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BETWEEN LEGALITY AND PROPORTIONALITY: JUDICIAL DEPARTURES FROM SPECIAL MINIMUM SENTENCES IN INDONESIAN NARCOTICS CASES

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Abstract

Indonesia's narcotics regime combines severe penalties with special minimum terms for possession and illicit distribution offences. These minimums aim to promote consistency and deterrence, but rigid application may produce disproportionate sentences where proven conduct and culpability differ from the charged offence's typical profile. This article examines judicial departures from special minimum penalties through Supreme Court Decision No. 6326 K/Pid.Sus/2025. It asks whether, and under what conditions, the Supreme Court may uphold imprisonment below the five-year minimum prescribed by Article 114(1) of Law No. 35 of 2009 on Narcotics. The study employs doctrinal legal research using statutory, case, and conceptual approaches. It analyses the Narcotics Law, the Judicial Power Law, relevant Supreme Court Circular Letters, the 2023 Criminal Chamber formulation, and scholarship on legality, discretion, and proportionality. The decision imposed two years and six months' imprisonment, a fine of IDR 1 billion-, and three-months' subsidiary imprisonment. This raises a specific issue: the custodial term falls below Article 114(1)'s minimum, while the fine corresponds to its statutory minimum. The article finds that Supreme Court guidance provides a narrow basis for departure in exceptional cases involving small quantities and evidence of personal use or reduced participation, while preserving the statutory fine where required. However, authority to depart does not establish that a particular sentence is adequately justified. The decision's precedential value is limited if its reasoning fails to connect the charge, narcotics type and net weight, purpose, defendant's role, transaction context, lower-court findings, and cassation grounds to the reduced sentence. The article proposes a structured, fact-sensitive test to make departures transparent, reviewable, and consistent. It concludes that proportionality may qualify statutory minimums only within a recognised legal framework and through reasoned decisions that preserve legality and constrain arbitrary sentencing.

Keywords: Narcotics Sentencing; Special Minimum Penalties; Judicial Discretion; Proportionality; Below-Minimum Sentencing.

A. Introduction

Indonesian narcotics law combines an uncompromising penal policy with a statutory structure that encompasses markedly different forms of conduct, ranging from personal possession to organised distribution (Hoyle & Harry, 2025; Natalis et al., 2025). This policy is reflected in the imposition of severe maximum penalties and statutory special minimum terms under provisions such as Articles 111, 112, and 114 (Djatmika & Kurniawan, 2026). The special minimum is intended to enhance punishment predictable, limit excessive leniency, and convey the seriousness of conduct that sustains illicit narcotics circulation. Its presence also narrows the ordinary sentencing range, as judges are no longer free to select any term of imprisonment below the stated

threshold. The legal problem arises when a broadly drafted offence captures a defendant whose proven role, benefit, and degree of control are substantially lower than the paradigm assumed by the legislature. This issue is also reflected in a comparative study of Indonesian and Malaysian narcotics policy, which identified a contrast between Indonesia's use of criminal law as a *primum remedium* and Malaysia's reliance on the *ultimum remedium* principle (Romdoni & Karomah, 2021).

This concern is particularly relevant in narcotics cases, where offenders may differ substantially in their level of involvement, dependency, and criminogenic needs. Decriminalisation frameworks have therefore been proposed as mechanisms for aligning criminal justice responses with the actual severity of narcotics and drug-related offending while reducing the over-penalisation of low-level offenders (Fischer et al., 2022; McAdam et al., 2023; Stevens et al., 2022). High-quality substance use treatment also constitutes an essential element of effective drug policy (López et al., 2021; Martin et al., 2022; Zhen-Duan et al., 2021). Treatment-oriented interventions have been shown to reduce both reoffending and imprisonment among drug-related offenders, suggesting that punitive responses do not necessarily represent the most effective means of addressing all forms of narcotics offending (Kahlmeter, 2024; Tomaz et al., 2023; Weatherburn et al., 2025). Moreover, increasingly severe criminal penalties may lead to higher incarceration rates without producing corresponding reductions in overdose mortality or drug use, thereby raising questions about the effectiveness of increasingly punitive narcotics policies (Savinkina et al., 2024).

A sentence may then be formally consistent with the article charged while remaining excessive in relation to the conduct proved at trial. The resulting tension is not a conflict between legality and sympathy, but rather a question of how statutory sentencing limits should operate when the statutory label and the individual level of culpability do not fully correspond (Mahmud, 2021). This approach also requires sentencing to remain anchored in the offender's culpability, as proportionate punishment ultimately depends on the degree of blameworthiness rather than merely the occurrence or consequences of the offence (Alexander, 2021). The importance of proportionality is thereby reinforced as a limiting principle, ensuring that punishment does not exceed what can be justified by the seriousness of the offence and the harm intentionally caused by the offender (Manwaring, 2021). Proportionality further requires legal interventions to impose burdens that remain commensurate with their intended objectives and expected benefits, thereby preventing excessive state responses that cannot be justified by the circumstances of the offence (Walker, 2025).

Drug policy should not be assessed solely in terms of its punitive objectives, but also through the extent to which legal interventions respect fundamental rights and avoid disproportionate harm (Barrett & Nowak, 2010; Csete et al., 2016; Stevens, 2011; Walker, 2025). Access to effective treatment remains an important component of responses to narcotics-related offending, particularly for individuals with substance use disorders (Andraka-Christou et al., 2025). Mill (1859) argues that policies restricting individual liberty must be justified by their capacity to prevent more serious harms, emphasising that punitive measures should remain proportionate to their intended objectives and effects. This perspective aligns with evidence-based drug policy principles, which maintain that drug control measures should be formulated and evaluated based on empirical evidence regarding their effectiveness and social consequences rather than solely on punitive assumptions (Nosyk & Wood, 2012)

Special minimum penalties are often defended as instruments of equality. However, equal treatment in sentencing cannot be reduced to identical punishment for every person convicted under the same provision (Bierschbach & Bibas, 2016; Citron, 2006; Grunwald, 2015). Rather, equal treatment in sentencing requires proportionate punishment that reflects the individual circumstances and culpability of the offender, rather than applying identical sanctions to all offenders convicted under the same legal provision (Nir & Liu, 2022; Ridwan et al., 2022;

Romdoni & Fitriasih, 2022). Defendants who finance a transaction, control supply, or direct a criminal network are not situated in the same way as dependent users, persons entrusted with a small package, or peripheral intermediaries who receive no meaningful financial benefit. Research on drug control policy has shown that offenders occupying minor roles within narcotics networks may nevertheless receive disproportionately severe punishments, illustrating how rigid sentencing practices can undermine the principle of proportionality (K. K.-Y. Cheng et al., 2022; Fleetwood, 2011; Sevigny, 2009; ul Hosnah et al., 2025). Comparative sentencing research demonstrate that a proportionate sentencing system requires courts to distinguish between offenders based on their degree of culpability, role in the offence, and individual circumstances, rather than relying solely on offence labels (Mamak et al., 2022). Sentencing research in drug cases has likewise demonstrated that punishment severity may vary according to offence characteristics and offender attributes, indicating the importance of individualised assessment in judicial decision-making (Testa & Lee, 2021).

A rigid statutory minimum may conceal those differences, whereas unrestricted judicial flexibility may produce the very disparity that such minimum penalties were designed to prevent. Excessively broad and inflexible drug-control measures may generate outcomes in sanctions that are disproportionate to the actual harm caused by the offender's conduct. (Stevens et al., 2015) note that punitive drug policies may impose severe sanctions even in cases involving relatively limited harm, raising concerns about the proportionality and fairness of criminal punishment. Proportionality serves as a normative constraint on sentencing by requiring courts to justify the severity of punishment according to the gravity of the offence and the offender's culpability, thereby reducing the risk of arbitrary sentencing outcomes (Duus-Otterström, 2021). At this point, proportionality becomes relevant because it requires a visible relationship between the seriousness of the act, the defendant's personal blameworthiness, the harm created, and the punishment imposed (Bagaric, 2000; Berman, 2021; Summers, 2022; Von Hirsch, 1992). This relationship cannot be evaluated in the abstract, as proportionality requires courts to identify the offender characteristics and offence attributes that are legally relevant to determining the seriousness of the offence before punishment can be justified (Berman, 2021). Judicial discretion remains necessary, but it must be exercised through identifiable legal criteria rather than a general appeal to fairness. Empirical research on sentencing discretion further shows that structured decision-making frameworks are important because they reduce unjustified disparities while preserving judges' ability to consider relevant differences between offenders and cases (K. K. Cheng et al., 2020). Judicial decision-making in narcotics cases requires judges to assess proven facts established at the trial and apply the relevant provisions of the Narcotics Law before determining an appropriate sentence (Al Faqih et al., 2022).

Supreme Court Decision No. 6326 K/Pid.Sus/2025 places that conflict in a concrete cassation setting. According to the official case-administration record, the matter was processed as an ordinary cassation in a narcotics case. It was registered on 22 May 2025, assigned to a three-judge panel on 2 June 2025, decided on 13 June 2025, and formally dispatched on 29 August 2025. The disposition examined in this article imposed a sentence of two years and six months of imprisonment together with a fine of IDR 1,000,000,000, with a subsidiary to three months of imprisonment. This sentencing combination is legally significant because, although the fine corresponds to the minimum fine in Article 114(1), the custodial sentence falls substantially below the five-year special minimum attached to the same provision. The case therefore concerns a specific departure from a special statutory minimum rather than the broader issue of leniency in narcotics sentencing. The central question is whether the Supreme Court relied upon a legally defined basis for upholding such a sentence and whether its reasoning supplied sufficiently clear factual and legal criteria to control its use in later cases.

Earlier studies have explained sentencing disparity, compassionate judging, and the use of punishment below statutory thresholds in narcotics cases. It shows that judges commonly consider

quantity, dependency, social vulnerability, transaction role, and the absence of wider network involvement when assessing culpability (Mustafa et al., 2020). Other studies demonstrate that departures below the special minimum are frequently defended through substantive justice and proportionality, although the doctrinal limits of that practice remain uncertain (Pardede et al., 2022). Those contributions are valuable, yet much of the discussion remains organised around broad concepts or trial-court practice. The institutional effect of a recent Supreme Court decision, particularly the way its reasoning can be repeated by lower courts, has received less focused attention. This issue is particularly important because legal reasoning that is repeatedly adopted over time may become entrenched as a dominant decision-making pattern, potentially influencing the future development of case law beyond the specific facts of the original dispute (De Martino et al., 2026).

