



Simplified Extradition Mechanisms Between Malaysia and Singapore: A Preliminary Comparative Analysis

Faizul Aswad Masri^{1*}, Rohaida Nordin², Muhamad Helmi Md Said³

¹ Faculty of Law, Universiti Kebangsaan Malaysia (UKM), Bangi, Malaysia

² Faculty of Law, Universiti Kebangsaan Malaysia (UKM), Bangi, Malaysia

³ Faculty of Law, Universiti Kebangsaan Malaysia (UKM), Bangi, Malaysia
faizulaswad.masri@gmail.com

Abstract. This paper offers a doctrinal preliminary comparative analysis of the simplified extradition mechanism between Malaysia and Singapore, focusing specifically on the legal structure and procedural safeguards embedded within their respective extradition laws. While extradition of fugitive criminals between the two countries operates under a reciprocal arrangement that facilitates the endorsement and execution of arrest warrants through a simplified process, notable differences exist in how each jurisdiction regulates the procedure and protects the interests of fugitive criminals. Malaysia's framework under Part V of the Extradition Act 1992 appears limited in scope, primarily in offering minimal grounds to resist surrender and lacking any express provision for the review of a Magistrate's surrender order. In contrast, Singapore's Part 6 of the Extradition Act 1968 sets out wider statutory grounds to contest surrender and expressly provides a right of review of the Magistrate's decision before the General Division of the High Court. Although the simplified extradition mechanism is premised on mutual trust and procedural efficiency, such reciprocity should also encompass comparable legal safeguards. Without substantive alignment in the level of protection, the principle of reciprocity risks favouring cooperation over justice. This paper argues that a sustainable reciprocal framework must balance the speed of surrender with adequate protections for individual rights. Accordingly, further study is warranted, with a view to possible reforms that could enhance Malaysia's extradition framework and ensure it remains responsive to international standards on the right to a fair trial.

Keywords: Backing of warrants, Extradition, Malaysia, Simplified Extradition Mechanism, Singapore.

1 Introduction

As founding members of the Association of Southeast Asian Nations (ASEAN), Malaysia and Singapore share a longstanding relationship marked by geographic proximity, economic interdependence, and deep-rooted legal and institutional ties [1]. The two countries were briefly united as part of Malaysia from 1963 to 1965 before Singapore's secession and subsequent emergence as a sovereign state [2]. Despite the separation, both nations have retained strikingly similar legal systems grounded in the common law tradition [3]. Within the broader framework of ASEAN's goals for regional collaboration and legal harmonisation, the relations among the ASEAN member countries, including Malaysia and Singapore, are strong, notably in legal cooperation and cross-border crime prevention [4].

On this note, one of the instruments of legal cooperation in criminal matters is extradition. It is the process whereby one state surrenders a person to the other state that accuses or convicts that individual of a criminal offence against the laws of the latter, based on principles of reciprocity [5]. Extradition is opposed to deportation, which is an immigration process of one state expelling a person and banning his or her further entry into the country, because of illegal arrival or threatening national security or public order [6].

Extradition between Malaysia and Singapore is conducted through a simplified mechanism based on the reciprocal endorsement of arrest warrants. This arrangement is made possible by the considerable similarity of their criminal laws, which originates from their shared legal foundations prior to independence [7]. According to a media report, there are over 55 criminals who were surrendered to Singapore by Malaysia via the simplified extradition mechanism between the years 2016 and 2019. Over 25 fugitives have also been extradited to Malaysia during the same period by Singapore through the same provision [8]. These statistics show how frequently the mechanism has been used and thus underline its value as a significant instrument of the bilateral legal cooperation between the two neighbouring countries.

This simplified mechanism enables the swift execution of cross-border extradition. In *Public Prosecutor v Leong Soon Kheong* [9], it was established that the fugitive had entered Malaysia after committing the offence of culpable homicide not amounting to murder in Singapore. He was arrested by Malaysian authorities on 30 November 2007 and extradited to Singapore on 4 December 2007. Likewise, in *PP v Kamal Hisham Ja'afar* [10], the Malaysian authorities sought to charge the fugitive with criminal breach of trust. The Johor Bahru Magistrates' Court issued a warrant on 15 March 2015, and he was subsequently located and arrested in Singapore on the morning of 2 September 2015. That same afternoon, he was brought before a Singaporean judge and surrendered to Malaysian custody. These cases demonstrate the practical efficiency of the simplified mechanism, showing how reciprocal legal arrangements can expedite extradition with minimal procedural delay.

