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

# SUMMARY OF DECISION
# FOR CASE NUMBER 180/PUU-XXII/2024

**Concerning**

**Legality of Central Authority in Handling Extradition and Mutual Legal Assistance (MLA) at the Ministry of Law**

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| **Petitioners** | : | **Olivia Sembiring, et al.** |
| **Type of Case** | : | Law Number 1 of 1979 concerning Extradition (Law 1/1979) and Law Number 1 of 2006 concerning Mutual Legal Assistance in Criminal Matters (Law 1/2006) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution) |
| **Subject Matter** | : | Judicial Review of Article 21, Article 22 paragraph (2), Article 23, Article 24, Article 33 paragraph (2), Article 35 paragraph (2) letter b, Article 36 paragraph (1), paragraph (3), paragraph (4), Article 38, Article 39 paragraph (1) to paragraph (5), Article 40 paragraph (1), and Article 44 of Law 1/1979 and Article 1 point 10 of Law 1/2006 against Article 1 paragraph (3), Article 17 paragraph (3), Article 28D paragraph (1), Article 28I paragraph (4) and Article 28G paragraph (1) of the 1945 Constitution |
| **Verdict** | : | To dismiss the Petitioners' petition in its entirety |
| **Date of Decision** | : | Wednesday, July 30, 2025 |

**Overview of Decision**

The Petitioners are Indonesian citizens who work as Prosecutors (Petitioner I to Petitioner V) and Indonesian citizens who are victims of human trafficking in Australia (Petitioner VI).

With respect to the authority of the Court, the Petitioners' petition is to review Article 21, Article 22 paragraph (2), Article 23, Article 24, Article 33 paragraph (2), Article 35 paragraph (2) letter b, Article 36 paragraph (1), paragraph (3), paragraph (4), Article 38, Article 39 paragraph (1) to paragraph (5), Article 40 paragraph (1), and Article 44 of Law 1/1979 and Article 1 point 10 of Law 1/2006 against Article 1 paragraph (3), Article 17 paragraph (3), Article 28D paragraph (1), Article 28I paragraph (4) and Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia, the Court has the authority to hear the petition of the Petitioners.

With respect to the legal standing of the Petitioners, namely Petitioner I to Petitioner V, who in essence argue that the articles being reviewed have violated the rights of Petitioner I to Petitioner V who work as Prosecutors because the intervention of the Minister of Law in handling extradition and MLA has resulted in many administrative obstacles that are not in line with ideal practices, or in other words, the current regulations have hindered international

coordination by designating the Ministry of Law, rather than the prosecutor handling the case, as the primary point of contact. Petitioner I to Petitioner V have been able to prove the existence of a causal relationship *(causal verband)* between the assumption of loss of constitutional rights and the enactment of the norm for which this petition for review is submitted, because the said statutory norm is directly or indirectly harms Petitioner I to Petitioner V. Likewise, Petitioner VI is an Indonesian citizen who was once a migrant worker and was once a victim of human trafficking/slavery in Australia and was asked to be a witness in the case. He has also been able to describe the alleged loss of his constitutional rights specifically and actually due to the enactment of the norm being petitioned for review, this is because due to the slow administrative process carried out by the Ministry of Law and Human Rights, Petitioner VI lost the opportunity to obtain justice, including his right to compensation and wages that have not been paid by his employer. Thus, regardless of whether or not the arguments of Petitioner I to Petitioner VI regarding the unconstitutionality of the norms of the articles being petitioned for review are proven, the Court is of the opinion that Petitioner I to Petitioner VI (hereinafter referred to as the Petitioners) have the legal standing to act as Petitioners in the petition *a quo*.

Whereas in the main points of their petition, the Petitioners essentially argue that Article 21, Article 22 paragraph (2), Article 23, Article 24, Article 33 paragraph (2), Article 35 paragraph (2) letter b, Article 36 paragraph (1), paragraph (3), paragraph (4), Article 38, Article 39 paragraph (1) to paragraph (5), Article 40 paragraph (1), and Article 44 of Law 1/1979 and Article 1 point 10 of Law 1/2006, which determines the Minister of Justice or Minister of Law and Human Rights as the central authority in matters of extradition and MLA, are contrary to Article 1 paragraph (3), Article 17 paragraph (3), Article 24 paragraph (3), Article 28D paragraph (1), Article 28I paragraph (4) and Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia, because the function of extradition and MLA is part of the criminal justice system, so that its implementation must be carried out by law enforcement institutions such as the Prosecution Office, not by the ministry that carries out administrative functions. The appointment of the Minister of Law and Human Rights as the central authority eliminates the principles of supremacy of law, due process of law, limitation of power, independence of the judiciary, and protection of human rights. With respect to the Petitioners' arguments, the Court in principle considers the following:

a. Whereas the provisions of Law 1/1979 and Law 1/2006 have provided legal certainty regarding which party acts as the central authority in cross-border legal cooperation. Several articles such as Article 21, Article 22 paragraph (2), Article 23, Article 24, Article 36, Article 38, and Article 44 of Law 1/1979, and Article 1 point 10 of Law 1/2006 stipulate that the Minister of Law is the institution authorized to receive, submit, and coordinate any matters related to MLA and extradition requests. These regulations include the diplomatic channels used, a list of institutions that provide advice such as the Minister of Law, the Attorney General, the Chief of Police, and the Minister of Foreign Affairs, including the Chairperson of the Indonesian Corruption Eradication Commission, and the formal procedures that must be followed before an MLA or extradition may be carried out. Under these regulations, there is no room for ambiguity or a lack of norms that could be interpreted as violating the principle of legal certainty, as argued by the Petitioners. Meanwhile, with the change in the ministry's nomenclature, namely the separation of legal affairs, human rights, immigration, and correctional affairs, the Court is of the opinion that this administrative adjustment as part of the normal dynamics of government administration, which does not, by itself, negate the existence or legitimacy of the authority provided by law. Moreover, the organizational structure tasked with carrying out the central authority remains under the responsibility of the Minister of Law. Therefore, the substance of the provisions concerning the ministry that functions as the central authority remains legally valid unless and until the norms are amended through legislative revision. Similarly, with respect to the claim of potential overlapping authority between the Minister of Law and the Attorney General, particularly in cross-jurisdictional asset recovery, the Court is of

