

The New Regime of Criminal Procedure Law [Part I: Criminal Procedural Innovation and Codification]

On 17 December 2025, the Indonesian government officially enacted Law Number 20 of 2025 concerning the Criminal Procedural Code (“**New ICPC**”), which entered into force since 2 January 2026. The New ICPC repealing and replacing Law Number 8 of 1981 (“**Previous ICPC**”) after more than four decades of application.

The New ICPC introduces significant structural, procedural, and rights-based reforms that materially affect the conduct of criminal investigations, prosecutions, and adjudications, as well as recalibrate the respective roles and authorities of law enforcement agencies, prosecutors, the judiciary, and parties involved in criminal proceedings. In this Part I, we highlight several key concepts and procedural innovations introduced under the New ICPC that are expected to have far-reaching implications for the administration of criminal justice in Indonesia.

A. Plea Bargain Mechanism

Plea bargain is a newly recognized mechanism under the New ICPC. Plea bargain allows the defendant to admit guilt for a criminal offense and cooperate in the investigation/prosecution process by providing evidence supporting such admission. In exchange, the defendant is entitled for a reduced imposed sentence, as stipulated under Article 1 Number 16 of the New ICPC. Notwithstanding the foregoing, the New ICPC does not expressly stipulate the specific form or extent of the sentence reduction to be imposed. It is important to note that plea bargain may only be applied subject to the following requirements:

- a. commits the criminal offense for the first time;
- b. is charged with an offense punishable by a maximum imprisonment of 5 (five) years or a fine of up to category V; **and/or**
- c. is willing to pay compensation or restitution.

In that regard, according to Law Number 1 of 2023 regarding Criminal Code as lastly amended by Law Number 1 of 2026 concerning Adjustment of Criminal Penalties (“**Criminal Code**”), categorization of the number of fines are as follows:

Category	Criminal Fines
I	Maximum of IDR1.000.000,00 (one million Rupiah)
II	Maximum of IDR10.000.000,00 (ten million Rupiah)
III	Maximum of IDR50.000.000,00 (fifty million Rupiah)
IV	Maximum of IDR200.000.000,00 (two hundred million Rupiah)
V	Maximum of IDR500.000.000,00 (five hundred million Rupiah)
VI	Maximum of IDR2.000.000.000,00 (two billion Rupiah)
VII	Maximum of IDR5.000.000.000,00 (five billion Rupiah)
VIII	Maximum of IDR50.000.000.000,00 (fifty billion Rupiah)

Article 78 of the New ICPC further provides that a plea bargain may be submitted to the public prosecutor and formally recorded in an official report, and subsequently shall be examined by sole judge through an expedited court hearing procedure prior to the commencement of the main proceedings in the prosecution/adjudication process. In the event that a plea bargain is agreed, a written agreement shall be entered into between the public prosecutor and the defendant, and shall be examined to be verified and/or approved by the judge. According to Article 78 Paragraph (8) of the New ICPC, the judge shall examine on whether the plea bargain is made voluntarily, without coercion, and with the defendant’s full understanding.

Should the submitted plea bargain approved by the Judge, the hearing shall proceed with an expedited court hearing. Conversely, in the event that the submitted plea bargain is rejected by the judge, the

prosecution and adjudication process of the case shall continue in accordance with the ordinary criminal procedure.

Notwithstanding the innovative and positive enhancements of the newly introduced plea bargain provision, the absence of technical guidance or implementing regulations, may render its practical application unclear and uncertain, as it will be subject to the discretion of law enforcement authorities and the court on a case-by-case basis. As such, the practice of plea bargain may give rise to legal uncertainty, inconsistent application, and varying judicial interpretations, particularly with respect to standards of assessment by prosecutors and judges.

B. Deferred Prosecution Agreement for Corporate Criminal Liability

The New ICPC introduces Deferred Prosecution Agreement (“**DPA**”) as a mechanism for the public prosecutor to suspend the prosecution of corporations as defendant. It is worth noting that corporate criminal liability has also been formally recognized under Criminal Code, which may set aside the provisions previously stipulated under numerous Laws.

Article 328 of the New ICPC provides that request for DPA may be submitted to the public prosecutor before the case is transferred to the court, in which the public prosecutor may accept or reject such request based on considerations of fairness, the victim’s interests and corporation’s level of compliance.