While the arrangement facilitates efficient cooperation, initial observations suggest that there is a possibility of legal divergences. Whilst similarities exist in the reciprocal statutory framework and the common law heritage of both countries, there are indeed substantial differences in the protection accorded to those who face

extradition in the two countries. In Malaysia, the simplified mechanism provided in Malaysia's Extradition Act 1992 (MEA 1992) offers a rather limited opportunity to resist extradition. Conversely, Singapore's Extradition Act 1968 (SEA 1968) provides greater statutory safeguards and the formal right of review. These differences may raise concerns regarding legal parity, the equitable application of reciprocity, and the alignment of domestic laws with international fair trial standards.

Recent comparative studies have examined extradition involving Malaysia or Singapore alongside other jurisdictions. For instance, Husameddin et al. [11] examined the extradition frameworks of Malaysia and Palestine in the context of money laundering offences, while Timothy et al. [12] analysed the implementation of the extradition treaty between Malaysia and Indonesia. Meanwhile, Ananda et al. [13] and Sulistiawati et al. [14] focused on the impact of the Singapore-Indonesia extradition agreement in combating corruption and the role of reciprocity in that agreement, respectively. Despite the growing body of comparative literature, direct comparisons between Malaysia and Singapore themselves, particularly within the framework of their simplified extradition arrangement, remain limited.

To the best of the authors' knowledge, the earliest and most comprehensive comparative work remains Brabyn's 1985 article [15], which examined the historical foundations and core principles of extradition law in Singapore and Malaysia, including a comparison of the then-existing statutory frameworks. While her analysis laid a valuable foundation for understanding the bilateral framework, significant legal reforms in both jurisdictions since its publication suggest that a more contemporary comparative analysis is required. In Malaysia, the MEA 1992 repealed the Extradition Ordinance 1958 and the Commonwealth Fugitive Criminals Act 1967, whereas in Singapore, the SEA 1968 has undergone multiple amendments [16]. These developments have reshaped the legal and procedural landscape in both states, warranting a more recent comparative review of their extradition frameworks [16].

Against this backdrop, the paper aims to fill the gap by undertaking a focused comparison of the simplified extradition mechanism between Malaysia and Singapore. By comparing Malaysia's simplified extradition mechanism with Singapore's framework, this paper provides a preliminary assessment of how far procedural efficiency is balanced with fairness, while identifying areas that merit closer scrutiny in light of possible future reforms.

2 Problem Statement

Although Malaysia and Singapore implement a simplified extradition mechanism based on the mutual backing of warrants, the extent to which their current respective legal systems provide comparable procedural protections has not been systematically explored. While the mechanism is designed to streamline cooperation, the lack of a targeted comparative study leaves open the question of whether both jurisdictions afford such comparable procedural protections. Without such clarity, it remains uncertain whether the arrangement reflects balanced legal reciprocity or if statutory asymmetries persist.

3 Research Question

This study is guided by the following question: To what extent do the statutory frameworks governing the simplified extradition mechanism between Malaysia and Singapore indicate a balanced reciprocal legal arrangement, particularly with respect to procedural structure and individual safeguards?

4 Purpose Of Study

The primary aim of this study is to provide a preliminary comparative analysis of the statutory frameworks governing the simplified extradition mechanism between Malaysia and Singapore. It focuses on the procedures and safeguards applicable to the arrest and surrender of fugitive criminals. By examining the relevant statutory provisions under the MEA 1992 and the SEA 1968, the paper explores how each jurisdiction implements the principle of reciprocity in practice and identifies whether notable differences exist in the legal protections available to individuals subject to surrender.

5 Research Method

This study adopts a doctrinal legal research methodology with a preliminary comparative focus on the simplified extradition mechanisms of Malaysia and Singapore. The analysis centres on Part V of the MEA 1992 and Part 6 of the SEA 1968, examining provisions on arrest, surrender, and safeguards such as the right to resist or review a surrender order. Primary sources comprise statutory texts and case law, while secondary sources include books, book chapters, journal articles, official reports, and media reports.