Recent empirical research has also demonstrated that systematic analysis of court judgments provides an effective means of identifying sentencing patterns and explaining variations in sentence severity across cases (Hartel et al., 2023). Consistency in punishment depends on how courts interpret and apply legally relevant factors rather than relying on the formal classification of offences. The differences in judicial reasoning may produce inconsistent outcomes even when courts evaluate similar offences, highlighting the importance of transparent principles in guiding judicial discretion (Pina-Sánchez et al., 2019). Other empirical studies indicate that legislative attempts to reduce sentencing variation do not automatically eliminate disparities, because judicial interpretation and institutional practices continue to influence sentencing outcomes(Mamak et al., 2022). Sentencing guidelines and appellate guidance have been examined as mechanisms to improve predictability while preserving judicial discretion to consider case-specific circumstances. These findings suggest that higher-court reasoning should be examined not only as a legal doctrine but also as an institutional process shaping how lower courts justify sentencing decisions.

The severity of Indonesia's narcotics regime reflects a broader commitment to deterrence-oriented enforcement, under which drug offences are frequently treated as exceptional crimes warranting harsh punishment (Harry & Hoyle, 2026). This punitive orientation has also been reinforced by political narratives that portray narcotics offences as a national emergency requiring extraordinary criminal justice responses. Indonesia's "drug emergency" discourse has consequently been used to justify harsher sanctions and strengthen support for severe punishment in drug-related cases, where such offences are framed as exceptional threats to public order and national security (Lasco, 2020). Against this background, judicial decisions imposing sentences below statutory minimum thresholds are particularly significant as they raise questions concerning the limits of judicial discretion and the role of proportionality in sentencing.

The research gap is more specific than a general shortage of discussion about minimum penalties. What remains unexplored is a case-based analysis of the legal test connecting four elements: the offence charged, the quantity and purpose of possession, the defendant's actual role, and the precise form of sentencing departure. Supreme Court chamber formulations already contain fragments of such a test, especially for small-quantity cases where the evidence points toward personal use despite a more severe charge. Decision No. 6326 K/Pid.Sus/2025 offers an opportunity to assess whether those fragments have become a coherent *ratio decidendi* or continue to function as an informal justification dependent heavily on the individual panel.

The novelty of this article lies in treating the decision's weakness as a doctrinal finding rather than merely criticising its lenient outcome. This analysis distinguishes between the existence of authority to depart and the adequacy of the reasons used in exercising that authority. A departure can be legally available under the Supreme Court's internal judicial guidance, but the decision is not automatically persuasive because its final sentence resembles earlier practice. Its precedential force depends on whether it states the relevant charge, the net weight, intended use, transactional role, lower-court findings, cassation objections, and the factual bridge between those matters and

the reduced term. This requirement is consistent with the view that judicial reasoning constitutes a fundamental element of a court decision because it provides the legal basis through which justice, legal certainty, and the objectives of sentencing can be assessed (Afrizal, 2021). Without such a reasoned connection, subsequent courts may replicate the outcome while ignoring the conditions that justified the result defensible.

The principal question is whether, and to what extent, the Indonesian Supreme Court may affirm or impose imprisonment below the special minimum in a narcotics case. The article addresses that question by examining Decision No. 6326 K/Pid.Sus/2025 alongside the Narcotics Law, the Judicial Power Law, SEMA No. 3 of 2015, and the Criminal Chamber's 2023 formulation. The answer is necessarily qualified. A below-minimum term may be justified where the proven facts place the case within the Supreme Court's narrowly defined framework for small-quality, user-oriented offences, the statutory fine is preserved where required, and the judgment provides reasons capable of appellate and public review. Such authority does not constitute a general licence to replace the legislature's sentencing framework with a personal sense of justice. Effective law enforcement depends not only on substantive legal rules but also on the capacity of legal institutions to implement and apply those rules in practice (Shafira et al., 2023).

The discussion proceeds from the statutory design of special minimum penalties to the verified procedural record of Decision No. 6326 K/Pid.Sus/2025. It then reconstructs the applicable doctrinal framework and evaluates the decision's *ratio decidendi*. The article also addresses the evidential concern identified by the reviewer: the legitimacy of the departure from the statutory minimum cannot be tested without identifying the charge, type and net weight of the narcotics, the defendant's role, the lower-court reasoning, and the grounds of cassation. Where the accessible decision record does not reproduce those matters clearly, the analysis marks the omission rather than replacing it with conjecture. That distinction is essential because a case-based legal article loses credibility when factual gaps are covered by general theory.

This is doctrinal legal research employing statutory, case, and conceptual approaches – case-based analysis of Supreme Court Decision No. 6326 K/Pid.Sus/2025. The primary materials comprise Law No. 35 of 2009 on Narcotics, Law No. 48 of 2009 on Judicial Power, Supreme Court Decision No. 6326 K/Pid.Sus/2025, SEMA No. 4 of 2010, SEMA No. 3 of 2015, SEMA No. 1 of 2017, and the 2023 Criminal Chamber formulation compiled by the Supreme Court. The official Supreme Court case-handling record is utilised to verify the classification and procedural dates of the cassation. Secondary materials consist of books and journal articles on judicial discretion, sentencing disparity, narcotics policy, proportionality, and judgment analysis. The decision remains the principal object of analysis, while doctrine and academic literature are used to evaluate the legal quality of its reasoning rather than to substitute for missing case facts.

By following four stages, this analysis identifies the offence and sanction structure indicated by the disposition, including the relationship between the imprisonment term and the statutory fine. The second reconstructs the factual and procedural matters required for a lawful departure: the indictment, narcotics type and net weight, purpose of possession, defendant's role, findings of the District Court and High Court, grounds of cassation, and the Supreme Court's response. The third compares the decision with the conditions in the relevant Supreme Court circulars and chamber formulations. The final stage evaluates whether the ratio is sufficiently explicit, narrow, and reviewable to influence later cases. The verified facts, legal inferences, and unavailable information are kept separate throughout the discussion to prevents the doctrinal assessment from claiming more than the primary record that can support the evidentiary limits of the judgment part of the legal evaluation.

B. Discussion

1. The Statutory Architecture of Special Minimum Sentencing

Criminalisation has long been adopted as one of the principal legal strategies for addressing illicit narcotics-related problems worldwide (Félix & Portugal, 2017; Lai & Stoicescu, 2020; Natalis, 2026; Natalis et al., 2025; Scher et al., 2023). Rather than relying exclusively on public health approaches, many jurisdictions have historically emphasised criminal sanctions as the primary mechanism for controlling narcotics offences (Jurkus et al., 2026). The contemporary international narcotics control regime is founded upon the 1961 Single Convention on Narcotic Drugs, the 1971 Convention on Psychotropic Substances, and the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which collectively provide the legal framework for national narcotics control policies (Albrecht, 2001; Corte, 2010; Gurulé, 1998; Heilmann, 2011). Despite continuing debate over the scope of these conventions, criminalisation remains the dominant approach in many jurisdictions (Johnstad, 2023). Targeted law enforcement also remains an important mechanism for disrupting illegal narcotics markets and reducing illicit narcotics demand (Porreca, 2026). At the same time, narcotics policy has gradually evolved toward more balanced frameworks that seek to reconcile effective law enforcement with proportionate and evidence-based responses to narcotics-related offences (Gonçalves et al., 2025).

Indonesia reflects this punitive approach through Law No. 35 of 2009, which establishes special minimum penalties for several narcotics offences (Ariani et al., 2026; Fathir et al., 2026; Gerry Qc et al., 2018; Laksana et al., 2025). This punitive framework should nevertheless be understood within an integrated criminal policy that combines repressive penal measures with preventive non-penal strategies and rehabilitation efforts for narcotics victims (Chanif, 2023; Priamsari, 2022). Article 112(1), concerning the unlawful possession, storage, control, or provision of a Category I narcotic not in plant form, prescribes imprisonment of four to twelve years and a fine of IDR 800,000,000 to IDR 8,000,000,000. Article 114(1), which concerns offering for sale, selling, purchasing, receiving, acting as an intermediary, exchanging, or delivering a Category I narcotic, prescribes five to twenty years' imprisonment and a fine of IDR 1,000,000,000 to IDR 10,000,000,000. By contrast, Article 127 regulates personal abuse and does not adopt the same special minimum structure (Arimuladi et al., 2021). The distinction is significant because the same physical possession may appear in a user case and a distribution case, yet the applicable charge determines a radically different sentencing floor. A judgment must therefore explain not only that the statutory elements are satisfied, but also why the factual profile belongs to the level of culpability presumed by the charged provision.

The legality principle gives those minimum terms binding force. A judge cannot ordinarily treat the lower threshold as a non-binding recommendation because it forms part of the offence's legislatively fixed consequence. Likewise, the judicial duty to explore justice under the Judicial Power Law does not erase the sanction written by the legislature. This reflects the distinctive function of criminal law, in which punishment must remain publicly justified through law rather than resting solely on discretionary assessments of fairness (Matravers, 2023). At the same time, legality requires a correct legal characterisation of the proven conduct. A person whose evidence points to personal consumption should not be treated as a commercial actor merely because possession has been established. The difficult cases arise where the charge is brought under Article 111, 112, or 114, yet the evidence reveals only a small amount and a use-oriented context. Indonesian judicial policy has addressed this mismatch through Supreme Court chamber guidance rather than an express safety-valve provision in the Narcotics Law.

SEMA No. 3 of 2015 provides the first clear doctrinal route for such an approach. It states that where the prosecution proceeds under Article 111 or Article 112, but the evidence establishes personal use under Article 127, the defendant is shown to be a user, and the amount is relatively small according to SEMA No. 4 of 2010, the court must decide the case within the indictment yet

may depart from the special minimum by giving sufficient reasons. The formulation does not authorise an open-ended proportionality review. Instead, it confines departure to a specific evidential mismatch between the formal charge and the proven conduct. The requirement of 'sufficient reasons' also makes factual disclosure part of legality: the court must identify why the defendant qualifies as a user, why the amount is relatively small, and why the minimum would overstate culpability.

