

ABSTRACT

Judicial review by public prosecutors raises pros and cons or polemics and controversial opinions among academics, practitioners and legal experts. Some of these pros and cons are caused by the subject of the PK applicant, including some who say that the prosecutor may file a review, and some that the prosecutor may not file a review and that only the defendant or his heirs may file a review. Article 263 of the Criminal Procedure Code explicitly stipulates that only the convicted person or his/her heirs can file a review to the Supreme Court. The public prosecutor is not allowed to file a review. In this formal legal context, the Supreme Court decided and stated that it could not accept the prosecutor's PK application. It is also clarified by Constitutional Court Decision No. 33/PUU-XIV/2016 that prosecutors are not allowed to file for a review. However, in practice, prosecutors are given space to submit PKs, namely the addition of prosecutor authority in Article 30C letter h of Law Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia. In this case, the problem is drawn: the reason or basis for the existence of the provisions of Article 30C letter h of Law Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia which regulates one of the powers of the Public Prosecutor to file a judicial review and What is the urgency of the prosecutor filing a judicial review in Law No. 11 of 2021 even though the Criminal Procedure Code has the authority for extraordinary legal remedies of cassation in the interests of the law . This research is normative legal research, with a statutory approach, conceptual approach, and case approach. The results of this study indicate that the prosecutor's authority in criminal, civil and state administrative matters is contained in Article 30 of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, but the prosecutor's authority in the provisions of the article is added in Law Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia in Article 30C letter h which states that one of the prosecutor's authorities is "to file a judicial review" the reason for this article is that there are several laws and regulations such as Article 263 paragraph (3) of the Criminal Procedure Code, Article 248 paragraph (3) of Law No. 31 of 1997 concerning Military Justice, and several PK decisions from the prosecutor that were accepted by the Supreme Court. In the prosecutor's extraordinary legal remedy has its own forum, namely cassation in the interests of the law, Cassation in the interests of the law is the last legal remedy that can be carried out by the Public Prosecutor in the criminal justice system. If the review is still submitted by the Public Prosecutor, it is of course very unfavorable for the convict or his heirs, and this of course has the potential to violate the human rights of the convict.

Keywords: Judicial review, acquittal or release.