The implementation of a DPA is subject to certain mandatory conditions as stipulated under Article 328 Paragraph (12) of the New ICPC, as follows:

- a. payment of compensation or restitution to the victim;
- b. implementation of compliance programs and improvements to corporate governance;
- c. cooperation with, and reporting to, law enforcement authorities; **or**
- d. the undertaking of other corrective measures as determined by the public prosecutor.

In the event that the public prosecutor accepts the request for DPA, the public prosecutor is required to notify of the commencement of the DPA process and recorded in an official report. Further, within 7 (seven) days from the signing of DPA, the public prosecutor shall submit verification application to the court, in which the court will conduct a hearing to examine eligibility and validity of the DPA by considering the following aspects:

- a. compliance of the DPA terms with applicable laws;
- b. proportionality of administrative sanctions or other obligations;
- c. impact on victims, society, the environment, the national economy, and the criminal justice system; **and**
- d. the suspect’s or defendant’s ability to comply with the agreed conditions.

Should the Judge approved DPA, ratification shall be set forth in a court ruling, and the case shall be suspended in accordance with the agreement. Conversely, in the event the Judge reject DPA, the case shall continue in accordance with the ordinary criminal procedure. Nevertheless, the Article 328 Paragraph (15) of the New ICPC provides that should the suspect or defendant fails to fulfill the obligations under the DPA, the public prosecutor shall be authorized to proceed with the prosecution without requiring additional consent.

Despite the introduction of the DPA as an innovative tool for corporate criminal liability enforcement, the alternative nature of “or” in the mandatory conditions of DPA and unclear mechanism may engender uncertainty, misinterpretation, misuse, and/or practical uncertainties in the criminal law enforcement process.

C. Restorative Justice in Criminal Investigations, Prosecutions, and Adjudications

Restorative justice was not formerly regulated or recognized under the Previous ICPC, and instead was regulated separately under Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice, Indonesian National Police Regulation

Number 8 of 2021 concerning Handling of Crimes Based on Restorative Justice, as well as several internal regulations of law enforcement agencies that establish and guide the implementation of restorative justice mechanisms.

Under Article 1 Number 21 of the New ICPC, the restorative justice is defined as an approach carried out to restore the situation by involving other parties such as the victim and their family, the suspect and their family, and/or the defendant and their family. The restorative justice mechanism under the New ICPC is subject to restrictive eligibility criteria as stipulated under Article 80 Paragraph (1) of the New ICPC as follows:

- a. criminal offenses punishable by a maximum fine of category III or imprisonment of up to 5 (five) years;
- b. committed for the first time; **and/or**
- c. not constituting a repeat offense, except for offenses punishable by a fine or those committed due to negligence.

However, it is worth noting that the New ICPC excludes restorative justice for serious or high-risk offenses as listed down under Article 82 of the New ICPC, including crimes against friendly nations or their representatives, public order or morality, corruption, sexual violence, offenses punishable by 5 (five) years or more (except negligence), offenses with minimum special penalties, certain particularly dangerous crimes, and narcotics offenses (except users or abusers).

Article 81 Paragraph (1) of the New ICPC further provides that restorative justice mechanism shall be conducted based on:

- a. initiation either upon a request submitted by the offender, suspect, defendant, or their family, and/or the victim or their family; **or**
- b. through an offer made by law enforcement authorities, including investigators, public prosecutors, or judges.

In that regard, Article 79 Paragraph (1) of the New ICPC stipulates that the mechanism of restoration shall be carried out through:

- a. forgiveness from victims and/or their family;
- b. return of goods obtained from the crime to the victim;
- c. reimbursement of medical and/or psychological care costs;
- d. compensation for other losses suffered by the victim as a result of the crime;
- e. repairing damages resulting from the crime experienced by the victim; **or**
- f. paying compensation resulting from the crime.

Should an agreement of restoration mechanism is reached, it shall then be stated in an agreement and must be carried out within 7 (seven) days period. After the obligation of the restoration is fulfilled, the victim may withdraw the police report to stop the case and a court decision must be requested.

If restorative justice is implemented in the preliminary investigation or investigation stage, the agreement must be executed by the suspect, victim and the investigator, and the investigator will then issue letter of investigation termination accordingly. The investigator is obligated to inform the public prosecutor regarding the restorative justice implementation and request a court decision to the chief judge of the district court within 3 (three) days period.