The 2023 Criminal Chamber formulation develops this approach to Article 114(1). It permits imprisonment below the special minimum where the narcotics evidence falls within the framework of SEMA No. 4 of 2010, SEMA No. 3 of 2015, and SEMA No. 1 of 2017, while requiring the fine under Article 114(1) to remain unchanged. This formulation provides the principal institutional basis for Decision No. 6326 K/Pid.Sus/2025, in which the court imposed a term below five years together with a fine of exactly IDR 1,000,000,000. it confirms that the Supreme Court does not regard every below-minimum sentence under Article 114(1) as automatically unlawful. Such departures, however, remain exceptional and are permissible only where the relevant fact conditions are clearly established in the judgment. in this way, the conviction and statutory fine are preserved under the charged article, while the term of imprisonment is moderated to account for the evidentiary profile.

2. Case Record, Charge, and Procedural Position of Decision No. 6326 K/Pid.Sus/2025

The official Supreme Court administrative record identifies Decision No. 6326 K/Pid.Sus/2025 as an ordinary cassation case classified under narcotics offences. The case was registered on 22 May 2025, assigned to a three-judge panel on 2 June 2025, decided on 13 June 2025, and dispatched on 29 August 2025, following a recorded handling period of eighty-nine days. This procedural dimension is also relevant to the principle of speedy, simple, and low-cost justice, which has been examined as a standard for assessing the administration of criminal proceedings in Indonesia (Ridwan, 2012; Ridwan et al., 2024). The recorded period alone, however, does not establish whether this principle was fulfilled; rather, it provides a procedural context for evaluating the handling of the case. These dates confirm that the decision is a recent cassation judgment, rather than an older line of authority restated in a new article.

The disposition examined in this case consists of imprisonment for two years and six months, a fine of IDR 1,000,000,000, and three months of substitute imprisonment. The precise amount of the fine provides the first concrete indication of the statutory provision underlying the charge, as it corresponds to the minimum fine prescribed under Article 114(1), rather than the IDR 800,000,000 minimum prescribed under Article 112(1). The legal issue, therefore, concerns the reduction of the minimum term of imprisonment prescribed under Article 114(1), while retaining the provision’s statutory minimum fine.

A case-based analysis must first identify what the conduct alleged against the defendant. Article 114(1) covers several distinct acts, including selling, purchasing, receiving, acting as an intermediary, exchanging, and delivering. These categories are not interchangeable for sentencing purposes, as they may refer to a principal seller, a buyer, a courier, or a low-level intermediary. The defendant’s role is therefore central to determining whether the small-quantity exception is appropriately applied. A person who controls the supply, determines prices, recruits others, or derives recurring profits presents a substantially different culpability profile from someone who performs a limited act, acts under another person’s direction, or possesses an amount consistent with personal use. Accordingly, the judgment should reproduce the indictment and identify the specific conduct under Article 114(1) that the court found to have been proven. Merely citing the statutory provision does not adequately explain the legal and factual basis for imposing a two-and-a-half-year prison sentence.

The type and net weight of the narcotics are equally decisive. SEMA-based departure depends on the evidence remaining within the small-quantity, user-oriented category. The judgment should

specify the laboratory result, the gross and net weight, the number of packages, the place of seizure, and any evidence indicating commercial dealing or personal use. It should also explain whether money, scales, communication records, customer lists, or repeated transactions were established. Without the facts, Decision No. 6326 K/Pid.Sus/2025 cannot serve as a reliable sentencing precedent because later courts would have no principled basis for deciding whether their cases are materially similar. The absence of a stated quantity is not a minor drafting defect; it removes the factual condition on which the Supreme Court's own departure framework depends.

The procedural history requires the same care. A proper cassation analysis should identify the District Court's qualification and sentence, whether the High Court affirmed or changed that decision, who logged at the cassation appeal, and whether the issues concerned the conviction, legal characterisation, evidentiary assessment, or sentencing. Although the available decision records the final sanction, it does not indicate whether the Supreme Court imposed by the lower court, or upheld the sentence while correcting another part of the judgment. This distinction is institutionally significant. Where the Supreme Court creates the departure, it must provide the complete justification; affirming one requires to test whether the *judex facti* gave adequate reasons. The judgment should be addressed expressly because cassation authority cannot be assessed from the final number alone.

A proper factual account should begin with the wording and structure of the indictment rather than with the sentence. Article 114(1) contains several alternative forms of conduct, and each form carries a different factual meaning. “Selling” or “buying” points to a completed exchange, “receiving” or “delivering” concerns the transfer of control; and acting as an “intermediary” requires evidence that the defendant connected two sides of a transaction. The same statutory label can therefore conceal a wide difference in culpability. A person who set the price, selected the buyer, controlled the supply, and retained the proceeds cannot be placed on the same level as a person who carried a small package at another person's request. For this reason, a judgment must identify which alternative act was charged and which act was proved, because the relevance of a sentence below the minimum depends on that distinction. A case-based article should also reproduce the subsidiary charge, if any, since the presence of Article 112 or Article 127 may explain the dispute concerned distribution, possession, or use. The absence of that information does not merely leave a descriptive gap; rather, it prevents a reader from testing whether the final legal qualification matched with the proven conduct.

The *ratio decidendi* must be separated from the attractive moral language surrounding proportionality. A legally relevant ratio for this case would contain a sequence of propositions: the defendant was charged and convicted under Article 114(1); the evidence involved a quantity and context falling within the Supreme Court's small-quantity guidance; the defendant's conduct was closer to personal use or peripheral participation than commercial distribution; the statutory five-year term would overstate the proven culpability; the prison minimum could be departed from under the chamber formulations; and the Article 114(1) fine had to remain intact. The charge preserves the accusatorial boundary, the established quantity and role exceptionality, the proportionality assessment the need for mitigation, and the retention of the fine limits the departure.

Decision No. 6326 K/Pid.Sus/2025 follows the external shape of that sequence because the prison term is reduced while the IDR 1,000,000,000 fine is preserved. The disposition, however, does not reveal whether the panel expressly applied the 2023 Criminal Chamber formulation or merely accepted a lower sentence on general grounds of justice. Reliance on the chamber formulation places the result within an existing judicial policy and supplies a legal bridge between the statutory rule and the exception. Reliance only on fairness leaves the decision vulnerable to the objection that the Court replaced a clear legislative minimum with an undefined personal assessment. A strong judgment should name the applicable formulation and show how every factual condition is satisfied.

Mitigating such circumstances also require classification. Remorse, politeness at trial, family responsibilities, and the absence of previous convictions may justify movement within a sentencing range, but they do not ordinarily explain why a court may cross a mandatory lower boundary. Facts justified departure must bear directly on the seriousness of the offence or the defendant's level of participation. Small net weight, use-oriented circumstances, lack of profit, absence of network control, one-time involvement, coercion, dependency, and a peripheral role are more closely connected to proportionality because they challenge the assumption that the defendant represents the ordinary Article 114(1) trafficker. Decision No. 6326 K/Pid.Sus/2025 required to distinguish these offence-related facts from routine personal mitigation.

The most defensible reading is therefore limited. The decision confirms that the Supreme Court may accept imprisonment below the Article 114(1) minimum when the sanction pattern and evidentiary profile fit its chamber guidance. However, it does not establish a free-standing power to disregard special minimums whenever a panel regards them as harsh. Its ratio should be stated as a conditional proposition, not a broad principle. Article 114(1) conduct is proved, yet the net quantity and surrounding facts place the defendant within the minor, recognise user-oriented framework by the Supreme Court, reduce the prison term below five years, retain the statutory fine, and explain why the case could be exceptional. The weakness of Decision No. 6326 K/Pid.Sus/2025 is that the publicly visible reasoning does not convert that conditional structure into an explicit checklist.

The doctrinal difficulty arises because Article 114(1) targets commercial circulation, whereas the Supreme Court's departure policy was initially developed facts point toward personal use. SEMA No. 3 of 2015 addressed a recurring mismatch: prosecutors charged Article 111 or Article 112, yet the trial proved circumstances closer to Article 127, and the amount remained within the limits identified in SEMA No. 4 of 2010. The formulation allowed the court to decide within the indictment while departing from the special minimum – not by erasing the boundary between possession and use, but by ensuring sentences reflected evidentiary reality rather than formal charges. The 2023 Criminal Chamber formulation carried the same logic into Article 114(1), though under stricter conditions because sale, purchase, delivery, or intermediation normally indicates circulation rather than private consumption. A court relying on that formulation must therefore explain why the transaction-related charge does not reflect the level of culpability usually associated with the offence.

The phrase ‘small quantity’ should not be used as a substitute for legal analysis. A small amount may support an inference of personal use, but the surrounding evidence can point in the opposite direction. Even a limited quantity may be divided into sale-ready packets, correlated to customer communications, or accompanied by evidence that the defendant repeatedly acted as an intermediary. A larger amount may also require examination of how the substance was acquired and whether the prosecution proved commercial control. The inquiry is contextual, although the numerical threshold remains important. The judgment should state the applicable threshold; compare with the net laboratory weight; and examine purpose, packaging, use history, payment, communications, and control. This approach avoids two errors at once: treating every low-weight case as personal use and processing the Article 114 label as conclusive proof of high-level trafficking.

Article 114(1)'s fine structure provides another clue to the intended boundary. The 2023 formulation permits a reduction in imprisonment but requires the fine to follow the statutory provision. Retaining the IDR 1,000,000,000 monetary minimum indicates that the conviction remains under Article 114(1), even though the prison term is adjusted to reflect the concrete case. This arrangement is not without its limitations. A substantial fine may be unrealistic for a low-level or vulnerable defendant and, may lead in substitute imprisonment. Nevertheless, it shows that the Supreme Court did not create a full exemption from the sanctions prescribed by the provision. Instead, the Court modifies one component of the sanction while preserving another,

indicating that its approach represents a limited sentencing correction rather than a reclassification of the offence. Decision No. 6326 K/Pid.Sus/2025 follows this approach precisely: the prison term is below five years, the fine remains at IDR 1,000,000,000, and substitute imprisonment is imposed if the fine is unpaid.

The ratio must still explain the reduction size. Reducing the statutory minimum from five years to two years and six months is not a marginal adjustment, halving the legislatively prescribed minimum. The judgment should therefore do more than establish that departure is permissible. It should explain why the selected term, rather than four years, three years, or another term, accurately reflects the defendant's role and the proven harm. Sentencing proportionality involves two distinctions questions. The first is whether the case qualifies for departure; the second is the extent of that departure once the threshold has been met. The current chamber formulations are clearer on the first question more clearly than on the second. Decision No. 6326 K/Pid.Sus/2025 exposes that unresolved point because, although it imposes a substantially reduced sentence, the available materials do not explain why the particular term of two years and six months was considered proportionate.

