



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 51/PUU-XXIII/2025**

Concerning

Special Arrangements and Inheritance of Digital Assets

Petitioners	: Zidane Azharian Kemalpasha, et al.
Type of Case	: Judicial review of Law Number 11 of 2008 concerning Electronic Information and Transactions (Law 11/2008), as lastly amended by Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions (Law 1/2024) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
Subject Matter	: Article 5 paragraph (3) of Law 1/2024 and Article 7 of Law 11/2008 are contrary to the principle of the rights to develop oneself and obtain benefits from technology, as well as the principles of legal certainty and equal treatment before the law as guaranteed in Article 28C paragraph (1) and Article 28D paragraph (1) of the 1945 Constitution
Verdict	: To dismiss the Petitioners' petition entirely
Date of Decision	: Thursday, June 26, 2025
Overview of Decision	:

Whereas Petitioner I, Petitioner II, and Petitioner III each qualify themselves as an individual Indonesian citizen who has constitutional rights as guaranteed in Article 28C paragraph (1) and Article 28D paragraph (1) of the 1945 Constitution.

Regarding the Court's authority, since the submitted petition is a review of the constitutionality of statutory norms, *in casu* Article 5 paragraph (3) of Law 1/2024 and Article 7 of Law 11/2008 against the 1945 Constitution, therefore the Court has the authority to hear the petition *a quo*.

Regarding legal standing, Petitioner I, Petitioner II, and Petitioner III have constitutional rights as guaranteed in Article 28C paragraph (1) and Article 28D paragraph (1) of the 1945 Constitution. Petitioner I, Petitioner II, and Petitioner III describe themselves as students engaged in organizations that are active and focused on legal advocacy, public education, and studies of government policies. Petitioner I, Petitioner II, and Petitioner III also state that they are owners of digital assets, as evidenced by proof of ownership of their respective digital assets. Petitioner I, Petitioner II, and Petitioner III suffer a constitutional loss due to the absence of norms, which means that digital asset owners, as the legal owners, and the prospective heirs to digital assets are not guaranteed to have clear legal protection.

Pursuant to this description, Petitioner I, Petitioner II, and Petitioner III (hereinafter referred to as the Petitioners) have the legal standing to submit petition the *a quo*.

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

Whereas in the subject matter of the petition, the Petitioners argue that Article 5 paragraph (3) of Law 1/2024 and Article 7 of Law 11/2008 do not regulate the existence of digital assets as part of electronic information and/or electronic documents as well as relevant rights that can be inherited, so that there is a need for a special legal framework that regulates and protects digital assets and the inheritance mechanisms, given currently no comprehensive regulations are available to accommodate the existence and transfer of digital assets in Indonesia along with the dispute resolution mechanisms. Furthermore, in the Petitioners' opinion, provisions on digital assets should be enacted as laws rather than limited-scope regulations to ensure greater legal certainty and stability. The Petitioners petition the Court to declare that Article 5 paragraph (3) of Law 1/2024 is contrary to the 1945 Constitution to the extent that it is not interpreted that electronic information and/or electronic documents also include proof of ownership, existence, and transactions of digital assets, such as cryptocurrencies, digital tokens, social media accounts, and other forms of digital assets. The Petitioners also petition the Court to declare that Article 7 of Law 11/2008 is contrary to the 1945 Constitution to the extent that it is not interpreted that the rights asserted, strengthened, or denied based on electronic information and/or electronic documents also include ownership rights over digital assets, such as social media accounts, cryptocurrencies, digital tokens, and other forms of digital assets.