6 Discussion

6.1 Understanding the Simplified Extradition Mechanism

Conventional extradition generally proceeds in two stages. The first stage involves the appearance before a judge, where the person sought is taken through a hearing to determine that the legal conditions of extradition have been met. If satisfied, the judge orders that the person be held in custody until surrender. The judge commits the individual to custody pending surrender. The second stage involves a submission to the executive branch of the government, which decides whether to authorise the surrender, based on broader policy or diplomatic considerations. Appeals may be filed against both the judicial and the executive decisions [7].

On the other hand, the simplified extradition mechanism makes it easier to extradite a person by reducing the procedural requirements as well as the substantive conditions of extraditability that must be satisfied prior to surrender. In many ways, this process has often negated the need to submit a formal request and extensive supporting materials, which is usually the case in a conventional extradition procedure [17].

The simplified extradition mechanism in Malaysia and Singapore operates through the endorsement of arrest warrants, commonly referred to as the “backing of warrants” scheme [18, 19]. Under this scheme, a court in one state may issue an arrest warrant for an individual located in the other, and the receiving state may endorse and enforce that warrant without requiring additional documentation [19]. The surrender hearing tends to be brief as it does not involve establishing the usual conditions for extradition. By removing most evidentiary and documentary requirements, the mechanism is procedurally simpler and faster than conventional procedures, as it lessens the burden on the requesting state [7]. The main goal of the mechanism is to provide the easiest and most effective cross-border arrest with legal reciprocity while keeping the procedures and executive intervention minimal [7, 19].

The United Nations Office on Drugs and Crime (UNODC) recognises the backing of warrants scheme as a recommended best practice in international cooperation, noting its successful application in Malaysia, Singapore and Brunei; Australia and New Zealand; and the United Kingdom and certain Channel Islands [18]. The scheme is also adopted among Pacific Island countries, including the Cook Islands, Fiji, Kiribati, Solomon Islands, Tuvalu, and Vanuatu [20].

With the general features of the simplified mechanism outlined, the next section examines how the statutory frameworks of Malaysia and Singapore give it legal effect.

6.2 Governing Legal Frameworks in Malaysia and Singapore

The simplified extradition mechanism between Malaysia and Singapore is governed by separate statutory provisions, each reflecting the respective jurisdiction’s approach to legal cooperation and procedural safeguards. In Malaysia, the relevant provisions appear in Part V of the MEA 1992 [21], particularly sections 26 to 28, which regulate extradition to and from Singapore and Brunei Darussalam. In Singapore, the framework for the simplified extradition mechanism, which is based on the backing of warrants scheme, is set out in Part 6 of the SEA 1968 [22], with sections 33 to 39 prescribing a more detailed procedural structure.

6.3 Similarities between the Two Jurisdictions

Both Malaysia and Singapore adopt a broadly similar legislative approach in their simplified extradition arrangements. Each framework begins with provisions on scope and applicability, defining the range of offences to which the reciprocal arrangement applies. In Malaysia, this is set out in section 25 of the MEA 1992 [21], while the parallel provision in Singapore is section 32 of the SEA 1968 [22]. Both statutes restrict the mechanism to arrestable or seizable offences, or those punishable with imprisonment of at least six months.

A further commonality lies in the endorsement of foreign warrants. Section 26 of the MEA 1992 empowers a Magistrate to endorse a warrant issued by a competent judicial authority in Singapore (or Brunei Darussalam), thereby rendering it executable in Malaysia as though it were a domestic warrant [21]. Similarly, section

33 of the SEA 1968 enables a Magistrate to endorse a duly authenticated warrant issued in Malaysia, with the same effect [22].

The statutes also converge on the procedure following arrest. Under section 28 of the MEA 1992, once the person apprehended in Malaysia is brought before the Magistrate and identified as the person named in the endorsed warrant, the Magistrate must direct that the individual be transferred forthwith into the custody of the requesting state, subject to bail at the Magistrate's discretion if appropriate [21]. In Singapore, subsection 35(1) of the SEA 1968 requires that the arrested individual be brought promptly before a Magistrate, while subsection 35(6) similarly authorises the Magistrate to order that the person be surrendered into Malaysian custody for transfer [22].

These provisions underscore a shared legislative intent: to establish a streamlined, reciprocal process that prioritises speed and certainty, while still preserving a minimum level of judicial oversight through the requirement that a Magistrate confirm identity, endorse warrants, and supervise surrender orders.

