determined contributions under the Paris Agreement of 2015.[139] This argument is premised on the supposition that

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136 656 Phil. 68 (2011) [Per J. Mendoza, Second Division].
137 *Id.* at 76–86.
138 *Rollo*, pp. 41–44.
139 *Id.* at 226.

Executive Order No. 30 unduly prefers and expedites coal expansion which would lead to an increase in the country's carbon emissions.[140]

Unfortunately, petitioners failed to cite a specific provision in Executive Order No. 30 that expressly favors coal projects. To be clear, Executive Order No. 30 pertains to all kinds of energy projects of national significance. Section 1 of Executive Order No. 30 provides:

> SECTION 1. *Declaration of Policy.* It is the policy of the State to ensure a continuous, adequate, and economic supply of energy. Hence, an efficient and effective administrative process for energy projects of national significance should be developed in order to avoid unnecessary delays in the implementation of the Philippine Energy Plan (PEP).

Further, nowhere does it state in Executive Order No. 30 that the issuance of an EPNS is confined exclusively to coal-fired energy projects. In fact, Section 2 provides that EPNS "are major energy projects for power generation, transmission and/or ancillary services including those required to maintain grid stability and security, identified and endorsed by the DOE as 'projects of national significance' that are in consonance with the policy thrusts and specific goals of the PEP."

If it happens that more coal projects meet the criteria for the issuance of a CEPNS, this is simply because those projects meet the established criteria, and not due to any preferential treatment.

Nonetheless, all issues related to the direct or indirect impact of Executive Order No. 30 on the increase in coal-fired power plants are evidentiary in nature, and the Court is not the appropriate forum to determine such factual matters. Moreover, the petitioners' concerns regarding the country's compliance with its nationally determined contributions under the Paris Agreement may constitute policy questions that are best addressed by the other branches of government, rather than this Court.

The term "significant" in Section 2 of Executive Order No. 30 is not overly broad

Petitioners allege that Section 2 of Executive Order No. 30 provides an overly broad definition of the word "significant" in the determination of projects to be certified as EPNS.[141]

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[140] *Id.* at 223–232.
[141] *Id.* at 24.

The Court is not convinced.

Petitioners are essentially mounting an "as applied" challenge of Section 2 of Executive Order No. 30 by claiming a violation of their right to a balanced and healthful ecology considering the supposed overbreadth of the term "significant."

The "as applied" approach embodies the rule that one can challenge the constitutionality of a statute only if they assert a violation of their own rights. The rule prohibits one from challenging the constitutionality of the statute based solely on the violation of the rights of third persons not before the Court. This rule is also known as the prohibition against third-party standing.[142]

This Court takes this opportunity to point out that the streamlining of government processes provided under Executive Order No. 30 does not in itself violate the constitutional right of the petitioners to a balanced and healthful ecology. The petitioners failed to establish the correlation of said streamlining with the alleged violation of the said constitutional right.

Even if such is not the case, the term "significant," as found in Section 2 of Executive Order No. 30, is not overly broad.

Executive Order No. 30 elaborates on the definition of EPNS. Section 2 of Executive Order No. 30 provides:

> SECTION 2. *Energy Projects of National Significance (EPNS).* — EPNS are major energy projects for power generation, transmission and/or ancillary services including those required to maintain grid stability and security, identified and endorsed by the DOE as "projects of national significance" that are in consonance with the policy thrusts and specific goals of the PEP, and which possess any of the following attributes:
>
> a. significant capital investment of at least [PHP] 3.5 [b]illion;
> b. significant contribution to the country's economic development;
> c. significant consequential economic impact;
> d. significant potential contribution to the country's balance of payments;
> e. significant impact on the environment;
> f. complex technical processes and engineering designs; and/or
> g. significant infrastructure requirements.

Additionally, Rule 5 of the IRR provides further guidelines on the aforementioned provision, as follows:

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[142] *Disini v. Secretary of Justice,* 727 Phil. 28, 121–122 (2014) [Per J. Abad, *En Banc*].

PART I
ENERGY PROJECTS OF NATIONAL SIGNIFICANCE

RULE 5 - SCOPE OF EPNS

EPNS are major Energy Projects for power generation, transmission, and/or ancillary services including those required to maintain grid stability and security for on and off-grid areas, identified and endorsed by the DOE as "projects of national significance" that are in consonance with the policy thrusts and specific goals of the [Philippine Energy Plan], and which possess any of the following attributes:

a) It must have a significant capital investment of [PHP] 3.5 billion;

b) It must have a significant contribution to the country's economic development: *Provided, That*, this pertains to the potential of the project to promote greater access to energy and energy supply security of the country;

c) It must have a significant consequential economic impact: *Provided, That*, this pertains to the potential of the project to generate jobs, employment and increase revenues for the government, among others;

d) It must have a significant potential contribution to the country's balance of payment: *Provided, That*, this pertains to the potential of the project to contribute to the inflow of foreign investment capital;

e) It must have a significant impact on the environment: *Provided, That*, this pertains to the potential of the project to contribute to sustainability with minimal adverse effects to the environment;

f) It must have a significant complex technical process and/or engineering designs: *Provided, That*, these refer to projects involving newly developed or pioneering energy systems and/or technologies; and,

g) It must have a significant infrastructure requirement: *Provided, That*, the project has associated infrastructure necessary for the delivery of energy services and/or supply such as transmission and distribution networks.

