

# **Juridical Implications of Constitutional Court Decision Number 128/PUU- XXIII/2025 on the Prohibition of Dual Office Holding by Deputy Ministers in the Indonesian Constitutional System**

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## **Abstract**

This study aims to analyze the juridical implications of Constitutional Court Decision Number 128/PUU-XXIII/2025 on the regulation of the prohibition of dual office holding by Deputy Ministers within the Indonesian constitutional system. The issue of dual office holding by public officials has become an important concern in the practice of governance because it has the potential to create conflicts of interest and disrupt the principles of professionalism and accountability of state officials. In this context, the Constitutional Court, as the guardian of the constitution, has a strategic role in interpreting legal norms related to the regulation of public office through the mechanism of judicial review of laws against the 1945 Constitution of the Republic of Indonesia.

This study uses a normative juridical legal research method with a statutory approach, a conceptual approach, and a

case approach. The legal materials used consist of primary legal materials in the form of legislation and Constitutional Court decisions, as well as secondary legal materials in the form of books and scientific journal articles relevant to the research topic. The analysis is conducted qualitatively by examining the legal considerations of the Constitutional Court and the normative implications arising from these decisions on the practice of governance. The research findings show that Constitutional Court Decision Number 128/PUU-XXIII/2025 emphasizes the importance of limiting dual office holding for Deputy Ministers in order to maintain the principles of professionalism, independence, and integrity of state officials in carrying out governmental functions. The decision also has juridical implications in the form of the need to reorganize regulations concerning the position and scope of authority of Deputy Ministers within the Indonesian governmental system. Furthermore, this decision strengthens the principles of good governance as well as the checks and balances mechanism within Indonesia's constitutional system. Thus, the Constitutional Court's decision not only impacts the legal norms being reviewed but also contributes to reinforcing the rule of law and accountability in the administration of government.

**Keywords:** *Constitutional Court, dual office holding, deputy minister, constitutionalism, Indonesian constitutional system.*

## A. Introduction

The Indonesian constitutional system after the amendments to the 1945 Constitution of the Republic of Indonesia places the principles of constitutionalism, the supremacy of law, and the limitation of power as the basis for administering the state government. Within this framework, the division and limitation of the authority of state officials become important aspects in order to prevent the abuse of power and to ensure the implementation of an accountable and professional government. One form of such limitation is the prohibition of holding multiple positions for state officials, which is intended to avoid conflicts of interest and to maintain independence in carrying out governmental functions (The Constitutional Court of The Republic of Indonesia Strengthening Democracy Through Constitutional Court Interpretation in Protecting Citizens' Constitutional Rights and Human Rights 1, n.d.).<sup>11</sup>

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<sup>11</sup> The Constitutional Court of The Republic of Indonesia Strengthening Democracy Through  
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One important aspect in a democratic constitutional system is the regulation of the position and limits of authority of state officials. Such regulation is necessary to prevent the concentration of power in a single individual or certain institution that could potentially lead to abuse of power. The prohibition of holding multiple positions is intended to maintain the independence, professionalism, and integrity of state officials in carrying out governmental functions (Anfasha Wirakusuma et al., n.d.).<sup>2</sup>

Based on the perspective of administrative law, the authority of government officials must be exercised in accordance with the purpose for which that authority is granted. Every authority conferred by laws and regulations has clear limitations in terms of its objectives, scope, and implementation mechanisms (Pambudi et al., 2025).<sup>3</sup> Therefore, the abuse of authority by state officials constitutes an act that is contrary to the principle of the rule of law as well as the general principles of good governance (Samosir & Moeis, 2023).<sup>4</sup> In administrative law doctrine, abuse of authority is often associated with the concept of *\*détournement de pouvoir\** or abuse of power, namely the use of authority improperly or for purposes that deviate from the intent for which the authority was granted (Nabella,+Jurnal+Shobirin+OK, n.d.).<sup>55</sup>

In the Indonesian constitutional system, the limitation of the authority of state officials is not only related to aspects of the use of power, but also to the regulation of public office. One form of such regulation is the prohibition of holding multiple positions for state officials. This prohibition aims to prevent conflicts of interest, maintain the professionalism of public officials, and ensure that state officials can carry out their duties and responsibilities optimally. If a state official holds more than one position that has the potential to create a conflict of interest, it can affect independence as well as integrity in public

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Constitutional Court Interpretation in Protecting Citizens' Constitutional Rights and Human Rights 1. (n.d.).

<sup>2</sup> Anfasha Wirakusuma, M., Anom Husodo, J., kunci, K., Konstitusi, M., Jabatan, R., & Responsif, H. (n.d.). Artikel Abstrak. document. (n.d.). Indonesia Corruption Watch Page 2 of 4. (n.d.).