6.4 Differences between the Two Jurisdictions

While Malaysia and Singapore share the objective of facilitating efficient extradition through reciprocal arrangements, their statutory frameworks differ significantly in the degree of safeguards provided.

The primary distinction lies in the availability of statutory grounds for resisting surrender and avenues of judicial review. In Malaysia, section 28 of the MEA 1992 directs the Magistrate, once satisfied that the person before the court is the individual named in the endorsed warrant, to order that the person be transferred forthwith into the custody of the requesting state [21]. Part V of the MEA 1992 affords no statutory grounds of objection other than mistaken identity and provides no avenue for judicial review of the surrender order.

By contrast, the SEA 1968 embeds more detailed safeguards. Section 36 empowers the Magistrate to refuse surrender where certain statutory grounds are met, namely, if the case involves a trivial offence, if the accusation is not made in good faith or in the interests of justice, or if the passage of time since the alleged conduct would render surrender unjust or oppressive. These grounds are coupled with an overarching requirement that, in light of the circumstances of the offence, extradition would be unjust, oppressive, or entail a punishment that is too severe [22]. Section 37 further strengthens protection by allowing the person concerned to seek a review of the Magistrate's order in the General Division of the High Court [22]. This provision introduces an additional layer of judicial scrutiny beyond the initial surrender decision.

Another area of divergence concerns bail, remand, and detention timelines. Section 28 of the MEA 1992 permits the Magistrate to grant bail if it is in the interests of justice, on the condition that the person appears before the appropriate court in Singapore (or Brunei Darussalam) at a time specified in the bond and bail bond [21]. However, this discretion is not accompanied by statutory time limits or periodic

review requirements, reflecting an emphasis on procedural efficiency that exposes potential gaps in the protection of fugitive criminals' rights.

The SEA 1968, on the other hand, provides clearer and more structured provisions. Subsection 35(2) allows the Magistrate to remand the individual either in custody or on bail, but only for periods not exceeding seven days at a time, while subsection 35(3) requires that the person be returned before a Magistrate at the end of each such period [22]. In addition, section 38 mandates discharge where the person is not conveyed out of Singapore within one month: either (a) one month from the date of the surrender order, or (b) where a review or appeal has been made, one month from the final decision of the reviewing court, unless reasonable cause is shown for the delay [22].

These provisions together establish a stricter framework for judicial oversight and time-bound detention than that found under the MEA 1992.

6.5 Other Observations and Comparative Reflections

Beyond the principal statutory provisions governing Malaysia's simplified extradition mechanism, certain additional aspects of the framework warrant closer attention. Although not expressly part of the core provisions under Part V of the MEA 1992, these features raise important questions about whether fugitive criminals have alternative avenues to challenge surrender proceedings or seek review of a surrender order. In this connection, the following subsections examine three dimensions: ministerial discretion to discharge a fugitive criminal, the availability of habeas corpus, and the residual application of Malaysia's Criminal Procedure Code (Act 593) (CPC).

Ministerial Discretion to Discharge a Fugitive Criminal. Section 47 of the MEA 1992 empowers the Minister to intervene at any stage of the extradition proceedings and discharge a fugitive criminal who is in custody. At present, the Minister responsible for the MEA 1992 is the Minister of Home Affairs [23]. The Minister may order the stay of ongoing proceedings, revoke any warrant issued or endorsed under the Act, and direct the release of the individual concerned. This power may be exercised if, in the Minister's opinion, any of the following grounds are present: (a) the alleged offence is of a trivial nature; (b) the extradition request appears to be made in bad faith, not in the interests of justice, or motivated by political considerations; or (c) for any other reason, the extradition would be unjust or oppressive, taking into account the overall circumstances of the case [21].

This provision bears partial similarity to section 36 of the SEA 1968 [22]. However, a key distinction lies in who holds the authority to apply these safeguards. In Singapore, such determinations are made by the judiciary, whereas in Malaysia, this discretion is vested in the executive, namely the Minister, whose decision is exercised outside the judicial process. This divergence in institutional roles may have significant implications for the procedural fairness of the extradition framework.

