

PRESS RELEASE

**Patient Rights Victory: Constitutional Court Restores Anti-Evergreening
Provision in Patent Law and Strengthens Protection of Access to Medicines**

Jakarta, 28 August 2026 – The Coalition for Patients' Rights Advocacy for Access to Medicines welcomes the decision of the Constitutional Court of the Republic of Indonesia (Mahkamah Konstitusi/MK), which partially granted Petition No. 255/PUU-XXIII/2025, challenging Law No. 65 of 2024 on the Third Amendment to Law No. 13 of 2016 on Patents, on Friday (28 August 2026).

The decision marks an important victory for patients, the public, and efforts to ensure access to affordable medicines. Through its decision, the Constitutional Court has restored the anti-evergreening provision under Article 4(f) of the Patent Law, which had previously been removed by Law No. 65 of 2024.

The Court ruled that the removal of the provision was contrary to the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) and conditionally unconstitutional. As a result, new uses of existing and/or known products, as well as new forms of existing compounds that do not result in a significant increase in efficacy, are once again excluded from patentable subject matter.

For the Coalition, this decision is particularly significant because patent evergreening can be used to extend monopolies through minor changes or modifications that do not provide meaningful therapeutic innovation. When patent monopolies are extended, generic competitions are delayed, medicine prices remain high, and ultimately patients and the State bear the costs associated with such monopolies.

Constitutional Court Ruling

In its ruling, the Constitutional Court partially granted the Petitioners' application. Among other things, the Court declared that the word 'deleted' in Article 4(f), as stipulated in Article 1 Point 2 of Law No. 65 of 2024, is contrary to the 1945 Constitution and has no binding legal force conditionally, insofar as it is not interpreted as follows:

“Article 4(f): discoveries in the form of:

1. new uses of existing and/or known products; and/or
2. new forms of existing compounds that do not result in a significant increase in efficacy and have related differences in chemical structure from the known compound.”

The Constitutional Court further considered Article 4(f) to be an important instrument for balancing the exclusive rights of patent holders with the public interest, particularly the public's right to health and access to affordable medicines.

According to the Court, limiting patents on second medical uses and new forms of compounds that do not provide a significant increase in efficacy is necessary to prevent

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patent evergreening practices that extend pharmaceutical monopolies and delay the entry of generic medicines. The Court therefore viewed the existence of Article 4(f) as an integral part of a proportionate, public-interest-oriented patent system, as well as an expression of the State's constitutional obligation to guarantee the right to health and social justice.

Arni Rismayanti, Chairperson of the Indonesian Pulmonary Hypertension Foundation (YHPI), welcomed and expressed her appreciation for the Court's decision.

"This is an important step towards ensuring that the patent protection system maintains a proper balance between innovation and people's right to access affordable treatment. For patients with pulmonary hypertension, this is not an abstract issue. Based on patients' experiences, access to medicines and their prices can directly affect the financial burden they face and their quality of life," said Arni Rismayanti.

Maria Wastu Pinandito, S.H., one of the Petitioners' attorneys, also welcomed the decision, describing it as appropriate, fair, and protective of Indonesian citizens' constitutional rights.

"This decision serves as a reminder that pharmaceutical patents do not only have an economic function, but also a social function: enabling people to benefit from science and healthcare services, as guaranteed under Article 28C(1), Article 28D(1), and Article 28H(1) of the 1945 Constitution of the Republic of Indonesia," said Maria Wastu Pinandito.

The Court also provided an important interpretation of the phrase 'interested party' in relation to oppositions against the grant of patents under Article 70. In its decision, the Court considered that parties representing public interest—including advocacy groups and patient associations, consumer protection groups, non-governmental organizations working to advance the right to health, and independent researchers—have a genuine legal interest and form part of public oversight.

"The Court's opinion in this case, particularly regarding Article 70 of Law No. 13 of 2016, opens the door to broader interpretation of the legal standing of community groups affected by patents, without limiting such standing only to patent holders or businesses in the pharmaceutical industry. The decision also reminds the Patent Appeal Commission to carefully assess the criteria for determining the relevant legal subjects, so that the public interest is not harmed by pharmaceutical patents that may impede access to medicines. This is therefore a victory for the public at large and, in particular, for patients," said Rahmat Maulana Sidik, Executive Director of Indonesia for Global Justice (IGJ).

Maintaining the Balance Between Innovation and the Public's Right to Health

For patient groups such as the Indonesia AIDS Coalition (IAC), the patent system should encourage genuine pharmaceutical innovation, rather than allow medicine monopolies to be extended through minor modifications that provide no meaningful therapeutic benefit.

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“At its core, this decision is about balancing intellectual property protection with the public’s right to health. A patent is a social contract: the State grants a temporary exclusive right in exchange for an invention being disclosed to the public. When patents are used to maintain monopolies without meaningful innovation, what is at stake is patients’ access to life-saving treatment. Patient groups strongly welcome this decision and hope to work together to ensure its effective implementation,” said Aditya Wardhana, Chairperson of the IAC Governing Board.

Another Petitioner, Lusiana Aprilawati, a Tuberculosis (TB) survivor, added that the decision offers hope for patients to access more effective medicines in the future.

“This decision creates opportunities for patients, including people affected by TB, to access more effective medicines. Once patent protection expires, generic versions can be produced and made available at more affordable prices, allowing more patients to receive treatment. This is not limited to medicines, but also extends to prevention tools, vaccines, and diagnostic technologies.”

The Coalition further emphasizes the importance of the Government and the House of Representatives (DPR) taking the necessary steps to implement the decision by making the required amendments in accordance with the Court’s ruling.

In the Coalition’s view, this case is not merely a dispute over technical provisions of intellectual property law. The Government and the DPR must implement the decision as a means of safeguarding citizens’ constitutional right to access healthcare services and affordable medicines, as guaranteed under Article 28H(1) of the 1945 Constitution of the Republic of Indonesia.

“For millions of patients in Indonesia, this issue is not simply about patents. It is about whether they can obtain the medicines they need to survive,” stressed a representative of the Coalition.

Media Contact

Agung Prakoso

Coalition for Patients’ Rights Advocacy for Access to Medicines

P: +62 857 8873 0007

E: agung.prakoso@iqj.or.id

About the Coalition for Patients’ Rights Advocacy for Access to Medicines

The Coalition for Patients’ Rights Advocacy for Access to Medicines is a coalition of patient organizations, civil society organizations, and individuals advocating for equitable access to medicines and health technologies in Indonesia.

In this case, the Petitioners were:

- 1. Indonesian Dialysis Patients Community (KPCDI)**

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2. **Indonesian Drug Users Network (PKNI)**
3. **Indonesian Positive Women's Association (IPPI)**
4. **Indonesian Pulmonary Hypertension Foundation (YHPI)**
5. **REKAT Peduli Indonesia Foundation (REKAT)**
6. **Indonesia for Global Justice (IGJ)**
7. **Lusiana Aprilawati**, TB survivor and activist
8. **Irwandy Wijaya**, HIV activist and Advocacy Staff at the Indonesia AIDS Coalition (IAC)
9. **Patrick J. Laurens**, HIV activist and Program Manager at the Indonesia AIDS Coalition (IAC)
10. **Paran Sarimita Winarni**, TB survivor and activist

The Coalition would like to express its sincere appreciation for the collaboration and support of its partners, Third World Network (TWN) and the Make Medicines Affordable (MMA) Coalition, as international partners in advancing efforts to ensure affordable access to essential medicines in Indonesia.