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Client Alert: Constitutional Court Clarifies Priority IUP and IUPK Allocation



On 16 July 2026, the Constitutional Court issued Decision No. 160/PUU-XXIII/2025 and 202/PUU-XXIII/2025 concerning judicial review petitions challenging several provisions of Law Number 2 of 2025, which amended Law Number 4 of 2009 on Mineral and Coal Mining ("**Mining Law**"). The decisions primarily concern the implementation of the priority allocation regime for Mining Business License (*Izin Usaha Pertambangan* or "**IUP**") and Special Mining Business License (*Izin Usaha Pertambangan Khusus* or "**IUPK**") introduced under the Mining Law.

Among the amendments introduced by the Mining Law are provisions allowing the Government to grant IUPs and IUPKs on a priority basis to, among others, state-owned enterprises (*Badan Usaha Milik Negara* or "**BUMN**"), regional-owned enterprises (*Badan Usaha Milik Daerah* or "**BUMD**"), cooperatives, micro, small and medium enterprises ("**MSMEs**"), enterprises owned by religious organisations, business entities established to enhance university excellence, and, in certain circumstances, private business entities undertaking downstream mineral and coal processing and refining activities.



Through Decisions Nos. 160/PUU-XXIII/2025 and 202/PUU-XXIII/2025, the Constitutional Court reaffirmed that the priority allocation mechanism remains constitutional. However, the Court clarified that the statutory references to priority must not be interpreted as permitting direct appointment. Instead, priority may only be granted based on clear parameters through an objective, transparent, and accountable assessment process. The Court also clarified that, in the context of downstream mining projects, priority should first support domestic value addition and domestic supply chain needs before serving global supply chain objectives.

Although the Constitutional Court did not invalidate the existing statutory framework, its decisions are expected to require the Government to align the implementing regulations with the constitutional interpretation adopted by the Court. Accordingly, further amendments to the relevant implementing regulations, including Government Regulation Number 96 of 2021, as amended, and the applicable Minister of Energy and Mineral Resources Regulations, are anticipated, particularly with respect to the qualification criteria, assessment parameters, and application requirements for priority IUPs and IUPKs. Businesses intending to apply under the priority licensing regime should therefore closely monitor these regulatory developments.



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