



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 170/PUU-XXII/2024**

Concerning

**The Constitutionality of Undated and Unsigned Derivative Indictments
in the Criminal Procedure Code**

Petitioner	: I Gusti Ngurah Agung Krisna Adi Putra
Type of Case	: Judicial Review of Law Number 8 of 1981 concerning Criminal Procedure Law (Law 8/1981) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
Subject Matter	: Judicial Review of Article 143 paragraph (2) of Law 8/1981 against the 1945 Constitution
Verdict	: To dismiss the Petitioner's petition in its entirety
Date of Decision	: Friday, January 3, 2025
Overview of Decision	:

Whereas the Petitioner is an individual Indonesian citizen who believes that his constitutional rights are violated by the enactment of the article *a quo*, namely Article 143 paragraph (2) of Law 8/1981, which states, "The public prosecutor prepares an indictment which is dated and signed and contains:

- a. full name, place of birth, age or date of birth, gender, nationality, place of residence, religion and occupation of the suspect;
- b. a careful, clear and complete description of the crime charged, stating the time and place where the crime was committed."

With respect to the authority of the Court, since the Petitioner petitions for a review of Law 8/1981 against the 1945 Constitution, the Court has the authority to hear the petition *a quo*.

With respect to the legal standing of the Petitioner, an Indonesian citizen who believes that his constitutional rights have been violated by the enactment of Article 143 paragraph (2) of Law 8/1981, particularly with regard to the phrase "dated and signed," given that in the indictment received by the Petitioner in the case he experienced, the Prosecutor did not provide a date and did not sign the indictment, such that, according to the Petitioner, the indictment should be null and void by operation of law. The existence of the norm *a quo*, according to the Petitioner, has violated, or at least potentially violates, his constitutional right to obtain fair legal certainty.

Furthermore, with respect to the legal standing of Petitioner, the Court in its consideration states the following:

Whereas the Petitioner has been able to prove himself as an individual Indonesian citizen [*vide* Evidence P-3]. The Petitioner has also been able to describe, specifically and actually, the loss of constitutional rights due to the enactment of the norm of Article 143 paragraph (2) of Law 8/1981, which is being petitioned for review. In addition, the description of the alleged loss of constitutional rights in question has a causal relationship (causal verband) with the enactment of the legal norms being petitioned for review, because the indictment drawn up by the prosecutor/public prosecutor is invalid in that it does not include the date and signature, even though what was received was a copy of the indictment. Therefore, if the petition *a quo* is granted, the alleged loss of constitutional rights as described by the Petitioner will no longer occur. Therefore, regardless of whether or not the unconstitutionality of the norm being petitioned for review is proven, the Court is of the opinion that the Petitioner has the legal standing to act as a Petitioner in the petition *a quo*.

Meanwhile regarding the subject matter of the Petitioner's petition, the Court in its legal consideration states the following:

Whereas, without the Court intending to assess the concrete case experienced by the Petitioner, who argued that the copy of the indictment received from the prosecutor did not contain a date and signature as required under Article 143 paragraph (4) of Law 8/1981, and by referring to the legal considerations in Constitutional Court Decision Number 28/PUU-XX/2022 above, the Court is of the opinion that an indictment constitutes a fundamental requirement in determining whether a person may be held responsible for having committed a criminal act and subsequently sentenced to a penalty, including imprisonment or the deprivation of liberty. Therefore, prosecutors must exercise due care in drafting indictments so as not to harm either the defendant or the interests of the state or the public they represent.

In addition, according to the Court, apart from the concrete case experienced by the Petitioner, the principal matter assessed by the Court in the case *a quo* is whether there exists a legal remedy for the defendant to submit an objection and/or pursue legal remedies in the event that the defendant faces a real situation in the trial proceeding of his case due to the negligence of the public prosecutor in drafting and submitting the indictment, which has the potential to violate the defendant's constitutional rights to legal recognition, guarantees, certainty, protection, and equal treatment before the law, as regulated in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

As the Court has considered in the Constitutional Court Decision Number 28/PUU-XX/2022 above, Article 156 paragraph (1) and paragraph (2) of Law 8/1981 regulate the steps or legal remedies that may be pursued by the defendant when, in the view of the defendant or his legal counsel, the indictment is declared inadmissible or cancelled, *in casu* where the defendant or his legal counsel considers that the indictment does not comply with the provisions of Article 143 paragraph (2) of Law 8/1981. The legal steps or remedies available to the defendant include filing an objection (exception) concerning the public prosecutor's indictment that does not comply with the provisions of the article *a quo*. With regard to the objection submitted by the defendant or his legal counsel, pursuant to Article 156 paragraph (1) and paragraph (2) of Law 8/1981, the judge examining the case, after hearing the opinion or response of the public prosecutor, is obliged to render a decision in the form of an interim ruling. Furthermore, if the defendant does not accept the interim ruling rendered by the trial judge, Article 156 paragraph (4) of Law 8/1981 provides an opportunity for the defendant or his legal counsel to pursue a legal remedy by filing his opposition with the competent high court.

In addition to legal remedies against an interim ruling, the defendant or his legal counsel may also continue to raise objections to the public prosecutor's indictment in the

defendant's defense (plea) after the public prosecutor has submitted the criminal charge (requisitoir), as regulated in Article 182 paragraph (1) letter b of Law 8/1981. If the legal steps or remedies pursued by the defendant or his legal counsel are unsuccessful at the first-instance court, the objection *a quo* may be resubmitted at the appellate stage through an appeal memorandum, provided that the high court has not yet commenced examination of the case, as regulated in Article 237 of Law 8/1981. Likewise, if the defendant subsequently pursues the legal remedy of cassation before the Supreme Court, then pursuant to Article 244 of Law 8/1981, the defendant or his legal counsel may still raise objections to the indictment as grounds in the cassation memorandum, on the basis that the *judex facti* is deemed to have "misapplied or violated the law," which constitutes one of the grounds for cassation under Article 30 of Law No. 14 of 1985 concerning the Supreme Court. This demonstrates that Law 8/1981 regulates the procedural steps and legal remedies available to the defendant or his legal counsel throughout the criminal justice process, from the court of first instance through the cassation stage. Therefore, the Court is of the opinion that the Petitioner's argument concerning Article 143 paragraph (2), specifically regarding the phrase "the indictment is dated and signed," which is alleged to have resulted in the absence of fair legal recognition, guarantees, protection, certainty, and equal treatment before the law, is not justified and must therefore be declared legally unjustifiable.

Whereas pursuant to all the foregoing legal considerations, it has been demonstrated that the norms contained in Article 143 paragraph (2) of Law 8/1981 do not give rise to issues of fair legal recognition, guarantees, protection, certainty, or equal treatment before the law as guaranteed under Article 28D paragraph (1) of the 1945 Constitution, and not as argued by the Petitioners. Therefore, the Petitioner's arguments are entirely legally unjustifiable.

Accordingly, the Court subsequently passed down a decision, the verdict of which was to dismiss the Petitioner's petition in its entirety.