<sup>3</sup>Pambudi, L. A., Hendriana, R., Kupita, W., & Pati, U. K. (2025). The Contrarius Actus Principle: Legal Challenges and Prospects for Reform in Executing Administrative Court Decisions. *Journal of Law and Legal Reform*, 6(2), 285–314. <https://doi.org/10.15294/jllr.v6i2.19655>

<sup>4</sup> Samosir, H. P., & Moeis, J. P. (2023). The Urgency of Agrarian Reform Policy: A Study of the Impact of Land Access on Farmer Household Welfare. *BHUMI: Jurnal Agraria Dan Pertanahan*, 8(2), 159–184. <https://doi.org/10.31292/bhumi.v8i2.544>

<sup>5</sup> nabella,+Jurnal+Shobirin+OK. (n.d.). Pakpahan, Z. A., & Kumalasari, & I. (n.d.). Peran Mahkamah Konstitusi Sebagai Penjaga Konstitusi: Analisis Kritis Terhadap Konstitusionalisme Di Indonesia (Vol. 13, Number 04). Desember.

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decision-making.

In the practice of Indonesian governance, the issue of holding multiple positions has become a concern across various sectors of government, including within ministerial structures. The presence of Deputy Ministers as officials who assist Ministers in carrying out the duties of the ministry often sparks debate regarding the status of the position and the limits of their authority. This becomes even more complex when a deputy minister also holds another position outside the ministerial structure, such as in state-owned enterprises (SOEs) or other institutions.

The practice of holding multiple positions raises various juridical questions, particularly regarding its compatibility with the principles of good governance and general principles of proper administration. From the perspective of administrative law, holding multiple positions has the potential to create conflicts of interest that may affect the objectivity and accountability of officials in exercising their authority. Moreover, it can also open opportunities for abuse of power if an official uses the authority they possess for the benefit of another position they hold.

Within this context, the Constitutional Court has an important role as an institution authorized to conduct judicial review of laws against the 1945 Constitution of the Republic of Indonesia. The Constitutional Court not only functions as an interpreter of the Constitution but also as a guardian of constitutional principles in the administration of the state. Through its judicial review authority, the Court can assess whether a legal norm governing public office is in accordance with constitutional principles, including regulations concerning dual office-holding by state officials.

Constitutional Court Decision Number 128/PUU-XXIII/2025 is one of the important rulings related to the regulation of dual office-holding by Deputy Ministers within Indonesia's constitutional system. The decision provides a constitutional interpretation of legal norms governing the position of Deputy Ministers as well as the limitations on holding multiple offices within the governmental structure. With this decision, legal consequences arise that may affect the practice of appointing Deputy Ministers as well as government policies in appointing public officials.

The juridical implications of Constitutional Court decisions not only impact changes or interpretations of the legal norms being reviewed but also have broader consequences for the practice of governance. As decisions that are final and binding, Constitutional Court rulings must serve as a reference for all state institutions in adjusting their policies and administrative practices. Therefore, it is

important to examine in depth the juridical implications of Constitutional Court Decision Number 128/PUU-XXIII/2025 on the prohibition of dual office-holding by Deputy Ministers and its impact on Indonesia's constitutional system.

Based on this background, this study aims to analyze the juridical implications of Constitutional Court Decision Number 128/PUU-XXIII/2025 on the regulation prohibiting dual office-holding by Deputy Ministers within Indonesia's constitutional system. This study is expected to contribute academically to the development of constitutional law studies, particularly concerning the position of Deputy Ministers, the regulation of dual office-holding by state officials, and the role of the Constitutional Court in safeguarding constitutional principles in governance.

## **B. The Position of the Deputy Minister in the Indonesian Constitutional System**

In the Indonesian governmental system, which adopts a presidential system, the President holds executive power and is assisted by Ministers who lead state ministries. The regulation regarding state ministries is governed by Law Number 39 of 2008 concerning State Ministries. The law also provides for the possibility of appointing Deputy Ministers who are tasked with assisting Ministers in carrying out ministerial duties.

The existence of Deputy Ministers is essentially intended to enhance the effectiveness of governance, particularly in assisting the implementation of increasingly complex ministerial duties and functions. However, the position of Deputy Minister is not explicitly mentioned in the 194 Constitution of the Republic of Indonesia, thus its position is more of an office established based on administrative needs of the government.

According to Ni'matul Huda, the existence of Deputy Ministers within the structure of the Indonesian government represents a strengthening of coordination functions and the implementation of ministerial policies. Nevertheless, the regulation concerning the legal status and limits of authority of Deputy Ministers often still raises debates in constitutional law studies.

