

**Reevaluation of the Dispute over the Constitutionality of the
Act Governing the Settlement of Ill-gotten Properties by
Political Parties and Their Affiliate Organizations: Centering
on Interpretation No. 793**

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Abstract

As Interpretation No. 793 was released, the dispute over whether the Act Governing the Settlement of Ill-gotten Properties by Political Parties and Their Affiliate Organizations (hereinafter referring to as “the Act”) is in line with the constitution may have been temporarily appeased. Interpretation No. 793 has confirmed that Article 2, Article 4 Paragraphs 1 and 2, Article 8 Paragraph 5, and Article 14 of the Act are in line with the constitution. However, *Verfassungsvorbehalt* and *Verbot des Einzelfallgesetzes* became the center of dispute after the Act was regulated. Although Interpretation No. 793 covers them, perhaps restricted by the form of explanation, it cannot adequately address these issues like an academic research. Therefore, further discussion is necessary. This paper devoted a major part of its space to these issues. In addition, because the Act also involves the investigation and handling of the ill-gotten party assets of political parties and their affiliated organizations from the past to realize transitional justice, it is necessary to first analyze how it should be assessed according to the constitution. Specifically, whether a country has the constitutional obligation to use this method to promote and realize transitional justice as well as whether those ill-gotten party assets are within the protection of property rights under the constitution. Moreover, because the Act involves the investigation and handling of ill-gotten party assets of political parties and their affiliated

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organizations during the authoritarian period when there was no clear distinction between party and state, it may violate the principle of prohibition against retroactive law. Hence, it is necessary to probe into this issue, and the discussion was included in this paper. Also, this paper analyzed and evaluated relevant argument content of Interpretation No. 793. It is hope that this study is conducive to the conversation between the constitution and transitional justice.

Keywords: transitional justice, The Act Governing the Settlement of Ill-gotten Properties by Political Parties and Their Affiliate Organizations, Verfassungsvorbehalt, Einzelfallgesetz, the principle of prohibition against retroactive law