Whereas regarding the subject matter of the petition, the Court considers that since the enactment of Law Number 4 of 2023 concerning Development and Strengthening of the Financial Sector (Law 4/2023), the duties of regulating and supervising digital financial asset activities, including crypto assets, has shifted from the Bappebti (Commodity Futures Trading Regulatory Agency) to the financial sector authority, namely the Financial Services Authority (OJK) [*vide* Article 312 paragraph (1), Elucidation of Article 312 of Law 4/2023, and Article 8 point 4 of Law 4/2023 which amends Article 6 of Law Number 21 of 2011 concerning the Financial Services Authority (OJK Law)]. Article 6 paragraph (1) letter e in Article 8 point 4 of Law 4/2023 essentially stipulates that the OJK carries out regulatory and supervisory duties regarding, among other things, activities in the sector of Technology Innovation in the Financial Sector, as well as digital financial assets and crypto assets. Law 4/2023 has also determined that the composition of the OJK Board of Commissioners includes a Chief Executive for Supervision of Technology Innovation in the Financial Sector, Digital Financial Assets, and Crypto Assets, who also serves as a member of the Board of Commissioners [*vide* Article 10 paragraph (4) letter g in Article 8 point 7 of Law 4/2023]. These provisions demonstrate the government's commitment to monitoring activities in the digital financial asset sector. In this context, what is meant by "digital financial assets" are financial assets stored or represented digitally, including crypto assets [*vide* Elucidation of Article 213 letter h of Law 4/2023]. Thus, all activities related to crypto assets have been categorized by the law as one of the scopes of technology innovation in the financial sector (ITSK) and recognized as digital financial assets.

Whereas, furthermore, regarding the norm of Article 5 paragraph (3) of Law 1/2024, which the Petitioners deem unconstitutional, in principle, the norm *a quo* is part of the general provisions that regulate matters regarding information, documents, and electronic signatures [*vide* Chapter III of Law 11/2008 *juncto* Law 1/2024]. The provisions *a quo* of Article 5 paragraph (3) are intended as a limitation on the validity of electronic information and/or electronic documents, namely that they are declared valid if they use the electronic system in accordance with Law 11/2008, as lastly amended by Law 1/2024. In the Court's opinion, when an article in a law is formulated in a general manner, it is intended that its substance covers broader aspects, so that it does not necessarily mean that the article is unconstitutional. Meanwhile, the Petitioners argue that Article 5 paragraph (3) of Law 1/2024 is not adaptable to technological developments and provides only limited legal recognition of the existence of digital assets. However, the Petitioners' *petitum* to interpret Article 5 paragraph (3) of Law 1/2024

so that electronic information and/or electronic documents also include proof of ownership, existence, and transactions of digital assets, such as cryptocurrencies, digital tokens, social media accounts, and other forms of digital assets, will only narrow and create limitation on the scope of Article 5 paragraph (3) of Law 1/2024 itself. In the Court's opinion, such a *petitum* results in ambiguity in the norm *a quo* of Article 5 paragraph (3) since the boundaries of the meaning of electronic information and/or electronic documents have become unclear due to the mixing of provisions regarding the validity of electronic information and/or electronic documents with provisions regarding digital financial assets.

Moreover, regarding the Petitioners' argument challenging the norm of Article 7 of Law 11/2008, upon careful examination, the Court finds that the formulation of the norm *a quo* is intended to regulate electronic information and/or electronic documents so that they can be used as a basis for the emergence of rights. To be categorized as electronic information and/or electronic documents to use them as a basis for the emergence of rights, it must be proven that the information and/or documents in question originate from an electronic system that meets the requirements under statutory regulations. This means that, under the formulation of Article 7, if the digital assets referred to by the Petitioners are electronic information and/or electronic documents originating from an electronic system that meets the requirements under statutory regulations, then they basically serve as the basis for the emergence of rights. The Petitioners' *petitum* that Article 7 of Law 11/2008 be interpreted that "the rights asserted, strengthened, or denied based on electronic information and/or electronic documents also include ownership rights over digital assets, such as social media accounts, cryptocurrencies, digital tokens, and other forms of digital assets", apart from being an inappropriate interpretation, also creates unclear formulation of the norm and even narrows the application of the norm of Article 7 of Law 11/2008 itself.

Furthermore, regarding the Petitioners' argument challenging the unclear regulation of inheritance rights over digital assets, the Court first considers that, doctrinally, inheritance is the transfer of a deceased person's wealth to one or more other people. In other words, the elements of inheritance are the existence of a deceased person, the assets left behind, and the heirs. If assets in the form of digital representations are categorized as property, they can, in principle, be inherited. However, assets in the form of digital representations may generally differ from non-digital assets in several ways. The diversity of digital representation forms makes it challenging to apply inheritance provisions to them. For example, inheriting a social media account is difficult in practice because different settings may apply to each account, as each social media provider/platform is free to determine its own settings for its users, including the status of an account whose user has died. In fact, services related to digital representation forms are generally provided across borders, where each country may have different regulations, including laws that apply to inheritance disputes. One country may have different policies and legal rules for assessing assets in the form of digital representations, which is also related to each country's sovereignty. Moreover, not all forms of digital representation qualify as digital financial assets. Even if recognized as a digital financial asset, such as a crypto asset, the asset has not been recognized as legal tender and therefore cannot be equated with customer deposits in a bank in the form of money recognized as legal tender. However, the inheritance provisions for all forms of digital representation cannot be separated from the state's recognition of each digital asset, as manifested in statutory regulations, because this will determine whether the digital asset in question can be categorized as an inherited asset, which is one element of inheritance.