On its own, Section 2(a) of Executive Order No. 30 establishes a measurable and objective criterion to identify an EPNS. Any energy project with a capital investment of at least PHP 3.5 billion can be classified as an EPNS. This may then be used as a benchmark to contextualize Sections 2(b) to (g). To illustrate, an energy project may qualify as an EPNS under Section 2(b) if its projected contribution to the country's economic development is at least PHP 3.5 billion, and so on.

When taken in conjunction with Rule 5 of the IRR, both provisions offer clear standards to define the term "significant." The IRR further qualifies the attributes found in Section 2 of Executive Order No. 30.

Thus, petitioners are in error. Executive Order No. 30 and its IRR provide clear standards and attributes to define the term "significant" in the context of determining which projects qualify as an EPNS.

Executive Order No. 30 does not violate the due process clause

Petitioners' claim that Executive Order No. 30 deprived them of due process is untenable. Petitioners were able to file a Letter Request to the EICC, appeals to the Office of the President, and oppositions in relevant DENR offices.[143] As mentioned, the record does not show that petitioners proved the pending cases were denied solely due to Executive Order No. 30.

Further, petitioners assert a lack of transparency in the implementation of the baselines or rights under Executive Order No. 30. They base this argument on the EICC's denial of their request for copies of the monitoring reports, and the permits and documents relative to the coal-fired power plant operated by Atimonan One Energy, Inc.[144]

However, as correctly pointed out by the OSG, the EICC denied petitioners' request by citing Executive Order No. 2, series of 2016 (Executive Order No. 2)[145] for failing to disclose the purpose of their request.[146]

In cases of denial of request for access to information, Section 13 of Executive Order No. 2 provides for the following remedies:

> SECTION 13. Remedies in Case of Denial of Request for Access to Information. —
>
> a) Denial of any request for access to information may be appealed to the person or office next higher in authority, following the procedure mentioned in Section 8 (f) of this Order: Provided, that the written appeal must be filed by the same person making the request within fifteen (15) calendar days from the notice of denial or from the lapse of the relevant period to respond to the request.

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143 *Rollo*, p. 46.
144 *Id.*
145 (2016), Operationalizing in the Executive Branch the People's Constitutional Right to Information and the State Policies of Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor.
146 *Id.* at 107.

b) The appeal shall be decided by the person or office next higher in authority within thirty (30) working days from the filing of said written appeal. Failure of such person or office to decide within the afore-stated period shall be deemed a denial of the appeal.

c) Upon exhaustion of administrative appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

As it stands, petitioners have not disclosed whether they have availed of these remedies.

Considering these, petitioners cannot rely on *Alliance for the Family Foundation Philippines, Inc. (ALFI) v. Hon Garin,*[147] to claim that Executive Order No. 30 is supposedly invalid due to the absence of minimum requirements of due process such as publication, notice, and hearing.[148] Existing mechanisms allow petitioners to inquire into and even access information on the processes related to the issuance of CEPNS. The fact that their request was denied does not automatically connote a violation of the due process clause. Moreover, unlike *ALFI,* respondents have not completely ignored petitioners' requests and letters.

Petitioners are well to remember that both substantive and procedural due process requirements must be considered to determine if a particular act is violative of the due process clause.[149]

It is worth emphasizing that Executive Order No. 30 does not create substantial rights. Executive Order No. 30 was created to streamline government processes related to energy investments in the country. The assailed baselines are mere guidelines to establish a simplified approval process and harmonize the relevant rules and regulations affecting energy projects to guarantee the delivery of sufficient, adequate, and reliable supply of energy in the country. Its IRR directs the EICC and other government instrumentalities to submit a streamlined procedure of its documentary requirements and permits. Further, Sec 7.3 of the IRR requires the EICC to ensure that the revised guidelines and process flows are published and made available to the public through the EICC website and other means to ensure greater public availability.

Furthermore, while Executive Order No. 30 provides for the baselines in the processing of permits of EPNS, it does not do away with other legal requirements and remedies available under existing laws.