Similarly, the restorative justice agreement conducted in the prosecution stage must be signed by the defendant, victim, and public prosecutor before the letter of prosecution termination is issued. The public prosecutor is also required to request a court decision to the chief judge of the district court within 3 (three) days period and is obligated to inform the investigator regarding the prosecution termination.

Under the circumstances that restorative justice is deemed not feasible to be carried out in the investigation or prosecution process, the implementation may be conducted in the court proceedings

stage through court decision and its execution. Further provisions on the implementation of restorative justice in court proceedings will be regulated under a separate government regulation.

D. Crown Witness/Justice Collaborator

The concept of a crown witness had been recognized in Indonesian criminal practice even prior to the enactment of the New ICPC. However, the New ICPC provides a clear statutory basis for the application of crown witness, which is defined as a suspect who agrees to cooperate with law enforcement authorities by disclosing the involvement of other suspects in the same criminal case in exchange for a reduced sentence.

Stipulated under Article 74 of the New ICPC, the cooperation to become a crown witness must be negotiated and formalized through a written agreement with the public prosecutor, which governs, among others:

- a. the scope of information to be disclosed;
- b. the conditions of testimony;
- c. the criminal charges to be pursued against the crown witness; **and**
- d. the compensation and/or guarantees to be granted.

In return for the cooperation, the New ICPC limits the incentives to specific forms as specified under Article 74 Paragraph (3) of the New ICPC, including:

- a. a guarantee that the public prosecutor will not seek the death penalty or life imprisonment;
- b. a reduction of the imprisonment sentence to a maximum of 2/3 (two-thirds) of the statutory maximum penalty; **and/or**
- c. probation or a fine where the offense is punishable by imprisonment of less than 7 (seven) years.

After an agreement is reached, the public prosecutor must submit the crown witness application to the chief judge of the district court within 3 (three) days. Article 74 Paragraph (5) of the New ICPC also regulates that if an agreement is not reached, the public prosecutor must ensure that any information provided by the suspect in the negotiation process may **not be used** as evidence during the court proceedings.

E. Settlement Fine for Economic Crimes

The New ICPC introduces a settlement fine mechanism, in which the public prosecutor is vested with the authority to resolve certain criminal cases through the imposition of a settlement fine.

In relation to that, based on Article 66 Paragraph (1) of the New ICPC, settlement fine serves as a mechanism for terminating criminal proceedings outside the court process through the payment of a fine approved by the Attorney General. In addition, it shall be noted that based on the Elucidation of Article 66 Paragraph (1) of the New ICPC, the settlement fine mechanism is limited to specific categories of offenses, particularly economic crimes, including but not limited to taxation offenses, customs offenses, and other economic crimes as regulated under the relevant laws.

F. Judicial Pardon Decisions

A new form of criminal court decision called judicial pardon decision is introduced under the New ICPC, in which the judge may render a decision declaring the defendant guilty without imposing any criminal penalty or corrective measure. Article 246 Paragraph (1) of the New ICPC provides that in exercising this discretion, the court may consider, among other factors:

- a. the minor nature of the offense;
- b. the personal circumstances of the offender; **and/or**
- c. the circumstances existing at the time of, or following, the commission of the criminal act.

Should the court render a judicial pardon decision acquitting the defendant or releasing the defendant from all criminal charges, according to the Article 247 Paragraph (1) of the New ICPC, the court shall order that any seized evidence be returned to the party lawfully entitled to receive, unless such evidence is required under the prevailing laws and regulations to be forfeited for the benefit of the state or destroyed or rendered unusable.

Further provisions on the judicial pardon decision will be regulated under a separate supreme court regulation.

REMARKS

The New ICPC constitutes a comprehensive and transformative reform of Indonesia's Criminal Procedural Framework, codifies a range of mechanisms designed to enhance procedural efficiency, incentivize cooperation, and provide alternatives to traditional court adjudication. Each mechanism under the New ICPC is subject to defined eligibility criteria and procedural safeguards, reflecting a deliberate effort to balance the protection of defendants' rights with the interests of justice and public order.

Collectively, these reforms mark a fundamental shift towards a more flexible, rights-conscious, and modernized criminal justice system in Indonesia, with wide-ranging implications for both individuals and corporate entities

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