The issue regarding the position of Deputy Ministers becomes increasingly complex when related to the practice of holding multiple positions, especially when an official serving as Deputy Minister also holds another position outside the ministerial structure. This condition raises questions regarding the compatibility of such practices with the principles of professionalism and accountability in governance (Siahaan,

2020).<sup>6</sup>

### **C. Legal Considerations of the Constitutional Court in Decision Number 128/PUU-XXIII/2025**

The Constitutional Court, as an institution with the authority to conduct judicial review of laws against the 1945 Constitution, plays an important role in ensuring that every legal norm does not conflict with the constitution. In Constitutional Court Decision Number 128/PUU-XXIII/2025, the Court provided a constitutional interpretation regarding the regulation of dual positions held by Deputy Ministers.

In its legal considerations, the Constitutional Court emphasized the importance of maintaining the principles of professionalism, accountability, and integrity of state officials in carrying out governmental duties. The practice of holding multiple positions is considered to have the potential to create conflicts of interest that may affect independence in decision-making (Adiyta+Abimana+11-19, n.d.).<sup>7</sup>

According to Saldi Isra, one of the main objectives of judicial review by the Constitutional Court is to ensure that applicable legal norms do not contradict constitutional principles, including the principle of limitation of power and good governance (Nabella,+Jurnal+Shobirin+OK, n.d.).<sup>8</sup>

In the decision, the Constitutional Court affirmed that state officials who perform executive functions must be able to carry out their duties fully without the potential for conflicts of interest arising from other positions they hold. Therefore, restrictions on holding multiple positions become important to maintain the integrity of governance.

### **D. Juridical Implications of the Constitutional Court Decision on the Prohibition of Dual Positions for Deputy Ministers**

Constitutional Court Decision Number 128/PUU-XXIII/2025 has significant juridical implications for the regulation of the Deputy Minister position within the Indonesian constitutional system. One of the main implications of the decision is providing clarity regarding the limitations of positions that may be held by a Deputy Minister (Liu et

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<sup>6</sup>Siahaan, M. (2020). Constitutional Integration of the Judicial Review Authority of the Constitutional Court and the Supreme Court. *Jurnal Konstitusi*, 17(4), 729–752. <https://doi.org/10.31078/jk1742>

<sup>7</sup>Adiyta+Abimana+11-19. (n.d.).

<sup>8</sup>nabella, +Jurnal+Shobirin+OK. (n.d.). Pakpahan, Z. A., & Kumalasari, & I. (n.d.). *Peran Mahkamah Konstitusi Sebagai Penjaga Konstitusi: Analisis Kritis Terhadap Konstitusionalisme Di Indonesia* (Vol. 13, Number 04). Desember.

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al., 2024).<sup>9</sup>

First, the decision emphasizes that the position of Deputy Minister is a public office that must be carried out professionally and free from conflicts of interest. Thus, the practice of holding multiple positions that may lead to conflicts of interest must be avoided in order to maintain the integrity of governance.

Second, the decision also encourages lawmakers to reorganize the regulation concerning the position of Deputy Minister in statutory regulations. This is important to ensure clarity regarding legal status, authority, and the limitations of positions that may be held by Deputy Ministers.

Third, the decision contributes to strengthening the principles of good governance. With restrictions on holding multiple positions, it is expected that governance can be carried out in a more transparent, accountable, and professional manner.

According to Peter Mahmud Marzuki, legal certainty is one of the important elements in the legal system that functions to provide clarity regarding the rights and obligations of every legal subject. Therefore, Constitutional Court decisions that provide interpretations of legal norms play an important role in creating legal certainty in governance.

### **E. The Impact of the Decision on the Indonesian Constitutional System**

More broadly, Constitutional Court Decision Number 128/PUU-XXIII/2025 also has an impact on the development of the Indonesian constitutional system. The decision demonstrates that the Constitutional Court has a strategic role in interpreting the constitution and ensuring that governance practices remain within constitutional boundaries (Indonesia Corruption Watch Page 2 of 4, n.d.).

In addition, the decision also highlights the importance of strengthening the principle of checks and balances in the Indonesian constitutional system. Through constitutional oversight by the Constitutional Court, any policy or governmental practice that potentially contradicts constitutional principles can be reviewed and corrected (Document, n.d.).

In the long term, this decision is expected to encourage the creation of a more professional, transparent, and conflict-of-interest-free system of governance. Thus, the rule of law principle that forms the foundation of the Indonesian constitutional system can be more

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<sup>9</sup> Liu, Y., Yang, X., Jin, K., Yin, J., & Shen, T. (2024). GRAF: Gap region aware framework for Al-Si alloy microscopic image segmentation. *Computational Materials Science*, 231. <https://doi.org/10.1016/j.commatsci.2023.112620>

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effectively realized in the practice of governance.

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