Regarding the Petitioners' argument that the provisions on inheritance of digital assets should be regulated by reviewing the norms of Article 5 paragraph (3) of Law 1/2024 and Article 7 of Law 11/2008, the Court is of the view that the provisions on inheritance are basically stipulated in the applicable laws and regulations, including the Civil Code and the Compilation of Islamic Law. In other words, the fact that Law 11/2008 *juncto* Law 1/2024, as the legal basis for the validity of electronic information and transactions, has no provisions on inheritance of digital assets, does not mean that the articles in Law 11/2008 *juncto* Law 1/2024 are contrary to the constitution, as argued by the Petitioners. Moreover, upon careful reading and examining the Petitioners' petition, the Court finds that the correlation between inheritance rights of digital assets and the application of the norms of

Article 5 paragraph (3) of Law 1/2024 and Article 7 of Law 11/2008 is not clearly constructed, so the Court does not identify any constitutionality issues in the norms of Article 5 paragraph (3) of Law 1/2024 and Article 7 of Law 11/2008 as argued by the Petitioners. In this case, whether crypto assets are inheritable assets or not, in fact, they already have economic value. However, the Petitioners challenge the norm of Article 5 paragraph (3) of Law 1/2024 which regulates information, documents, and electronic signatures, as well as the norm of Article 7 of Law 11/2008 which is intended as a provision that governs electronic information and/or electronic documents which can be used as a basis for the emergence of rights [*vide* Chapter III and Elucidation of Article 7 of Law 11/2008]. If the Petitioners' wishes are granted, it would be inappropriate. Because if the Court agrees with the Petitioners' *petitum*, it will actually undermine the construction of the norms in Law 11/2008 and Law 1/2024, which govern the application of the norms of Article 5 paragraph (3) of Law 1/2024 and Article 7 of Law 11/2008. Thus, the Petitioners' argument *a quo* is legally unjustifiable.

Furthermore, the Court examines that the Petitioners' petition, in the *posita* section, essentially challenges the absence of specific regulations regarding ownership of digital assets, such as social media accounts, cryptocurrencies, digital tokens, and other forms of digital assets. The Petitioners explain that there is a difference between digital assets and digital financial assets. However, on the one hand, in the *posita* section, the Petitioners refer to crypto assets as digital financial assets, while, on the other hand, in the *petitum* section, the Petitioners categorize crypto assets as digital assets. Despite the Petitioners' unclear explanations regarding the status of crypto assets in particular, the regulatory basis for them is already established in Law 4/2023 and its implementing regulations. Meanwhile, regarding social media accounts, the Unidroit Principles on Digital Assets and Private Law state in Illustration 4 that "A social media page with a password for access is not a digital asset". This means that social media accounts are not digital assets because generalizations about social media or social networking platforms are difficult to make [*vide* Principle 2 of the Unidroit Principles on Digital Assets and Private Law, commentary point 2.16]. Even if the Petitioners also petition for social media accounts, digital tokens, and other forms of digital representation to be recognized as digital financial assets like crypto assets, such recognition should be regulated by institutions with authority in the financial sector. Moreover, if the Petitioners' wishes in their *petitum* that cryptocurrencies, digital tokens, social media accounts, and other forms of digital assets are included in the interpretation of Article 5 paragraph (3) of Law 1/2024 and Article 7 of Law 11/2008, then this inclusion is actually inconsistent with the Petitioners' own argument that Indonesia needs to have special regulations regarding digital assets in laws. The Petitioners should strive for the special regulations to be enacted in separate laws by the law-making body, and also actively participate in the legislative process for the law in question.

Whereas pursuant to these legal considerations, the Court is of the view that the Petitioner's petition is legally unjustifiable.

Accordingly, the Court subsequently passes down a decision, the verdict of which states to dismiss the Petitioners' petition entirely.