CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION
FOR CASE NUMBER 20/PUU-XXII/2024
Concerning

Constitutionality of Expiration of Prosecution Period
in Indonesian Criminal Code

Petitioner	:	**Mohammad Riyadi Setyarto**
Type of Case	:	Judicial Review of Law 1 of 1946 concerning Criminal Law Regulations (Indonesian Criminal Code) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
Subject Matter	:	Judicial Review of Article 79 of Indonesian Criminal Code against 1945 Constitution
Verdict	:	To dismiss the Petitioner's petition in its entirety
Date of Decision	:	Wednesday, March 20, 2024
Overview of Decision	:	

Whereas the Petitioner is an individual Indonesian citizen who believes that he is injured due to the enactment of the norms of the *a quo* article, namely Article 79 of Indonesian Criminal Code, in the phrase which states that the expiration date shall be counted from the day after the act is committed, except in the following cases:

Regarding the authority of the Court, since the Petitioner petitions for a review of Law against the 1945 Constitution, the Court has the authority to hear the *a quo* petition.

Regarding the Petitioner's legal standing, the Petitioner is an Indonesian citizen who believes that his constitutional rights have been injured due to the enactment of Article 79 of Indonesian Criminal Code, especially in relation to the expiration of the prosecution period, which according to the Petitioner has caused the Petitioner and his family to be unsafe, and thus the Petitioner's constitutional rights as regulated in Article 28A and Article 28G paragraph (1) of the 1945 Constitution are violated because the perpetrator of criminal act remains free. The Court is of the opinion that the Petitioner has been able to describe the constitutional injury he experienced which was specific and actual in nature and he was also able to describe the presumption of the constitutional injury had a causal relationship (*causal verbaand*) with the enactment of the legal norms being petitioned for review. Therefore, if the *a quo* petition is granted, the presumed constitutional injury as described will no longer occur. Thus, regardless of whether the unconstitutionality of the norms being petitioned for review by the Petitioner is proven or not, the Court is of the opinion that the Petitioner has the legal standing to act as Petitioner in the *a quo* petition.

Whereas since the *a quo* petition is clear, therefore, pursuant to Article 54 of the Constitutional Court Law, the Court is of the opinion that there is no urgency and relevance in hearing the statements of the parties as intended in Article 54 of the Constitutional Court Law.

Furthermore, regarding the subject matter of the petition, the Court in its consideration states the following:

- Whereas the Court is of the opinion that in considering the unconstitutionality of the norm of Article 79 of Indonesian Criminal Code, such article may not be separated from other articles which also regulate the revocation of the authority to prosecute any criminals and carry out any criminal proceedings as regulated in Chapter VIII of Indonesian Criminal Code. Therefore, regardless of the concrete case experienced by the Petitioner, the Court is of the opinion that if the norm of the *a quo* article is declared unconstitutional as desired by the Petitioner, it would actually create legal uncertainty and injustice. Furthermore, in addition to being able to create legal uncertainty and injustice, any criminal act committed by perpetrator without any determination regarding the expiration of the prosecution period will also complicate the process of handling the relevant case, because the criminal act has occurred a long time ago before the commencement of the prosecution process of such perpetrator. Over a long period of time and without any expiration date, it is very possible that the law enforcement officers (the investigators) will be replaced. This would mean that any study and assessment of the results of investigations of a case must be started from the beginning by a new investigator based on evidence that may no longer be valid. Moreover, factually, the evidence of a criminal act would be invalid due to the fact that the investigation into such criminal act has been going on for a long time since the criminal incident occurred. This could happen in the form of the evidence relating to the criminal act has been damaged, the witnesses have forgotten to remember the events they saw, experienced and felt, due to age or other health problems or even the witness has died.

- The Court must emphasize an important thing regarding the constitutionality of the norms of the *a quo* Article which is the limitation is implemented solely to ensure legal certainty and respect for the rights and freedoms of other people. In addition, the Court does not agree with the Petitioner's argument which links the limitation on the expiration period with the potential for violations of human rights. The Court is of the opinion that the recognition and protection of human rights is not absolute, but certain limitations are justified to the extent that they are in line with what is regulated in Article 28J paragraph (2) which states that in exercising his/her rights and freedoms, every person is obliged and subject to limitations determined by law solely to guarantee the recognition and respect for the rights and freedoms of other people and to fulfill fair demands in accordance with considerations of morals, religious values, security, and public order in a democratic society.

- Pursuant to all the legal considerations above, the Court is of the opinion that there is no constitutionality issue in the norms of Article 79 of Indonesian Criminal Code in relation to the phrase "*The expiration date shall be counted since the day after the criminal act is committed, except in the following cases:*", so that the argument of the Petitioner's petition is legally unjustifiable. Therefore, the Petitioner's argument is entirely legally unjustifiable.

The Court subsequently passed down a decision which verdict states to dismiss the Petitioner's petition in its entirety.