3. Lower-Court Reasoning, Grounds of Cassation, and the Scope of Review

The reasoning of the *judex facti* is central because sentencing facts are established at first instance. The District Court should identify the indictment, laboratory findings, seizure circumstances, defendant's role, as well as aggravating and mitigating factors before choosing a term below the minimum. If it regarded the defendant as a user or minor participant, it should explain why the case remained legally within Article 114(1) and why the chamber guidance nevertheless permitted a lower prison term. A bare statement that the punishment would be excessive would is insufficient. The trial judgment must demonstrate that the exception arose from the proven conduct rather than from sympathy or dissatisfaction with legislative policy.

Where an appeal is brought, tthe High Court must evaluate the coherence of that reasoning. It should determine whether the evidence satisfies the small-quantity criteria, whether the defendant's role is supported by the evidence, and whether the absence of network involvement has been established rather than assumed. It must also compare whether the extent of the reduction is proportionate to the seriousness of the conduct. Because reducing the statutory minimum by half is a substantial departure, the justification should be correspondingly detailed. The greater the departure, the greater the court's obligation to identify the facts supporting it.

The grounds of cassation define the scope of the Supreme Court's review. A prosecutor may argue that the lower courts misapplied Article 114(1), exceeded their authority, or failed to provide sufficient justification for departing from the statutory minimum. A defendant, in turn, may challenge the legal qualification of the offence, seek to be sentenced under Article 127, or argue that the sentence remains excessive. The Supreme Court must address the legal issues actually raised by the parties and explain whether the *judex facti* correctly applied the relevant chamber guidance. Where the prosecutor challenges a sentence below the statutory minimum, the Court should clarify why such a departure was legally permissible and factually justified. Conversely, where the defendant seeks a further reduction, the Court should explain why the sentence already imposed falls within the permissible scope of the applicable exception. Accordingly, a proper analysis of Decision No. 6326 K/Pid.Sus/2025 requires consideration of this procedural context rather than merely restating the final sentence.

In multi-defendant narcotics proceedings, prosecutors may also separate case files (*splitsing*) to organise the examination of co-defendants. Romdoni et al. (2023) discuss this mechanism under Article 142 of the Indonesian Criminal Procedure Code as a means of clarifying the case and expediting the evidentiary process.

Cassation review also has defined limits. The Supreme Court may correct errors of law and assess whether a judgment provides adequate legal reasons, but it should not introduce new

sentencing facts that were not established by the lower courts. Its authority is strongest when it examines the lower courts' factual findings against a clear legal test and weakest when it affirms an exceptional outcome without identifying the factual basis for the exception. The lower-court decisions and cassation memoranda are essential, not merely supplementary, because they reveal whether the Supreme Court reviewed a reasoned departure or simply allowed a result that happened to appear proportionate.

The legal assessment also depends on who filed the cassation petition. A prosecutor's petition commonly argues that the lower court violated the special minimum, misapplied the charged article, or gave insufficient reasons for a lenient sentence. A defendant may challenge the legal qualification, the rejection of a user-oriented provision, the evaluation of evidence, or the severity of the punishment. Cross-petitions may place both legal classification and sentence before the Supreme Court. Each configuration produces a different analytical task. Where only the prosecutor challenges a below-minimum term, the Court must decide whether the lower court had a recognised legal basis for departure and whether its reasons satisfied the heightened standard. Where the defendant seeks reclassification, the Court distinguish an error of law from a request to reweigh facts. A case-based article cannot accurately describe Supreme Court authority without identifying that procedural posture.

The distinction between *judex facti* and *judex juris* is equally important. District Courts and High Courts determine the facts, whereas cassation review concerns legal errors, procedural violations, and the adequacy of legal reasoning. Although the Supreme Court may rely on facts found below, it should not silently replace those findings with a new factual narrative. A lawful cassation judgment should identify the established facts, explain the legal consequence, and determine whether the lower courts correctly applied the sentencing framework. The Court may repair the legal reasoning or the sentence when the statutory framework has been misapplied, yet the repair must remain traceable to the record. This requirement is especially important in a below-minimum case because the exception depends on fact-sensitive criteria such as net weight, purpose, role, and network involvement.

Three possible outcomes should be distinguished. The Supreme Court may dismiss the petition and leave the sentence unchanged, allow the petition while correcting only part of the judgment, or overturn the legal qualification and impose a different sentence. The jurisprudential meaning of Decision No. 6326 K/Pid.Sus/2025 depends on which of these occurred. Affirming a well-reasoned departure indicates approval of the lower court's approach, whereas introducing a below-minimum sentence on cassation reflects a more active judicial role. By contrast, a dismissal with minimal reasoning carries less precedential value because it may represent acceptance of the particular case rather than endorsement of a general principle. The analysis therefore distinguishes the final disposition from the reasoning that supports it.

The grounds of cassation determine whether the case genuinely tested the limits of the Supreme Court's authority. A petition confined to sentence severity raises different issue from one arguing that any departure is unlawful. A prosecutor relies on on the principle of legality requires the Court to identify the legal basis of the exception, whereas a defendant arguing personal use requires the Court to address the relationship among Articles 114, 112, and 127. A petition attacking insufficient reasoning requires examination of the judgment's internal coherence. The reviewer's request for the cassation grounds is central rather than incidental. Those grounds define the legal controversy before the Court actually decided and prevent the article from attributing to the judgment a question that may never have been argued.

4. Legality, Proportionality, and the Legitimacy of the Departure

The legality objection begins with the wording of Article 114(1). A five-year minimum is a legislative command, and criminal courts do not possess a general equitable power. The departure in Decision No. 6326 K/Pid.Sus/2025 would be difficult to defend if it rested on broad notions of

justice. The doctrinal position changes, however, when the decision is read within the Supreme Court's own chamber guidance. The SEMA No. 3 of 2015 recognises that a court may remain within a severe charge while reducing imprisonment where the trial facts prove personal use and a relatively small quantity. The 2023 formulation expressly applies the same architecture to Article 114(1), subjecting to the statutory fine. These instruments do not amend the Narcotics Law; rather, they provide an internal judicial interpretation designed to resolve recurring mismatches between charging practice and proven culpability.

The legitimacy of this interpretation depends on its narrowness. A chamber formulation cannot become a parallel sentencing code detached from statutory elements. Rather, it must be confined to cases whose facts genuinely correspond to the circumstances for which the guidance was created. Quantity cannot justify departure, as even a small amount may form part of repeated commercial distribution. Equally, personal use cannot be inferred from the defendant's statement because transaction evidence may show otherwise. Peripheral participation must be established through the defendant's actual control, benefit, and relationship with other actors. The court must examine the evidential record as a whole and explain why it weakens the ordinary Article 114(1) inference of commercial culpability.

Proportionality should function as a structured method of legal reasoning rather than as a general appeal to fairness. The court should first identify the harm and culpability normally associated with Article 114(1) before comparing it with the proven case. It should specify which features reduce seriousness and aggravating features remain. The selected sentence must still serve denunciation, deterrence, and public protection, while avoiding punishment that is excessive in relation to the defendant's role. A two-and-a-half-year term may be proportionate for a minor and use-oriented case, but it cannot be justified in the abstract. The judgment must explain why that term, rather than three, four, or five years, reflects the proven differences.

Decision No. 6326 K/Pid.Sus/2025 is therefore be regarded as legally defensible only through a legality-sensitive form of proportionality. The Court must begin from the binding minimum, identify the recognised judicial exception, prove that the case satisfies its factual conditions, preserve the fine required by Article 114(1), and give reasons that can be compared across cases. The decision becomes problematic when any of those steps is missing. The principal weakness of the decision is not necessarily the reduced sentence itself, but the absence of a sufficiently clear explanation linking the statutory rule to the exceptional outcome. Without that reasoning, the decision risks encouraging broader and less disciplined reliance on the same result.

A sentence below the statutory minimum inevitably raises a concern regarding the separation of powers because the legislature determines the minimum penalty, whereas the judiciary appears to alter it. These concerns are strongest when the judgment relies only on broad references to justice or humanity. Courts are not authorised to replace an unpopular sanction with a preferred policy, and the Judicial Power Law does not confer an abstract power to disregard clear criminal provisions. Judicial interpretation remains legitimate, however, when it resolves an internal tension in the legal system through established institutional guidance. Although the Narcotics Law distinguishes users from circulation offenders, charging practice may place user-oriented facts under provisions with special minima. Supreme Court circulars respond to that mismatch by directing judges to examine the proven facts and by defining a narrow remedial route. The legitimacy derives from the statutory distinction itself, not from any general judicial authority to disregard mandatory minimum.

The duty to give reasons is the constitutional and procedural control against the misuse of this interpretive power. A reasoned judgment enables the parties to understand the outcome, permits appellate review, supports consistency, and exposes whether the court relied on relevant facts. This obligation becomes more demanding where the court departs from an express statutory boundary. Conventional sentencing factors, such as remorse, family obligations, and polite behaviour may explain a term within the range, but it does not explain why the statutory floor itself is inapplicable.

The judgment must identify the legal source of departure, the objective conditions governing its application, the evidence satisfying each condition, and the reasons why the selected term remains adequate for deterrence and public protection. This structure converts discretion from personal preference into a legal decision that can be compared with later cases.

Judicial reasoning should also distinguish correction from substitution. A court may correct the disproportion arising from a mismatch between the charged and proven culpability, but it should not substitute its own general narcotics policy for the legislature's. A corrective judgment uses narrow language, limits the ruling to exceptional facts, preserves the fine or other statutory elements required by the applicable guidance, and explains why ordinary Article 114(1) cases remain subject to the five-year minimum. A substitutive judgment, by contrast, treats proportionality as an independent source of sentencing authority without identifying any limiting principle. Decision No. 6326 K/Pid.Sus/2025 is defensible only under the corrective model. Its value would be weakened if subsequent courts cited the two-and-a-half-year term without reproducing the factual and doctrinal conditions that justified the reduction.

The legality of a below-minimum sentence therefore has both formal and substantive dimensions. Formal legality asks whether a recognised legal source authorises the departure and whether the court acted within the procedural scope of the case. Substantive legality asks whether the judgement provides sufficiently clear reasons to prevent arbitrary differentiation. A sentence may rely on an official chamber formulation yet still be arbitrary if the judgment does not show that the facts satisfy the formulation. Conversely, even a carefully proportioned sentence cannot be defended without a recognised legal basis for departure. Decision No. 6326 K/Pid.Sus/2025 illustrates why the existence of judicial authority and the quality of its exercise must be analysed separately.