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147 793 Phil. 831 (2016) [Per J. Mendoza, Special Second Division].
148 *Rollo*, p. 45.
149 *Republic v. Sandiganbayan,* 461 Phil. 598 (2003) [Per J. Corona, *En Banc*]

Under the IRR of Executive Order No. 30, the general framework for the processing of EPNS is as follows:

> RULE 6 - RIGHTS UNDER CEPNS
>
> 6.1. The CEPNS entitles the project to a processing time of 30-working day period upon submission of complete documentary requirements to the relevant agencies in the permitting process of Energy Projects. Towards this end, all national government agencies, instrumentalities, Local Government Units (LGUs) and government-owned and controlled corporations (GOCCs) involved in the processing and approval of permits and licenses are hereby directed, with respect to the permits and processes within their jurisdiction, to act upon applications for permits with CEPNS within 30-working days from submission of complete documentary requirements. *Said period should be sufficient for each agency to determine whether such project is compliant with all the requirements set by existing laws, rules, and regulations, including the general principle of protecting public interest and national security.*
>
> 6.2. The CEPNS entitles the project to be processed by (sic) accordingly, without awaiting the action of other government agencies involved in the processing if such action is a precondition of a requirement for processing. Forthwith, the processing government agency shall act on the presumption that as holder of the CEPNS, the relevant permits from other government agencies had already been issued. Such presumption extends only insofar as the permitting process is concerned. *Government agencies retain the right to enforce compliance with existing laws, rules and regulations within their jurisdiction.*
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> . . . .
>
> 6.4. *Upon the determination of any defect or lapses in substance and form of the submitted documents, the project proponent shall be notified and will be given appropriate time to take the necessary actions.* During this reckoning period, the provision in Rule 6.3 shall not take into effect.[150] (Emphasis supplied)

While Executive Order No. 30 provides for a 30-working day processing period and grants EPNS the presumption of compliance, it does not prevent government agencies from enforcing environmental compliance under existing laws, rules and regulations. As such, the petitioners may still avail of the remedies under existing laws, rules and regulations, should they find the issuance of any permit or other regulatory compliances irregular or unlawful.

For instance, under DENR Administrative Order No. 03-30,[151] any party aggrieved by the final decision on an ECC/CNC application may, within

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[150] *Rollo*, p. 45.

[151] 2003 Rules for Agrarian Law Implementation Cases.

15 days from receipt of such decision, file an appeal with the EMB Director or the DENR Secretary, as the case may be.[152]

Also, any conflicts or disputes arising from a violation of the IPRA may be brought to the NCIP for proper adjudication.[153]

Similarly, applications for land use conversion may be protested and issuance of conversion orders may be subject of a motion for reconsideration, appeal, or a petition for revocation or withdrawal with the DAR.[154]

The petitioners have yet to prove that the mechanisms available under existing environmental laws, rules, and regulations proved futile or were rendered useless when Executive Order No. 30 was issued. In fact, in their Letter to the EICC,[155] dated October 2, 2018, requesting for the reconsideration or revocation of Atimonan One Energy Project's Certification as EPNS, it appears that at the time of filing, there are pending cases that have yet to be resolved by the appropriate agencies.[156] Notably, the record reveals that nowhere did the petitioners establish that these pending cases were summarily denied by reason of Executive Order No. 30. Simply, the purported threat or incidence of injury is merely speculative or hypothetical.

A final note

The Court shares the petitioners' concern for the environment. It takes its role in the enforcement of the constitutional right to a healthful and balanced ecology very seriously. Its intention has been translated to action, principally through its landmark decisions and also through its rule-making power.

The contentions raised by petitioners, though gallant, were regrettably misplaced. They failed to show that the issuance of Executive Order No. 30 breaches the Constitution or that its issuance violated existing legislation or petitioners' constitutional rights. The causal link between the issuance and implementation of Executive Order No. 30 and the injury or prejudice—specifically, the harm to the petitioners' constitutional rights—was not demonstrated.

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152 See DENR Administrative Order No. 03-03, (2003), sec. 6, or the Implementing Rules and Regulations for the Philippine Environmental Impact Statement System.

153 See Administrative Order No. 01 (2018) or the 2018 NCIP Rules of Procedure.

154 See DAR Administrative No. 01 (2002) or the 2002 Comprehensive Rules on Land Use Conversion.

155 *Rollo*, pp. 93–96.

156 ECC-CO-1412-0029 – Environmental Compliance Certificate (Motion for Reconsideration filed with the Environmental Management Bureau on the Atimonan Coal Plant's ECC); ERC Case No. 2016-092 – Power Supply Agreement (pending before the Energy Regulatory Commission); 1C-OC-172434 – Criminal and Administrative Complaint filed against the Energy Regulatory Commission and pending before the Office of the Ombudsman.

ACCORDINGLY, the Petition for *Certiorari* is **DISMISSED**.

SO ORDERED.

MARIA FILOMENA D. SINGH
Associate Justice

WE CONCUR:

ALEXANDER G. GESMUNDO
Chief Justice

MARVIC M.V.F. LEONEN
Senior Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

On official business but left a vote
RAMON PAUL L. HERNANDO
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

MARIO V. LOPEZ
Associate Justice

On official leave
SAMUEL H. GAERLAN
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

JOSE MIDAS P. MARQUEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

ALEXANDER G. GESMUNDO
Chief Justice