In addition, the scope of the Minister's power under section 47 may be subject to interpretative limitations. The language of the provision refers specifically to the

power to revoke “any warrant issued or endorsed under this Act,” but does not expressly extend to setting aside or overriding a surrender order made by a Magistrate under section 28 [21]. This distinction is particularly significant in the context of the simplified extradition mechanism, where the surrender order is issued directly by the Magistrate upon being satisfied as to the identity of the fugitive criminal. It may therefore be argued that once a surrender order has been made under section 28, the Minister’s power under section 47 ceases to apply, as the relevant warrant would have already been executed and the proceedings concluded with the issuance of the surrender order. Consequently, there would be no ongoing proceedings to stay or warrant to revoke within the meaning of section 47.

Nevertheless, where a surrender order has not yet been made under section 28, a fugitive criminal could, in theory, attempt to seek the Minister’s intervention under section 47. However, whether such an opportunity exists in practice is questionable, given the simplified and expedited nature of the simplified extradition mechanism. The rapid progression from arrest to surrender under section 28 arguably offers little to no procedural window for the individual to present a case before the Minister. In this regard, the requirement to fulfil a larger number of conditions in conventional extradition proceedings lengthens the process [24]. Consequently, fugitive criminals have a better opportunity to seek ministerial intervention.

On the other hand, Singapore’s extradition framework places both the decision to surrender and the authority to consider objections on statutory grounds within the same judicial forum. This approach arguably enhances procedural fairness by ensuring that legal challenges are considered in an open and timely manner as part of the surrender process itself, rather than relying on external executive discretion. Moreover, it reflects the underlying purpose of the backing of the warrants scheme, which aims to facilitate cross-border judicial cooperation while minimising procedural hurdles and limiting executive involvement in the surrender process [7, 19].

Application for Habeas Corpus. Section 36 of the MEA 1992 provides that a fugitive criminal who has been committed to prison under the Act may apply to the High Court for a writ of *habeas corpus*, in accordance with procedures set out in the CPC [21]. In essence, this provision allows an individual committed to prison under the extradition proceedings to challenge the committal order through a writ of *habeas corpus*. It enables the High Court to determine whether the conditions for extradition have been satisfied and whether the warrant for committal has been properly issued [25].

However, it is argued that the applicability of this safeguard appears limited in the context of the simplified extradition mechanism under Part V of the MEA 1992. The wording of section 36 refers to fugitive criminals “committed to prison,” a phrase more appropriately aligned with conventional extradition procedures, such as those under sections 19 or 20, where the Session Court commits the fugitive criminal to prison to await the order of the Minister for his surrender to the state requesting his extradition [21].

On the other hand, section 28 of the MEA 1992 authorises the immediate surrender (“transferred forthwith”) of the person once the Magistrate is satisfied that the arrested individual is the same person named in the endorsed foreign warrant. It does not require or contemplate a committal to prison to await the order of the Minister for his surrender. As a result, individuals subject to the simplified mechanism may not fall within the category of persons eligible to apply for a writ of *habeas corpus* under section 36, raising uncertainty as to whether *habeas corpus* is available as a remedy to challenge surrender under the simplified mechanism.

Application of the CPC. Section 44 of the MEA 1992 stipulates that the provisions of the CPC shall apply in matters not expressly covered by the Act, provided they are not inconsistent with its provisions. Where any inconsistency arises, the provisions of the MEA 1992 prevail [21]. In this respect, section 44 functions as a residual clause, designed to supplement procedural gaps in the Act with general principles of criminal procedure.

In practice, however, the invocation of section 44 has been notably limited. To date, it has been invoked primarily to extend CPC provisions relating to bail in extradition proceedings [26]. Beyond this narrow application, there is no reported case in which other CPC mechanisms have been used to challenge a surrender order made under section 28 of the MEA 1992.

This gives rise to a continuing legal uncertainty: whether procedural remedies under the CPC, such as appeal or revision under Part VII, or by extension *habeas corpus* under Chapter XXXVI [27], may validly be invoked to challenge surrender orders issued under section 28. An appeal reviews the correctness of the lower court’s decision based on the evidence presented [28], while a revision operates as a supervisory jurisdiction to correct errors of law or procedure that have resulted in injustice [29]. By contrast, *habeas corpus* examines the legality of a person’s detention, focusing on whether the statutory requirements have been properly followed [30].