5. Jurisprudential Value and the Risk of Uneven Application

Although Indonesian courts do not follow a strict doctrine of binding precedent, Supreme Court decisions exert considerable practical influence. Lower courts frequently rely on cassation judgements when resolving recurring statutory problems, particularly where legislation provides no express mechanism for departing from mandatory minimum penalties. A decision that accepts imprisonment below the Article 114(1) minimum may therefore be cited as evidence that such a sentence is possible. The danger is that courts may reproduce the number while omitting the factual conditions. Decision No. 6326 K/Pid.Sus/2025 will promote consistency only if later judges understand it as an application of a narrow chamber framework rather than a general authorisation to sentence below five years.

Its contribution is consequently more diagnostic rather than precedent-setting. The decision exposes the existence of a judicial route exists for avoiding disproportionate punishment, but it does articulate a comprehensive doctrinal test capable of guiding future cases. A precedent-setting decision would identify the charge, net weight, user or commercial indicators, role, benefit, prior conduct, lower-court findings, cassation grounds, and the legal source of departure. It would then explain how those factors interact. A disposition that only preserves a reduced term confirms an outcome but does not tell later courts how to distinguish a proper exception from unlawful leniency.

The risk of uneven application is especially high because many mitigating circumstances appear in nearly every criminal case. If remorse, family dependency, or good behaviour during trial is treated as sufficient to justify departure from the statutory minimum, the exception will expand beyond the Supreme Court's small-quantity framework. Courts may then produce different sentences for similar defendants based on the panel's personal view. A reliable jurisprudence must reserve departure for factors that materially alter offence seriousness and must require an explicit comparison with cases in which the minimum remains appropriate. The use of precedent should depend on factual similarity rather than on citation of the same decision number.

The decision also has a constructive institutional role. It signals to prosecutors that charging choices affect sentencing legitimacy and that severe provisions should not be used without careful attention to the defendant's actual conduct. It reminds trial courts that a sentence below-minimum term requires more, not less, reasoning. Finally, it reminds the Supreme Court that short dispositions are insufficient when an exceptional sentence may guide a nationwide pattern. The case should therefore be regarded not as the final resolution of the issue, but as an opportunity to improve the reasoning and structure of judicial decisions concerning departures from statutory minimum penalties.

Indonesian judicial practice accords Supreme Court decisions persuasive authority, but that authority depends on reasoning that can be applied to comparable cases without losing sight of the underlying facts. A useful precedent does more than announce an outcome; it identifies the governing principle, set out material facts, and shows how the rule applies to those facts. Decision No. 6326 K/Pid.Sus/2025 presently offers a sentencing pattern consistent with the Criminal Chamber's 2023 formulation. However, its proper use requires lower courts to rely on that formulation rather than treating the case number as authority. A lower court should explain that the quantity falls within the relevant limit, that the evidence points toward personal use or markedly reduced participation, that no stronger distribution indicators were proved, and that the fine remains consistent with Article 114(1). The citation then supports an already reasoned conclusion rather than replacing one.

Factual similarity must be assessed carefully. Two cases may involve the same article and the same narcotics weight but differ in packaging, communications, payment, repeated conduct, or control over the source. Likewise, two defendants may both be described as couriers, although one acted once under pressure while the other repeatedly transported drugs for payment with knowledge of the wider network. A precedent based on a low-level role cannot be extended because the label 'courier' appears in both judgments. Courts should identify the material similarities and differences explicitly. This practice prevents result-oriented citation and allows the Supreme Court to develop a body of decisions that differentiates lawful sentencing variation from unexplained disparity.

Publication quality also influences jurisprudential value. Decisions involving departures from statutory minimum penalties should be published in searchable text, with complete references to the lower-court references, and a clear statement of the operative legal rule. Where access is limited to administrative summaries or the final disposition, judges, and researchers are more likely on the sentence than on the reasoning that justified it. The evidentiary limitations encountered in this research is not only a research problem, but also a broader issue of judicial transparency. A decision intended to guide sentencing practice should allow the public to verify the indictment, evidence, procedural history, cassation grounds, ratio, and final order.

Responsible jurisprudential use also requires attention to negative precedent. A court should compare cases permitting departure from the statutory minimum with those in which the Supreme Court restored the statutory minimum because the facts showed distribution, repeated conduct, larger quantities, or inadequate reasons. Comparison with restrictive decisions would clarify the boundary of the exception and reduce the impression that chamber policy operates in one direction only. Decision No. 6326 K/Pid.Sus/2025 can contribute to a coherent doctrine when viewed within this broader line of authority rather than as an isolated symbol of progressive sentencing.

6. A Measurable Test for Sentencing Below the Special Minimum

A workable test should begin with charge identification. The judgment must reproduce the relevant indictment and state the precise act under Article 114(1) found to have been proven. The second step concerns the narcotics evidence, including the type, laboratory confirmation, net weight, number of packages, and its position relative to the small-quantity thresholds recognised in the Supreme Court circulars. The third step assesses purpose and context by examining

personal-use indicators, sale equipment, communications, cash, repeated transactions, and the defendant's relationship with other actors. These matters establish whether the case falls within the exceptional framework or remains an ordinary distribution offence.

The fourth step differentiates the defendant's role. The court should determine who supplied the narcotics, controlled the transaction, set the price, received the money, whether the defendant could refuse participation, and what benefit was obtained. Labels such as courier or intermediary are not enough because they can conceal substantial differences in control and profit. The fifth step identifies aggravating factors, including repeated offending, organised activity, recruitment of others, use of children, violence, substantial gain, or evidence of a continuing market. Where these factors outweigh the evidence of small quantity or personal vulnerability relied upon by the defence.

The sixth step identifies the legal basis by citing the relevant Supreme Court chamber formulation and explaining why its conditions are satisfied. The seventh step addresses proportionality by comparing the statutory minimum with the defendant's reduced culpability and explaining the extent of the reduction. The eighth step preserves the statutory fine where the 2023 formulation requires it. The ninth step records why a non-custodial or rehabilitative response is or is not legally available. The final step states that the departure is case-specific and does not weaken Article 114(1) as the general rule.

Applied to Decision No. 6326 K/Pid.Sus/2025, this test produces a clear conclusion. The final sanction is consistent with the form of departure recognised by the 2023 Criminal Chamber because the prison term is below five years while the IDR 1,000,000,000 fine remains. The decision's unresolved weakness lies in the missing demonstration of the preceding steps. The article cannot responsibly treat the judgment as a complete doctrinal model until the charge, quantity, defendant's role, lower-court findings, and cassation objections are expressly connected to the exception. The decision supports the existence of authority, but not an unlimited scope of authority.

A future judgment should begin with a concise statement of the fact most relevant to sentencing. It should identify the indictment, specify the alternative act under Article 114(1), describe the narcotics type and net weight, explain where and how the evidence was found, and set out the defendant's role in the alleged transaction. The statement should separate facts proved at trial from claims made only by the defendant. It should also identify evidence that points toward distribution and evidence that points toward personal use or reduced participation. This opening prevents the legal analysis from floating above the record and allows a reader to examine why the case may be exceptional.

The next part should state the ordinary legal consequence by referring to the five-year minimum term and the one-billion-rupiah fine under Article 114(1), while acknowledging that a term below five years would ordinarily contradict the statutory range. The court should identify the Supreme Court circular or chamber formulation relied upon and explain its institutional status. It should then test each condition against the proven evidence. A bare statement that the defendant is a user or that the quantity is small is insufficient. The judgment should give the numerical comparison, discuss the purpose of possession, assess transaction indicators, and explain the significance of the defendant's role.

Only after eligibility for departure has been established should the judgment address proportionality. It should compare the seriousness normally associated with the convicted offence and then describe the features that materially lower culpability in the individual case. The selected term should be justified by reference to those features and to the purposes of punishment. Although deterrence remains relevant because the conviction stays under Article 114(1), it does not require a punishment detached from the defendant's role. Public protection should be assessed through evidence of network involvement, repeated conduct, and capacity to continue the offence, while

rehabilitation may become relevant where dependency or personal use is proved. The analysis should conclude by explaining why the sentence is sufficient but not excessive.

The final part should contain an express limitation. The court should state that the departure does not apply merely because the defendant has no prior conviction, supports a family, admits the offence, or behaves politely at trial. It should clarify that Article 114(1)'s minimum remains the rule and that departure depends on the specific evidentiary and doctrinal conditions identified in the judgment. The fine should be addressed separately, including the reason it remains at the statutory amount and the proportionality of substitute imprisonment. Such a limitation is essential because it defines the boundaries of the exception for future courts.

Such a structure would have answered the reviewer's central concern in Decision No. 6326 K/Pid.Sus/2025. It would connect the charge, factual background, narcotics evidence, role, lower-court reasoning, grounds of cassation, *ratio decidendi*, and legal basis for the reduced sentence in one connected chain. It would also reveal whether the case creates a usable sentencing parameter. The available disposition demonstrates that a departure occurred: a model judgment must demonstrate why it occurred and under what circumstances the same reasoning should – or should not – apply in future cases.

7. Implications for Courts, Prosecutors, and Sentencing Policy

The first implication concerns judgment writing. Courts that cross a special minimum should carry a heightened duty to give reasons. Ordinary sentencing paragraphs that merely list aggravating and mitigating circumstances are inadequate because departures from statutory sentencing limits require reasons demonstrating why those considerations justify the sentence imposed (Hananta, 2018).

The decision should contain a separate subsection explaining the statutory minimum, the governing chamber formulation, the facts that trigger the exception, the amount of reduction, and the reasons of the resulting punishment remains sufficient, so that the departure from the ordinary sentencing framework is clearly justified and capable of appellate review (Roberts, 2011). Providing explicit reasons for departures also promotes consistency by allowing appellate courts and future judges to evaluate whether sentencing decisions are grounded in legally relevant considerations rather than individual judicial preferences (Kaiser & Spohn, 2018).

The second implication concerns prosecutorial charging. The recurring mismatch between Article 114 or Article 112 charges and user-oriented facts creates pressure on judges to correct classification at the sentencing stage. Prosecutors should distinguish commercial trafficking from possession related to dependency or personal consumption before filing the indictment. Laboratory weight, assessment results, communication evidence, financial benefit, and network involvement should inform the charge. Better charging practice would reduce the number of cases in which courts must choose between a severe statutory minimum and a factual record that does not support the level of culpability assumed by that minimum.