the opinion that this matter does not concern the constitutionality of norms, but rather pertains to inter-agency governance and implementation. The potential overlap in authority has already been anticipated by the lawmakers through Article 9 and Article 27 of Law 1/2006, which allow the Prosecution Office, the Police, and the Indonesian Corruption Eradication Commission to submit requests for cross-border legal assistance via the Minister of Law, who serves as the central authority. Under this framework, the relationship between law enforcement agencies and the ministry is coordinative rather than competitive. This mechanism was deliberately designed to prevent fragmentation of authority and to ensure that cross-border legal cooperation is channeled through a single official portal that guarantees consistency, efficiency, and accountability. Accordingly, the Court concludes that the Petitioners' argument regarding overlapping authority cannot serve as a basis for invalidating the relevant norms, instead, the issue must be addressed by enhancing synergy and coordination among agencies.

b. Whereas the provisions in Law 1/2006 also expressly underscore the importance of protecting the rights of victims of transnational crimes. Article 54 of Law 1/2006 stipulates that the proceeds of asset recovery may be used to provide compensation or restitution to victims, in accordance with applicable legal provisions. This demonstrates that the law is designed not only to facilitate international cooperation in law enforcement but also to provide substantive protection for the interests of crime victims. Thus, any obstacles in the implementation of asset recovery or the management of evidence, as raised by the Petitioners, do not in themselves render the reviewed provisions unconstitutional. These concerns are more accurately characterized as technical implementation issues, such as inadequate interagency coordination, limited human resources, or suboptimal bureaucratic infrastructure. Therefore, if administrative difficulties arise in the implementation of extradition or MLA, the appropriate solutions lie in strengthening institutional capacity, improving information technology systems, and formulating the implementing regulations to enhance interagency understanding and cooperation. This is entirely within the domain of government management policy. Therefore, the Petitioners' argument questioning the central authority vested in the Minister of Law in the handling of extradition and MLA is, in the Court's view, not an issue of constitutional validity, but rather a matter of legislative policy. In other words, what the Petitioners challenge is not a violation of the norms of the 1945 Constitution of the Republic of Indonesia, but a preference for altering which institution should serve as the central authority for extradition and MLA matters. Thus, any differing views regarding the current legal policy, as submitted by the Petitioners, concern issues of implementation rather than constitutional infringement. Even if weaknesses in coordination within the extradition and MLA processes do exist, as the Petitioners argued, such issues stem not from the constitutionality of the norms, but from suboptimal managerial or administrative implementation, areas that can and should be improved at the level of policy and institutional management, including enhancing governance systems, strengthening coordination mechanisms, adjusting cross-sectoral procedures, and developing more effective protocols for inter-institutional cooperation. Moreover, efforts to reinforce coordination among the relevant institutions form part of the broader commitment to good governance aimed at ensuring effectiveness, efficiency, legal certainty, and the public interest.

c. Whereas although the Petitioners in their petition present comparative arguments regarding central authority practices in several other countries, the Court is of the opinion that no uniform international custom or standard exists concerning the designation of a central authority for extradition and MLA. Such designation lies entirely within each country's domestic legal policy and is adapted to its legal system, institutional structure, and national needs. Accordingly, the Petitioners' objection to the appointment of the Minister of Law as the central authority does not raise an issue of constitutional validity. In other words, the Court is of the opinion that the appropriate solution to the issues raised by the Petitioners is to build a more synergistic coordination mechanism between

institutions/agencies under executive power, improve cooperation protocols, and build a system that mutually strengthens government administration and law enforcement. Furthermore, extradition and MLA processes are closely linked to the handling of criminal cases, which are constrained by detention periods during investigation, inquiry, prosecution, and trial. Therefore, the Minister of Law, as the central authority, is obligated to expedite the administrative processes related to extradition and MLA, provided that they comply with the applicable laws and regulations.

d. Whereas pursuant to the description of the legal considerations above, the Court is of the opinion that because the designation of the Minister of Law as the central authority is not a matter of constitutional validity, the Petitioners' arguments challenging the constitutionality of Article 21, Article 22 paragraph (2), Article 23, Article 24, Article 33 paragraph (2), Article 35 paragraph (2) letter b, Article 36 paragraph (1), paragraph (3), paragraph (4), Article 38, Article 39 paragraph (1), paragraph (2), paragraph (3), paragraph (4), paragraph (5), Article 40 paragraph (1), Article 44 of Law 1/1979 and Article 1 point 10 of Law 1/2006 are contrary to Article 1 paragraph (3), Article 17 paragraph (3), Article 24 paragraph (3), Article 28D paragraph (1), Article 28I paragraph (4) and Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia and are legally unjustifiable.

Accordingly, the Court subsequently passes down a decision which verdict states to dismiss the Petitioners' petition in its entirety.