Although the MEA 1992 contains no explicit reference to these remedies, section 44 could arguably provide a basis for their application, so long as they do not conflict with the Act’s specific provisions. However, without authoritative judicial interpretation, the extent to which such remedies may be invoked remains uncertain. Even if they are theoretically available, it is doubtful that they could be effectively applied in practice. This is because proceedings under section 28 are highly streamlined: the Magistrate’s role is essentially confined to verifying the identity of the person named in the endorsed warrant, after which the Magistrate must order the fugitive criminal’s immediate surrender in custody to the appropriate court in Singapore (or Brunei Darussalam). In such circumstances, it would be difficult to interfere with an order of a Magistrate who has followed this statutory procedure.

This ambiguity highlights a structural limitation in the safeguards available under the simplified extradition mechanism in the MEA 1992. In the absence of judicial explanations, fugitive criminals in Malaysia placed under a simplified extradition mechanism are left with great uncertainty as to whether they can apply to a

CPC-based remedy as a means of opposing a surrender order under section 28, thereby potentially reducing the probability of legal redress available to them.

When taken together, these observations highlight the fact that although efficient in operation, the statutory framework in Malaysia poses some unresolved questions regarding the accessibility and scope of remedies. Collectively, these uncertainties demonstrate procedural gaps that have defined Malaysia's current simplified extradition framework.

6.6 Preliminary Assessment of the Simplified Extradition Mechanism

The preceding discussion indicates the strengths and the limitations of Malaysia's simplified extradition mechanism compared to Singapore's framework. The Malaysian model demonstrates a clear focus on procedural efficiency, allowing fugitive criminals named in an endorsed warrant to be surrendered swiftly to Singapore (or Brunei Darussalam) with no delays usually associated with the conventional extradition procedures. This efficiency serves the practical goals of reciprocity and mutual trust that lie at the heart of the backing of warrants arrangement.

However, the key limitation of Part V of the MEA 1992 is that there are no substantive provisions on which a fugitive criminal may resist surrender, other than mistaken identity. In addition, it lacks any express provision for judicial review of the surrender order. This stands in contrast to conventional extradition procedures, where objections may be raised on broader legal or human rights grounds during the extradition hearing, and the committal order may be challenged by way of *habeas corpus* before the High Court [21].

This limitation is compounded by the lack of other structured protections, such as statutory time limits for remand or a requirement to review detention periodically. Section 28 of the MEA 1992 allows the Magistrate to grant bail in the interests of justice [21], but this discretionary power lacks statutory guidance on time limits or conditions. Further, the MEA 1992 does not specify what should happen when a fugitive is not transferred out of Malaysia within a reasonable amount of time after a surrender order was issued, creating a loophole that may permit prolonged and indefinite detention.

Other remedial mechanisms, including ministerial discretion, *habeas corpus*, and the residual application of CPC provisions on appeal or revision, do not appear to apply clearly and effectively to the simplified extradition mechanism, leaving substantial gaps of ambiguity unanswered.

In summary, the simplified extradition mechanism in Malaysia serves as a practical means of interstate cooperation within a narrow regional context, yet at the same time, it reveals the imbalance that persists between efficiency and fairness.

7 Conclusion

This paper has analysed the simplified extradition framework operating between Malaysia and Singapore under their respective Extradition Acts. The discussion indicates that although both states have adopted a reciprocal scheme aimed at expediting extradition, their legislative approaches reveal notable differences. Under Part V of the MEA 1992, Malaysia prioritises procedural efficiency, restricting the Magistrate's role largely to verifying the fugitive criminal's identity and ordering surrender. In contrast, the SEA 1968 provides a broader range of statutory protections within the judicial process, including additional grounds for resisting surrender and a specific right to judicial review.

The SEA 1968 demonstrates that a simplified extradition process can be maintained while incorporating essential safeguards. The absence of comparable protections in the MEA 1992 creates an imbalance within the reciprocal arrangement, which risks undermining confidence in the fairness of the simplified extradition mechanism.

Overall, the analysis suggests that Malaysia's simplified extradition mechanism secures efficiency in cross-border cooperation but at the expense of fewer procedural safeguards compared to Singapore's model. Although operational reciprocity has been achieved, a sustainable framework must balance the speed of surrender and the protection of individual rights. This preliminary assessment highlights the need for further study with a view to possible reforms that may improve the extradition framework in Malaysia and ensure its conformity with international standards on the right to a fair trial.

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