



**THE CONSTITUTIONAL COURT OF  
THE REPUBLIC OF INDONESIA**

**THE SUMMARY OF DECISION  
CASE NUMBER 43/PUU-XIX/2021**

**Concerning**

**Deadline for Completion of Material Review at the Supreme Court**

- Petitioner** : **PT. Sainath Realindo**  
**Type of Case** : Review over Law Number 3 of 2009 regarding Second Amendment to Law Number 14 of 1985 regarding the Supreme Court (Supreme Court Law) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution).  
**Subject Matter** : Article 31A paragraph (4) of the Supreme Court Law is deemed contradictory with Article 24 paragraphs (1) and (2), Article 28D paragraph (1), and Article 28H paragraph (2) of the 1945 Constitution  
**Verdict** : To dismiss the Petitioner's petition in its entirety.  
**Date of Decision** : Thursday, September 30th, 2021.  
**Overview of Decision** :

The Petitioner is a private limited liability company that had submitted a petition for the material review over the Regulation of the Minister of Finance to the Supreme Court and it believes that it has suffered damages due to the lack of legal certainty regarding the deadline for the examination of a petition for material review by the Supreme Court as stipulated in Article 31A paragraph (4) of the Supreme Court Law. According to the Petitioner, damages have arisen because the Petitioner's case had been ruled inadmissible (NO) by the Supreme Court presumably because the subject matter of the petition had changed. According to the Petitioner, the foregoing had occurred because the decision of the Supreme Court was issued beyond the deadline as referred to in Article 31A paragraph (4) of the Supreme Court Law.

In relation to the jurisdiction of the Court, given that the Petitioner is requesting for a judicial review over a Law, in this case the Supreme Court Law, against the 1945 Constitution, which is one of the powers of the Court, the Court has the jurisdiction to hear the petition in this case.

In relation to the legal standing, according to the Court, the Petitioner has the constitutional right granted by the 1945 Constitution and such constitutional right is considered to have been impaired by the enactment of the provisions of Article 31A paragraph (4) of the Supreme Court Law. The constitutional damage is specific and actual in nature and there is a causal relationship (*causal verband*) between the alleged damage and the enactment of the legal norms for which the review has been requested, namely the right to obtain a fair legal certainty. If the Petitioner's petition is granted, the constitutional damage as explained above would no longer occur. Therefore, regardless of whether or not the unconstitutionality of the norms of Article 31A paragraph (4) of the Supreme Court Law, for which the review has been requested, is proven, the Court is of the opinion that the Petitioner has the legal standing to file the petition in this case;

Whereas considering the clarity of the Petitioner's petition, based on Article 54 of the Constitutional Court Law the Court is in the opinion that it is not necessary to hear statements of the parties as referred to in Article 54 of the Constitutional Court Law;

In relation to the petition for reviewing the same norm, namely Article 31A paragraph (4) of the Supreme Court Law, in judicial review cases that have been examined by the Court in respect of the fulfilment of conditions under Article 60 of the Constitutional Court Law and Article 78 of the Regulation of the Constitutional Court Number 2 of 2021 regarding Proceedings of Judicial Review (PMK 2/2021), the Court considers that after examining the Petitioner's petition in this case, and the petitions in the previous cases, the Court is of the opinion that there are actually differences between the basis of the examination and the reasons for the petition for reviewing Article 31A paragraph (4) of the Supreme Court Law and the petition Number 30/PUU-XIII/2015 and the petition Number 85/PUU-XVI/2018. Therefore, based on the foregoing legal facts, the Court is of the opinion that the Petitioner's petition satisfies the provisions of Article 60 of the Constitutional Court Law and Article 78 of PMK 2/2021 so that it can be re-submitted;

In relation to the Petitioner's argument, after observing the legal consideration in the Constitutional Court Decision Number 30/PUU-XIII/2015, dated 31 May 2016 and the Constitutional Court Decision Number 85/PUU-XVI/2018, dated 24 January 2019, the Court's stance is clearly that there is no doubt regarding the interpretation of the deadline for the material judicial review at the Supreme Court pursuant to Article 31A paragraph (4) of the Supreme Court Law, which is 14 (fourteen) business days. The formulation of the norms of Article 31A paragraph (4) of the Supreme Court Law has clearly stated that the petition for review as referred to in paragraph (1) is conducted by the Supreme Court no later than 14 (fourteen) business days as of the receipt of the petition and thus it is not necessary to add any interpretation as referred to by the Petitioner in his petition. As for the issue whereby, the Petitioner established the fact that the petition for the material review filed by the Petitioner had, according to the Petitioner, been tried and decided beyond the deadline as referred to in Article 31A paragraph (4) of the said Law, the Court is in the opinion that this is a matter of the application of a norm instead of the constitutionality of the norm, over which the Court does not have any jurisdiction. According to the Court, the Supreme Court as an institution that applies the aforementioned norms has the jurisdiction to further govern as to how Article 31A paragraph (4) of the Supreme Court Law shall be enforced in adjudicating a petition for judicial review to the extent that the same does not prejudice the justice and benefits for justice seekers. As the Court has considered in a previous Decision, the Court is of the view that the deadline as set forth in Article 31A paragraph (4) of the Supreme Court Law is the choice of the legislators and it is not contradictory with the norms of the 1945 Constitution. Therefore, there is no word or phrase in Article 31A paragraph (4) of the MA Law which has reduced or will potentially reduce the Supreme Court's jurisdiction in administering proceedings as provided in Article 24 paragraph (1) and paragraph (2) of the 1945 Constitution as alleged by the Petitioner. Therefore, the Petitioner's petition regarding the unconstitutionality of Article 31A paragraph (4) of the Supreme Court Law vis-à-vis Article 24 paragraph (1) and paragraph (2) of the 1945 Constitution is not legally justifiable.

In the opinion of the Court, there is no conflict between Article 31A paragraph (4) of the Supreme Court Law and the right to fair legal certainty as guaranteed by Article 28D paragraph (1) of the 1945 Constitution. Furthermore, the Court considers that there is actually a conflict between the Petitioner's claims, namely claim number (3) and claim number (4), whereupon if this petition is granted, it would potentially cause a legal uncertainty, and thus the Petitioner's argument regarding the unconstitutionality of Article 31A paragraph (4) of the Supreme Court Law against Article 28D paragraph (1) of the 1945 Constitution is not legally justifiable.

In relation to the use of Article 28H paragraph (2) of the 1945 Constitution as a basis for the review, the Court believes that it is irrelevant with the norms in question because the substance of Article 28H paragraph (2) of the 1945 Constitution relates to the convenience and special treatment for citizens in obtaining equal opportunities and benefits in order to achieve equality and justice so that it is not directly related to the deadline for examining a petition for the material review as stipulated in Article 31A paragraph (4) of the Supreme Court Law.

Moreover, the above provision is intended for people who must receive a special treatment to enjoy the same opportunities and benefits. Therefore, the Petitioner's argument regarding the unconstitutionality of Article 31A paragraph (4) of the Supreme Court Law against Article 28H paragraph (2) of the 1945 Constitution is not legally justifiable. Upon on the entire consideration above, the arguments in the Petitioner's petition were not legally justifiable in their entirety and the Court in its verdict dismissed the Petitioner's petition in its entirety.