The third implication concerns the treatment of evidence. Sentencing facts should be established with the same care as the elements of the offence because sentencing decisions must rest on a reliable factual foundation rather than assumptions or unsupported inferences (Nir & Griffiths, 2018). Judicial discretion should only be exercised after the relevant sentencing facts have been established through sufficient evidence, as those findings directly influence sentencing outcomes and the exercise of sentencing discretion (Lundberg, 2016).

A judgment should not infer a minor role merely because the principal supplier was not arrested, nor should it infer personal use solely from the defendant's claim. Instead, it should examine evidence concerning the source of the narcotics, intended destination, payment, communications, consumption history, dependency assessment, and the presence or absence of distribution tools. The net weight must be stated precisely because the Supreme Court's own

guidance uses quantity as a gateway condition. An unexplained reference to a 'small amount' is too vague for consistent adjudication.

The fourth implication concerns appellate review. High Courts and the Supreme Court should review the sufficiency of reasons, not only the numerical sentence. A lower court that cites proportionality without identifying the supporting evidence should be corrected even if the sentence appears reasonable. Conversely, a well-reasoned, evidence-based explanation should not be reversed merely because the prison term is below the minimum. Such approach would transform cassation from a choice between rigidity and leniency into a review of structured legal reasoning.

The fifth implication concerns legal certainty. Certainty is not achieved when courts mechanically impose the same minimum on defendants with materially different culpability. Rather, it depends on treating similar treatment alike through a transparent and consistent method of reasoning. The test proposed above allows differentiation without arbitrary disparity. Defendants whose cases satisfy the small-quantity, user-oriented, and minor-role criteria may receive a controlled departure, while organised or profit-driven offenders remain subject to the statutory minimum. The reasons for the difference would be visible and capable of comparison.

The sixth implication concerns criminal policy reform. The current solution depends heavily on Supreme Court circulars and chamber formulations because the Narcotics Law contains no express statutory mechanism for departing from mandatory minimum penalties. This arrangement remains fragile. Although the circulars provide valuable guidance, they lack a clarity and accessibility of statutory reform a comprehensive sentencing regulation. The legislature should consider differentiating offence levels by role, quantity, profit, and network involvement. The Supreme Court should also consolidate the scattered circulars into an accessible sentencing guideline that explains the relationship between Articles 112, 114, and 127.

The seventh implication concerns the proper reading of Decision No. 6326 K/Pid.Sus/2025. Lower courts should not rely on the decision as a stand-alone reason for a reduced sentence. Instead, they should cite the relevant chamber guidance, compare the facts, and explain whether the case satisfies the same conditions. The decision may illustrate the permissible sanction pattern, but the governing rule comes from the combined statutory and chamber framework. This disciplined use would allow the judgment to contribute to humane sentencing without turning one exceptional outcome into a source of uncontrolled disparity.

Sentencing reform should begin with the Supreme Court because the immediate problem is inconsistent judicial reasoning under an existing statute. A consolidated regulation or guideline could gather SEMA No. 4 of 2010, SEMA No. 3 of 2015, SEMA No. 1 of 2017, and the 2023 Criminal Chamber formulation into one operational framework. The document should define the role of quantity, personal use, transaction evidence, minor participation, dependency, prior offending, and network control. It should also state the evidentiary threshold for each factor and require written reasons whenever a court moves below the special minimum. Consolidation would make the rule easier to locate and would reduce selective reliance on only the parts that favour leniency.

Prosecutorial reform is necessary because the sentencing conflict often begins with charge selection. Charging guidelines should require prosecutors to justify the selection of Article 114 or Article 112 over Article 127 where the evidence involves a small amount and possible personal use. The explanation should address communications, money, packaging, source, intended recipient, and the defendant’s consumption history. A severe article should not be selected merely because its elements are easier to formulate from physical possession. More accurate charging would reduce the need for courts to correct overbreadth at the end of the process and would make the statutory minimum more credible in cases that genuinely involve circulation.

Legislative reform remains necessary for a durable solution. The Narcotics Law could distinguish levels of participation more clearly and provide an express safety valve for defendants who satisfy strict criteria. A statutory mechanism would improve democratic legitimacy by placing

the exception on internal judicial guidance. The mechanism could preserve high minima for organisers, financiers, repeat offenders, and persons who involve children, while allowing a lower range for minor participants with small quantities, no meaningful profit, no control over a network, and verified dependency or coercion. The court would still be required to state reasons, and the prosecution could challenge an unsupported departure.

Institutional reform should also proceed in a coordinated sequence. Judicial guidance can improve sentencing practice in the short term, charging standards can prevent mismatched cases, and legislation can provide the clearest long-term basis. Each stage should be supported by systematic data collection. The Supreme Court should map how often departures occur, which articles are involved, what quantities and roles appear, how far sentences fall below the minimum, and whether appellate courts affirm or correct them. A public dataset would allow scholars and institutions to identify patterns of lawful differentiation and unexplained disparity. Decision No. 6326 K/Pid.Sus/2025 should become the starting point for that disciplined inquiry rather than a solitary example repeatedly cited without its factual record.

C. Conclusion

Supreme Court Decision No. 6326 K/Pid.Sus/2025 concerns a specific and legally sensitive departure from the statutory special-minimum sentencing framework. Based on the reported sentencing configuration, the offence corresponds to Article 114(1) of the Narcotics Law. The sentence of two years and six months of imprisonment, a fine of IDR 1,000,000,000, and three months of imprisonment in default of payment preserves the statutory minimum fine while reducing the five-year minimum term of imprisonment by half. Indonesian judicial policy provides a narrow legal basis for such a departure. SEMA No. 3 of 2015 provides a framework for departing from the statutory minimum where the facts establish personal use and involve a relatively small quantity of narcotics, notwithstanding a more serious charge. The 2023 Criminal Chamber formulation extends this framework to cases charged under Article 114(1), while requiring the fine to remain consistent with the statutory provision. Accordingly, the sentence does not necessarily constitute an unlawful departure from the principle of legality. Its legitimacy, however, depends on strict compliance with the factual and reasoning requirements established under that framework.

Nevertheless, the decision does not articulate a sufficiently explicit doctrinal test to guide its application in subsequent cases. A persuasive *ratio decidendi* should identify the indictment, the type and net weight of the narcotics, the defendant's role in the transaction, the surrounding transactional circumstances, the findings of the lower courts, the grounds of cassation, and the precise relationship between those facts and the extent of the sentencing reduction. The absence of this complete chain of reasoning limits the decision's value as an authoritative precedent and makes it more useful as evidence of an unresolved doctrinal problem than as a self-sufficient guide for future adjudication. The Supreme Court should therefore uphold sentences below the statutory special minimum only in exceptional cases involving relatively small quantities of narcotics and demonstrably reduced culpability. It must preserve the statutory fine where required, distinguish offence-related mitigating circumstances from routine personal considerations, and provide reasoning that is transparent, reviewable, and specific to the facts of each case. Furthermore, a consolidated sentencing guideline should translate these requirements into a consistent judicial framework, ensuring that the pursuit of proportionality neither undermines the principle of legality nor produces punishment disconnected from the defendant’s degree of culpability.

REFERENCES

Afrizal, M. (2021). Pertimbangan Hakim dalam Penjatuhan Sanksi Pidana terhadap Anak Pelaku Tindak Pidana Narkotika (Studi Kasus di Pengadilan Negeri Sekayu). *Viva Themis: Jurnal Ilmu Hukum Dan Humaniora*, *4*(1), 13–30. https://doi.org/10.24967/vt.v4i1.1518

Al Faqih, R. A., Rachman, F., & Mirwansyah. (2022). Analisis Putusan Hakim dalam Tindak Pidana Penyalahgunaan Narkotika Golongan I oleh Remaja di Tempat Hiburan Malam. *Viva Themis: Jurnal Ilmu Hukum dan Humaniora*, *5*(1), 1–12. https://doi.org/10.24967/vt.v5i1.1755

Albrecht, H.-J. (2001). The International System of Drug Control: Developments and Trends. In J. Gerber & E. L. Jensen (Eds), *Drug War American Style: The Internationalization of Failed Policy and Its Alternatives* (pp. 49–60). Garland Publishing. https://doi.org/10.4324/9781315053493-3

Alexander, L. (2021). Proportionality's Function. *Criminal Law and Philosophy*, *15*(3), 361–372. https://doi.org/10.1007/s11572-021-09564-x

Andraka-Christou, B., Viglione, J., Ahmed, F., del Pozo, B., Atkins, D. N., Clark, M. H., Totaram, R., & Pivovarova, E. (2025). Factors affecting problem-solving court team decisions about medications for opioid use disorder. *Journal of Substance Use and Addiction Treatment*, *168*(October 2024), 209525. https://doi.org/10.1016/j.josat.2024.209525

Ariani, N. V., Md Isa, Y., Yusof, Y., & Amirudin. (2026). Users or Traffickers? Legal Ambiguities in Indonesia's Narcotics Law and Their Role in Prison Overcrowding. *Jurnal Hukum Novelty*, *17*(1), 74–92. https://doi.org/10.26555/jhn.v17i1.30254

Arimuladi, S. U., Utama, Y. J., & Asmara, T. (2021). Protection of Human Rights for Narcotics Users: A Critique of the Use of Criminal Sanctions in Efforts to Eradicate the Spread of Narcotics in Indonesia. *Journal of Drug and Alcohol Research*, *10*, 23613. https://www.ashdin.com/articles/protection-of-human-rights-for-narcotics-users-a-critique-of-the-use-of-criminal-sanctions-in-efforts-to-eradicate-the-spread-of-n-82604.html

Bagaric, M. (2000). Proportionality in Sentencing: Its Justification, Meaning and Role. *Current Issues in Criminal Justice*, *12*(2), 143–165. https://doi.org/10.1080/10345329.2000.12036187

Barrett, D., & Nowak, M. (2010). The United Nations And Drug Policy: Towards A Human Rights-Based Approach. In *The Diversity of International Law* (pp. 449–477). Brill | Nijhoff. https://doi.org/10.1163/ej.9789004180390.i-676.162

Berman, M. N. (2021). Proportionality, Constraint, and Culpability. *Criminal Law and Philosophy*, *15*(3), 373–391. https://doi.org/10.1007/s11572-021-09589-2

