

Assessment and Implications of Constitutional Court Decision No. 74/PUU-XXIV/2026 on the Duties and Liabilities of Receivers (Kurator) under Indonesian Bankruptcy Law

On 24 April 2026, the Constitutional Court issued Decision No. 74/PUU-XXIV/2026, which fundamentally reshapes the transparency obligations of receivers (kurator) in Indonesian bankruptcy proceedings. The ruling reviewed Article 74 paragraph (1) of Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations (the “Bankruptcy Law”). In essence, the Court strengthened the position of creditors and debtors by requiring receivers to share their quarterly reports not only with the Supervisory Judge but also directly with the affected parties.

Previously, Article 74(1) of the Bankruptcy Law only obliged the receiver to submit a report on the administration of the bankruptcy estate to the Supervisory Judge every three months. There was no explicit legal requirement to provide copies of these reports to creditors or the bankrupt debtor. The Constitutional Court found this arrangement inadequate from a constitutional standpoint.

In its decision, the Court declared the provision conditionally unconstitutional unless interpreted to mandate the delivery of report copies to creditors and the debtor (or their representatives) through registered mail and/or email and/or any other official electronic applications. The justices emphasized that “transparency and accountability” are core principles in bankruptcy proceedings. Since creditors and debtors bear the direct consequences of asset management and liquidation, excluding them from regular information flows violates due process and legal certainty.

The operative part of the decision reformulates Article 74(1) of the Bankruptcy Law as follows:

»The.receiver.shall.submit.a.report.to.the.Supervisory.Judge.every.three.months.concerning.the.administration.of.the.bankruptcy.estate?with.copies.delivered.to.creditors.and.the.bankrupt.debtor.or.their.representatives.through.registered.mail?electronic.mail?or.electronic.applications;«

This is not merely a procedural tweak. The ruling elevates what was previously considered good practice into a constitutional obligation which expanded Duties of Receivers

Post-decision, a receiver’s role now clearly encompasses two intertwined obligations:

1. Reporting Duty (to the Supervisory Judge): The receiver must continue to report on the condition of the estate, actions taken in management and liquidation, significant developments, and major transactions.
2. Notification and Disclosure Duty (to stakeholders): The receiver must proactively deliver copies of these reports to all registered creditors, the bankrupt debtor, and their authorized representatives.

This shift transforms the receiver from a court-oriented administrator into a true fiduciary accountable to all parties in the bankruptcy ecosystem. Proper documentation of delivery (proof of sending and receipt) will become practically important. Nonetheless, such Constitutional Court ruling raise an exposure on the receivers’ part for a Potential Liabilities for Non-Compliance.

Administrative and Professional Consequences

Non-compliance with this new obligation constitutes a violation of the Bankruptcy Law itself. Receivers, as court-appointed professionals, are subject to oversight by the Supervisory Judge, the Commercial Court, their professional association (such as AKPI or other receiver's professional organization), and potentially the Ministry of Law and Human Rights.

Possible sanctions include judicial reprimands, orders for immediate compliance, replacement as receiver, disciplinary action, and in serious or repeated cases, suspension or revocation of professional licenses. Given that the Constitutional Court's interpretation is now part of the statutory provision, courts are expected to take such failures seriously.

Civil Liability

Receivers may face personal civil liability. With the obligation now explicitly anchored in law, creditors or debtors who suffer losses due to non-disclosure have a stronger foundation to file claims based on tort (*perbuatan.melawan.hukum*) (Articles 1365 and 1366 of the Civil Code). However, liability is not automatic. To succeed in pursuing its claim based on receiver's non-compliance under Articles 1365 and 1366 of the Civil Code, the claimant must still prove:

- a. Breach of the obligation;
- b. Actual damages; and
- c. Causal relationship between the breach and the loss.

Examples of actionable harm might include missed opportunities to challenge improper asset sales, inability to object to questionable distributions, or losses from undetected asset dissipation. Mere inconvenience or delay in receiving information may not suffice for damages.

Criminal Liability

The decision does not create new criminal sanctions related to the bankruptcy process. Simple failure to send report copies does not, by itself, constitute a criminal offense under the Bankruptcy Law. Criminal exposure only arises if the non-disclosure is accompanied by fraudulent intent, such as:

- Deliberate concealment of assets or unauthorized transactions;
- Falsification of reports;
- Embezzlement or diversion of estate assets; or
- Abuse of position for personal gain or to favour certain creditors.

In such cases, provisions on fraud (*penipuan*), embezzlement (*penggelapan*), or document forgery may apply.

On the final note, Constitutional Court Decision No. 74/PUU-XXIV/2026 marks a progressive step toward greater transparency in Indonesia's bankruptcy regime. By embedding disclosure obligations into Article 74(1) of the Bankruptcy Law, the Court has reinforced the principles of fairness and accountability that should substantiate insolvency proceedings. For receivers, the practical takeaway is clear: implement robust systems for timely reporting and verifiable delivery to stakeholders. While administrative sanctions are the most immediate risk, civil claims toward the receiver remain a real possibility whenever tangible losses can be demonstrated. Criminal risk, however, stays limited to situations involving clear bad faith or fraudulent conduct.

Overall, this decision strengthens the rights of creditors and debtors without unduly paralyzing the bankruptcy administration process, provided receivers adapt to the heightened transparency standards now required by law.

Note on the article:

fThe.information.provided.in.this.article.does.not.and.is.not.intended.to.constitute.legal.advice.instead.all.information.content.and.materials.available.on.this.site.are.for.general.informational.purposes.only;f