

DESAIN KELEMBAGAAN INDEPENDEN PENGAWAS SISTEM MERIT APARATUR SIPIL NEGARA (STUDI PUTUSAN MK NOMOR 121/PUU-XXII/2024)

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ABSTRAK

Penelitian ini mengkaji desain kelembagaan independen pengawas sistem merit Aparatur Sipil Negara (ASN) pascaterbitnya Putusan Mahkamah Konstitusi Nomor 121/PUU-XXII/2024. Perubahan rezim pengawasan sistem merit sejak berlakunya Undang-Undang Nomor 20 Tahun 2023 yang membubarkan Komisi Aparatur Sipil Negara (KASN) dan mengalihkan fungsi pengawasan kepada eksekutif menimbulkan potensi konflik kepentingan serta kekosongan mekanisme *checks and balances* dalam manajemen ASN. Putusan MK 121/PUU-XXII/2024 menegaskan kembali urgensi independensi lembaga pengawas, namun tidak merinci bentuk kelembagaan konkret sehingga menyisakan *open legal policy* bagi pembentuk undang-undang. Penelitian ini bertujuan merumuskan tugas, kewenangan, serta desain kelembagaan independen pengawas sistem merit ASN yang sesuai dengan mandat putusan tersebut. Penelitian menggunakan metode yuridis normatif dengan pendekatan konseptual, perundang-undangan, kasus, dan historis, yang dianalisis melalui kerangka *das sein–das sollen* serta teori *New Institutionalism*, mencakup *Historical Institutionalism*, *Rational Choice Institutionalism*, dan *Sociological Institutionalism*. Hasil penelitian menunjukkan tiga temuan utama. Pertama, *ratio decidendi* Putusan MK 121/PUU-XXII/2024 mengunci dua parameter konstitusional yang mengikat, yaitu independensi lembaga pengawas dari kementerian/lembaga yang diawasi dan pembentukannya paling lambat 16 Oktober 2027. Kedua, skema pengawasan pasca-UU 20/2023 belum memenuhi mandat tersebut karena menyatukan fungsi pembuat kebijakan dan pengawas kebijakan dalam satu rumpun eksekutif, sementara model KASN terdahulu lemah pada kewenangan yang hanya rekomendatif serta akuntabilitas publik. Ketiga, penelitian ini merekomendasikan desain komisi administratif independen berbasis model *Managed Devolution with Central Oversight*, di mana Pejabat Pembina Kepegawaian tetap menjalankan manajemen sumber daya manusia harian secara terdesentralisasi, namun tunduk pada audit kepatuhan serta kewenangan adjudikasi yang final dan mengikat dari lembaga pengawas pusat yang independen secara struktural, fungsional, personal, dan keuangan, serta akuntabel kepada Presiden, DPR, dan publik.

Kata Kunci: desain kelembagaan, sistem merit ASN, Putusan MK 121/PUU-XXII/2024, kelembagaan independen, *New Institutionalism*

***DESIGN OF AN INDEPENDENT INSTITUTION TO OVERSIGHT THE
CIVIL SERVICE MERIT SYSTEM (A STUDY OF CONSTITUTIONAL
COURT DECISION NO. 121/PUU-XXII/2024)***

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ABSTRACT

This study examines the design of an independent institutional framework for overseeing the merit system of the State Civil Service (ASN) following the issuance of Constitutional Court Decision No. 121/PUU-XXII/2024. Changes to the merit system oversight regime since the enactment of Law No. 20 of 2023 which dissolved the Civil Service Commission (KASN) and transferred oversight functions to the executive branch have created potential conflicts of interest and a vacuum in the checks-and-balances mechanisms within ASN management. Constitutional Court Decision No. 121/PUU-XXII/2024 reaffirms the urgency of an independent oversight body, but does not specify a concrete institutional form, thereby leaving an open legal policy for the legislature. This study aims to formulate the duties, authorities, and institutional design of an independent oversight body for the civil service merit system that aligns with the mandate of the decision. The study employs a normative legal methodology using conceptual, legislative, case-based, and historical approaches, analyzed through the “das sein das sollen” framework and New Institutionalism theory including Historical Institutionalism, Rational Choice Institutionalism, and Sociological Institutionalism. The research results reveal three main findings. First, the ratio decidendi of Constitutional Court Decision No. 121/PUU-XXII/2024 establishes two binding constitutional parameters: the independence of the oversight body from the ministries or agencies it oversees, and its establishment no later than October 16, 2027. Second, the oversight framework established under Law No. 20 of 2023 has not yet fulfilled this mandate because it combines the functions of policy-making and policy oversight within a single branch of the executive, whereas the previous KASN model was weak in terms of its purely advisory authority and public accountability. Third, this study recommends the design of an independent administrative commission based on the “Managed Devolution with Central Oversight” model, in which Civil Service Supervisors continue to carry out day-to-day human resource management in a decentralized manner, but are subject to compliance audits and the final, binding adjudicative authority of a central oversight body that is structurally, functionally, personnel-wise, and financially independent, and accountable to the President, the House of Representatives (DPR), and the public.

Keywords: institutional design, civil service merit system, Constitutional Court Decision 121/PUU-XXII/2024, independent institution, New Institutionalism