Bierschbach, R. A., & Bibas, S. (2016). What's Wrong With Sentencing Equality? *Virginia Law Review*, *102*(6), 1447–1522. https://virginialawreview.org/articles/whats-wrong-sentencing-equality/

Chanif, M. (2023). Strategi Pemerintah dalam Menangani dan Merehabilitasi Pengedar Narkotika dan Korban dari Narkotika di Indonesia. *Jurnal Hukum Progresif*, *11*(1), 45–57. https://doi.org/10.14710/jhp.11.1.45-57

Cheng, K. K., Ri, S., & Pushkarna, N. (2020). Judicial Disparity, Deviation, and Departures from Sentencing Guidelines: The Case of Hong Kong. *Journal of Empirical Legal Studies*, *17*(3), 580–614. https://doi.org/10.1111/jels.12260

Cheng, K. K.-Y., Ri, S., & Pushkarna, N. (2022). Testing the Drugs' Sentencing Guidelines: A Comparison between England and Wales and Hong Kong. *Asian Journal of Comparative Law*, *17*(1), 167–190. Cambridge Core. https://doi.org/10.1017/asjcl.2022.11

Citron, E. (2006). Sentencing Review: Judgment, Justice, and the Judiciary. *Yale Law Journal Pocket Part*, *115*(Essay), 150. https://yalelawjournal.org/index.php/essay/sentencing-review-judgment-justice-and-the-judiciary

Corte, C. G. (2010). The Forms of International Institutional Law: An Historical Analysis of the scheduling Decisions of Narcotic Drugs and Psychotropic substances taken by the United Nations' Commission on Narcotics Drugs. *International Organizations Law Review*, *7*(1), 171–221. https://doi.org/10.1163/157237310X523786

Csete, J., Kamarulzaman, A., Kazatchkine, M., Altice, F., Balicki, M., Buxton, J., Cepeda, J., Comfort, M., Goosby, E., Goulão, J., Hart, C., Kerr, T., Lajous, A. M., Lewis, S., Martin, N., Mejía, D., Camacho, A., Mathieson, D., Obot, I., … Beyrer, C. (2016). Public Health and International Drug Policy. *The Lancet*, *387*(10026), 1427–1480. https://doi.org/10.1016/S0140-6736(16)00619-X

De Martino, G., Marra, P., D'Aversa, A., Pulito, L., Pellicani, A., Pio, G., & Ceci, M. (2026). Leveraging Textual Content, Citational Aspects and Dissenting Opinions Through a Multi-View Contrastive Learning Methodology for Legal Precedent Analysis. *Computer Law & Security Review*, *60*, 106257. https://doi.org/10.1016/j.clsr.2025.106257

Djatmika, P., & Kurniawan, H. (2026). Death Penalty Reform: A Comparative Study of Indonesia's New Criminal Code and Malaysian Law. *Jurnal Legalitas*, *19*(1), 103–120. https://doi.org/10.33756/jelta.v19i1.37772

Duus-Otterström, G. (2021). Do Offenders Deserve Proportionate Punishments? *Criminal Law and Philosophy*, *15*(3), 463–480. https://doi.org/10.1007/s11572-021-09571-y

Fathir, M., Hiariej, E. O. S., Winjaya Laksana, A., Alhadi, S. A., & Verdasco Martínez, R. (2026). Rethinking Integrated Assessment Policy for Drug Offenders Through Justice. *Journal of Human Rights, Culture and Legal System*, *6*(3), 149–178. https://doi.org/10.68247/jhcls.v6i3.1114

Félix, S., & Portugal, P. (2017). Drug Decriminalization and the Price of Illicit Drugs. *International Journal of Drug Policy*, *39*, 121–129. https://doi.org/10.1016/j.drugpo.2016.10.014

Fischer, B., Boyd, N., & Brochu, S. (2022). Proposals for Decriminalization of Illicit Drug Use: Considering a Combination of déjà-vu, Diversion and Devil-with-many-details for Health-oriented Policy Reform. *The Canadian Journal of Psychiatry*, *67*(1), 13–15. https://doi.org/10.1177/07067437211019656

Fleetwood, J. (2011). Five Kilos: Penalties and Practice in the International Cocaine Trade. *The British Journal of Criminology*, *51*(2), 375–393. https://doi.org/10.1093/bjc/azr006

Gerry Qc, F., Harré, T., Naibaho, N., Muraszkiewicz, J., & Boister, N. (2018). Is the Law an Ass When It Comes to Mules? How Indonesia Can Lead a New Global Approach to Treating Drug Traffickers as Human Trafficked Victims. *Asian Journal of International Law*, *8*(1), 166–188. Cambridge Core. https://doi.org/10.1017/S2044251316000230

Gonçalves, R., Lourenço, A., & Marreiros, H. (2025). Measuring drug policy evolution: A cross-country analysis. *International Journal of Drug Policy*, *138*(March), 104750. https://doi.org/10.1016/j.drugpo.2025.104750

Grunwald, B. (2015). Questioning Blackmun's Thesis: Does Uniformity in Sentencing Entail Unfairness? *Law & Society Review*, *49*(2), 499–534. Cambridge Core. https://doi.org/10.1111/lasr.12141

Gurulé, J. (1998). The 1988 U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances: A Ten Year Perspective: Is International Cooperation Merely Illusory? *Fordham International Law Journal*, *22*(1), 74–121. https://ir.lawnet.fordham.edu/ilj/vol22/iss1/2/

Hananta, D. (2018). Pertimbangan Keadaan-Keadaan Meringankan dan Memberatkan dalam Penjatuhan Pidana: Aggravating and Mitigating Circumstances Consideration on Sentencing. *Jurnal Hukum Dan Peradilan*, *7*(1), 87–108. https://doi.org/10.25216/jhp.7.1.2018.87-108

Harry, L., & Hoyle, C. (2026). Necropolitics and State-Sponsored Drug Violence: The Death Penalty for Drug Offences in Indonesia. *International Journal of Drug Policy*, *149*, 105157. https://doi.org/10.1016/j.drugpo.2026.105157

Hartel, P., + Wegberg, R., & van Staalduinen, M. (2023). Investigating Sentence Severity with Judicial Open Data. *European Journal on Criminal Policy and Research*, *29*(4), 579–599. https://doi.org/10.1007/s10610-021-09503-5

Heilmann, D. (2011). The International Control of Illegal Drugs and the U.N. Treaty Regime: Preventing or Causing Human Rights Violations? *Cardozo Journal of International and Comparative Law*, *19*(2), 237–290. https://larc.cardozo.yu.edu/cjicl/vol19/iss2/2/

Hoyle, C., & Harry, L. (2025). Diversion or Death? The Moral Framework Shaping Bifurcated Punishments for Drug Offences in Indonesia. *Drugs: Education, Prevention and Policy*, *32*(4), 347–357. https://doi.org/10.1080/09687637.2024.2402262

Johnstad, P. G. (2023). The International Regime of Drug Control May Violate the Human Right to Life and Security. *International Journal of Drug Policy*, *113*, 103960. https://doi.org/10.1016/j.drugpo.2023.103960

Jurkus, M., Castañeda, J., Strike, C., Law, J., Jayathilake, A., Perlman, C. M., & Bardwell, G. (2026). How Have Liberalized Drug Policies Impacted International Policing Practices Across Urban and Rural Jurisdictions? A Scoping Review. *International Journal of Drug Policy*, *152*, 105249. https://doi.org/10.1016/j.drugpo.2026.105249

Kahlmeter, A. (2024). Legal Responses to Drug Offences and Drink-Driving: The Potential of Court-Imposed Care to Prevent Reconvictions. *Nordic Journal of Criminology*, *25*(2), 1–29. https://doi.org/10.18261/njc.25.2.6

Kaiser, K., & Spohn, C. (2018). Why Do Judges Depart? A Review of Reasons for Judicial Departures in Federal Sentencing. *Criminology, Criminal Justice, Law and Society*, *19*(2), 44–62. https://asu.elsevierpure.com/en/publications/why-do-judges-depart-a-review-of-reasons-for-judicial-departures-/

Lai, G., & Stoicescu, C. (2020). Chapter 10: Drug Policy in Asia: The Origins and Extremities of Prohibition. In *Research Handbook on International Drug Policy*. Edward Elgar Publishing. https://doi.org/10.4337/9781788117067.00019

Laksana, A. W., Musofiana, I., Sulchan, A., Osman, A. K., & Sanni, T. (2025). The Disparities in Punishment for Narcotic Addiction: Does it Reflect the Value of Justice? *Jurnal Media Hukum*, *32*(1), 134–150. https://doi.org/10.18196/jmh.v32i1.25678

Lasco, G. (2020). Drugs and Drug Wars as Populist Tropes in Asia: Illustrative Examples and Implications for Drug Policy. *International Journal of Drug Policy*, *77*, 102668. https://doi.org/10.1016/j.drugpo.2020.102668

López, G., Orchowski, L. M., Reddy, M. K., Nargiso, J., & Johnson, J. E. (2021). A Review of Research-Supported Group Treatments for Drug Use Disorders. *Substance Abuse Treatment, Prevention, and Policy*, *16*(1), 51. https://doi.org/10.1186/s13011-021-00371-0

Lundberg, A. (2016). Sentencing Discretion and Burdens of Proof. *International Review of Law and Economics*, *46*, 34–42. https://doi.org/10.1016/j.irle.2015.12.002

Mahmud, A. (2021). Problema Pidana Mati Terhadap Pelaku Tindak Pidana Narkotika dalam Sistem Hukum Indonesia. *Jurnal Hukum & Pembangunan*, *51*(2), 456–471. https://doi.org/10.21143/jhp.vol51.no2.1055

Mamak, K., Dudek, J., Koniewski, M., & Kwiatkowski, D. (2022). A Failed Attempt to Radically Reduce Inter-Court Sentencing Disparities by Legislation: Empirical Evidence from Poland. *European Journal of Criminology*, *19*(5), 1165–1187. https://doi.org/10.1177/1477370820952729

Manwaring, J. (2021). Proportionality's Lower Bound. *Criminal Law and Philosophy*, *15*(3), 393–405. https://doi.org/10.1007/s11572-021-09577-6

Martin, M., Snyder, H. R., Otway, G., Holpit, L., Day, L. W., & Seidman, D. (2022). In-hospital Substance Use Policies: An Opportunity to Advance Equity, Reduce Stigma, and Offer Evidence-based Addiction Care. *Journal of Addiction Medicine*, *17*(1), 10–12. https://doi.org/10.1097/ADM.0000000000001046

Matravers, M. (2023). On the 'Specialness' of the Criminal Law. *Criminal Law and Philosophy*, *17*(1), 49–59. https://doi.org/10.1007/s11572-021-09611-7

McAdam, E., Small, W., Mullins, G., Graham, B., Greer, A., Winder, N., & DeBeck, K. (2023). Decriminalization Thresholds for Drug Possession: A Multi-Criteria Policy Analysis Framework. *International Journal of Drug Policy*, *119*, 1–29. https://doi.org/10.1016/j.drugpo.2023.104126

Mustafa, C., Malloch, M., & Hamilton Smith, N. (2020). Judicial Perspectives on yhe Sentencing of Minor Drug Offenders in Indonesia: Discretionary Practice and Compassionate Approaches. *Crime, Law and Social Change*, *74*(3), 297–313. https://doi.org/10.1007/s10611-020-09896-0

Natalis, A. (2026). The War on Drugs and Women's Bodies: Tracing Gender Bias in Law Enforcement in Indonesia. In *Systemic Exclusion and Access to Justice: Legal and Social Challenges in the Modern Era* (pp. 29–56). IGI Global. https://doi.org/10.4018/979-8-3373-9579-1.ch002

Natalis, A., Sembiring, A. F., & Handayani, E. (2025). From Rejection to Recognition: Human Rights, Morality, and the Future of Marijuana Policy in Indonesia. *International Journal of Drug Policy*, *140*, 104817. https://doi.org/10.1016/j.drugpo.2025.104817

Nir, E., & Griffiths, E. (2018). Sentencing on the Evidence. *Criminal Justice Policy Review*, *29*(4), 365–390. https://doi.org/10.1177/0887403416635248

Nir, E., & Liu, S. (2022). The Challenge of Imposing Just Sentences Under Mandatory Minimum Statutes: A Qualitative Study of Judicial Perceptions. *Criminal Justice Policy Review*, *33*(2), 177–205. https://doi.org/10.1177/08874034211030555

Nosyk, B., & Wood, E. (2012). Evidence-based drug policy: It starts with good evidence and ends with policy reform. *International Journal of Drug Policy*, *23*(6), 423–425. https://doi.org/10.1016/j.drugpo.2012.10.005

Pardede, R. Y., Syahrin, A., Ekaputra, M., & Mulyadi, M. (2022). Analisis Yuridis Terhadap Penerapan Sanksi Pidana Di Bawah Ancaman Pidana Minimum Khusus Dalam Perkara Tindak Pidana Narkotika: Studi Putusan Mahkamah Agung Nomor 775K/Pid.Sus/2020. *Locus: Jurnal Konsep Ilmu Hukum*, *2*(3), 144–155. https://doi.org/10.56128/jkih.v2i3.31

Pina-Sánchez, J., Grech, D., Brunton-Smith, I., & Sferopoulos, D. (2019). Exploring the Origin of Sentencing Disparities in the Crown Court: Using Text Mining Techniques to Differentiate Between Court and Judge Disparities. *Social Science Research*, *84*, 102343. https://doi.org/10.1016/j.ssresearch.2019.102343

Porreca, Z. (2026). Identifying the General Equilibrium Effects of Narcotics Enforcement. *Journal of Urban Economics*, *152*, 103829. https://doi.org/10.1016/j.jue.2025.103829

Priamsari, RR. P. A. (2022). Kebijakan Integral Penanggulangan Tindak Pidana Penyalahgunaan Narkotika. *Jurnal Hukum Progresif*, *10*(2), 99–111. https://doi.org/10.14710/jhp.10.2.99-111

Ridwan, R. (2012). Membangun Integritas Penegak Hukum bagi Terciptanya Penegakan Hukum Pidana yang Berwibawa. *Jurnal Media Hukum*, *19*(1), 88–98. https://doi.org/10.18196/jmh.v19i1.1979

Ridwan, R., Citrawan, A. L., Jaya, B. P. M., Ahdad, A., Hernata, I. G., & Muyassaroh, M. (2022). Penerapan Prinsip Persamaan di Depan Hukum dalam Penangangan Perkara Tindak Pidana Korupsi di Pengadilan Negeri Serang. *Masalah-Masalah Hukum*, *51*(2), 171–178. https://doi.org/10.14710/mmh.51.2.2022.171-178

Ridwan, R., Jaya, B. P. M., Jaya, A. M., & Octavian, R. (2024). Speeding Up Justice: A Critical Analysis of the Principle of Speedy, Simple, and Low-Cost Trials in Indonesian Corruption Cases. *Kanun: Jurnal Ilmu Hukum*, *26*(2), 299–316. https://doi.org/10.24815/kanun.v26i2.33385

Roberts, J. V. (2011). Sentencing Guidelines and Judicial Discretion: Evolution of the Duty of Courts to Comply In England and Wales. *British Journal of Criminology*, *51*(6), 997–1013. https://doi.org/10.1093/bjc/azr044

Romdoni, M., Abubakar, A. P., & Nurtresna, R. (2023). Splitsing: As a Method for Resolving Teddy Minahasa's Narcotics Case in Criminal Justice Investigations. *International Journal of Law Society Services*, *3*(2), 67–77. https://doi.org/10.26532/ijlss.v3i2.35039

Romdoni, M., & Fitriasih, S. (2022). Disparitas Pemidanaan dalam Kasus Tindak Pidana Khusus Narkotika di Pengadilan Negeri Tangerang. *Masalah-Masalah Hukum*, *51*(3), 287–298. https://doi.org/10.14710/mmh.51.3.2022.287-298

Romdoni, M., & Karomah, A. (2021). Perbandingan Kebijakan Hukum Pidana (Penal Policy) terhadap Kejahatan Narkotika atau Dadah (Studi Komparatif Indonesia dan Malaysia). *Al Qisthas: Jurnal Hukum Dan Politik Ketatanegaraan*, *12*(1), 118–138. https://doi.org/10.37035/alqisthas.v12i1.4883

Savinkina, A., Jurecka, C., Gonsalves, G., & Barocas, J. A. (2024). felonization laws: A modeling study. *International Journal of Drug Policy*, 1–21. https://doi.org/10.1016/j.drugpo.2023.104175.Mortality

Scher, B. D., Neufeld, S. D., Butler, A., Bonn, M., Zakimi, N., Farrell, J., & Greer, A. (2023). "Criminalization Causes the Stigma": Perspectives From People Who Use Drugs. *Contemporary Drug Problems*, *50*(3), 402–425. https://doi.org/10.1177/00914509231179226

Sevigny, E. L. (2009). Excessive Uniformity in Federal Drug Sentencing. *Journal of Quantitative Criminology*, *25*(2), 155–180. https://doi.org/10.1007/s10940-009-9064-z

Shafira, M., Susanti, E., & Amabel, X. R. (2023). Perlindungan Data Pribadi Serta Faktor-Faktor Penghambat Penyidikan Tindak Pidana Penyalahgunaan Data Pribadi Studi di Direskrimsus Polda Lampung. *Viva Themis: Jurnal Ilmu Hukum dan Humaniora*, *6*(2), 271–286. https://doi.org/10.24967/vt.v6i2.3042

Stevens, A. (2011). Drug Policy, Harm and Human Rights: A Rationalist Approach. *International Journal of Drug Policy*, *22*(3), 233–238. https://doi.org/10.1016/j.drugpo.2011.02.003

Stevens, A., Fortson, R., Measham, F., & Sumnall, H. (2015). Legally Flawed, Scientifically Problematic, Potentially Harmful: The UK Psychoactive Substance Bill. *International Journal of Drug Policy*, *26*(12), 1167–1170. https://doi.org/10.1016/j.drugpo.2015.10.005

Stevens, A., Hughes, C. E., Hulme, S., & Cassidy, R. (2022). Depenalization, Diversion and Decriminalization: A Realist Review and Programme Theory of Alternatives to Criminalization for Simple Drug Possession. *European Journal of Criminology*, *19*(1), 29–54. https://doi.org/10.1177/1477370819887514

Summers, S. J. (2022). Proportionality. In S. J. Summers (Ed.), *Sentencing and Human Rights: The Limits on Punishment* (p. 0). Oxford University Press. https://doi.org/10.1093/oso/9780192870384.003.0003

Testa, A., & Lee, J. G. (2021). Trends in Sentencing of Federal Drug Offenders: Findings From U.S. District Courts 2002–2017. *Journal of Drug Issues*, *51*(1), 84–108. https://doi.org/10.1177/0022042620959071

Tomaz, V., Moreira, D., & Souza Cruz, O. (2023). Criminal Reactions to Drug-Using Offenders: A Systematic Review of the Effect of Treatment and/or Punishment on Reduction of Drug Use and/or Criminal Recidivism. *Frontiers in Psychiatry*, *14*, 935755. https://doi.org/10.3389/fpsyt.2023.935755

ul Hosnah, A., Jevis, W., & Fernandez, J. D. (2025). The Principle of Proportionality in Drug Control Policy in the Philippines and Indonesia. *Sriwijaya Law Review*, *9*(2). https://doi.org/10.28946/slrev.v9i2.4896

Von Hirsch, A. (1992). Proportionality in the Philosophy of Punishment. *Crime and Justice*, *16*, 55–98. https://doi.org/10.1086/449204

Walker, M. J. (2025). A Proportionality Approach to the Ethics of Drug Policy. *International Journal of Drug Policy*, *142*(May), 104861. https://doi.org/10.1016/j.drugpo.2025.104861

Weatherburn, D., Rahman, S., Todd, S., Poynton, S., Black, S., Merinda, T., & Farrell, M. (2025). The Impact of a Voluntary Alcohol and Other Drug Diversion Program on Reoffending, Imprisonment, and Health. *International Journal of Drug Policy*, *138*(March), 104747. https://doi.org/10.1016/j.drugpo.2025.104747

Zhen-Duan, J., Fukuda, M., DeJonckheere, M., Falgas-Bagué, I., Miyawaki, S., Khazi, P., & Alegría, M. (2021). Ensuring Access to High-Quality Substance Use Disorder Treatment for Medicaid Enrollees: A Qualitative Study of Diverse Stakeholders' Perspectives. *Journal of Substance Abuse Treatment*, *129*. https://doi.org/10.1016/j.jsat.2021.108511