



# DESIGNING AN INDEPENDENT CIVIL SERVICE SUPERVISORY BODY AFTER THE CONSTITUTIONAL COURT DECISION NO. 121/PUU-XXII/2024

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## Abstract

*The Constitutional Court Decision No. 121/PUU-XXII/2024 mandates the establishment of an independent supervisory body within two years after the decision was announced (no later than October 2027) to ensure that the merit system, neutrality, and professionalism of the Civil Service (ASN) operate free from political interference. This paper analyzes two institutional models that can serve as references for forming such a body, namely the parliamentary oversight satellite and the independent administrative commission. The first model places the supervisory body under parliamentary authority to strengthen legislative accountability and guarantee independence from the executive branch, while the second model offers an independent public legal entity with financial autonomy that balances administrative effectiveness and institutional independence. The analysis shows that both models are relevant to the Constitutional Court's reasoning. The House of Representatives (DPR), through Commission II, plays a strategic role in ensuring that the establishment of the independent supervisory body is conducted through a transparent and participatory legislative process, guaranteeing institutional independence, clear authority, and adequate budgetary support.*

## Introduction

The Constitutional Court (MK), through Decision No. 121/PUU-XXII/2024, declared that the dissolution of the Civil Service Commission (KASN) in Law No. 20 of 2023 on the Civil Service is conditionally unconstitutional. In its considerations, the Court stated that the state remains obligated to establish an independent supervisory body to oversee the implementation of the merit system, principles, core values, and codes of ethics and conduct of ASN (DA, 2025). The decision responded to a judicial review petition filed by several civil society organizations who argued that abolishing KASN undermined the principles of independence and bureaucratic accountability (Antikorupsi.org, 2025).

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The Court emphasized that the existence of an independent supervisory body is a constitutional requirement for maintaining a professional, neutral bureaucracy free from political intervention (Kumalasanti, 2025). Following the ruling, Commission II of the DPR RI expressed its respect for the decision and committed to considering the establishment of a new independent yet institutionally efficient body (Kumalasanti, 2025). The Government also stated that the institutional restructuring of the supervisory body must align with the existing ASN management framework to avoid overlapping authority, particularly with the Ministry of Administrative and Bureaucratic Reform (KemenPAN-RB) and the National Civil Service Agency (BKN) (MKRI, 2024).

This paper aims to analyze and elaborate on institutional models for an independent supervisory body that are relevant for ASN oversight after the Court's ruling. The analysis focuses on comparing public oversight models developed internationally to provide an overview of the institutional design most suitable for Indonesia's bureaucratic system.

## Evaluation of the KASN Model

The KASN oversight model, as regulated under Law No. 5 of 2014 on the Civil Service, serves a fundamental purpose, to uphold the merit system and ensure ASN neutrality. However, institutionally, KASN faced several structural challenges that limited its effectiveness. First, KASN's authority was limited to issuing recommendations on merit system and neutrality violations without binding enforcement powers (MKRI, 2024). As a result, many of its recommendations were not implemented by the relevant institutions.

Second, KASN suffered from limited institutional resources, both in terms of personnel numbers and investigative capacity, making it difficult to conduct effective oversight across all regions. Third, KASN's independence was not substantively strong because it was placed under the President's coordination, leaving it vulnerable to political and bureaucratic influence (Antikorupsi.org, 2025). Fourth, its public accountability mechanisms were not fully transparent or participatory. The absence of digital reporting systems and whistleblower protection hindered public participation in ASN oversight. Therefore, while KASN played a normatively important role, its empirical effectiveness was suboptimal. This became the main justification for restructuring the ASN oversight system under Law No. 20 of 2023 on the Civil Service, although its complete abolition was later deemed unconstitutional by the Court (MKRI, 2024).

## Parliamentary Oversight Satellite Model

The concept of independence must be carefully defined. The Constitutional Court judges explained that transferring KASN's authority and functions to the Ministry of Administrative and Bureaucratic Reform (KemenPAN-RB) and the National Civil Service Agency (BKN) could weaken external control over ASN. Therefore, the first model that can serve as a reference is the parliamentary oversight satellite model, conceptually inspired by practices in Australia and several

Commonwealth countries (Wilkins, 2016). In this model, public oversight institutions such as auditors general and ombudsmen function as satellite institutions under parliamentary authority rather than the executive. This positioning provides a strong legal foundation and ensures accountability to the legislature as the people's representative body, not to the government it oversees.

Structurally, the supervisory body under the parliamentary oversight satellite model possesses clear and transparent legal mandates to conduct investigations, audits, and enforcement of merit principles and public service ethics (Wilkins, 2016). In the Indonesian context, all audit and oversight results must be periodically reported to Parliament and made public to strengthen accountability. Additionally, this model includes legal mechanisms for whistleblower protection, an essential instrument for encouraging citizen participation and preventing retaliation against informants.

The main advantage of this model lies in its high substantive independence since the supervisory body operates free from executive influence. Thus, it can perform oversight objectively and strengthen democratic legitimacy through direct accountability to the DPR. However, this model also presents challenges, including the significant resources required to conduct comprehensive audits and investigations across all government agencies. Its effectiveness ultimately depends on parliamentary integrity, political maturity, civic participation, and a robust system of checks and balances to prevent oversight from being distorted by short-term political interests.

## **Independent Administrative Commission Model**

In its decision, the Constitutional Court's majority opinion emphasized the importance of a legally and institutionally independent ASN supervisory body. Accordingly, the second model that can be considered is the independent administrative commission model. This model envisions a supervisory body that operates independently both legally and financially (Căpraru et al., 2022). It is widely adopted in democratic systems, such as Independent Fiscal Institutions (IFIs) in the European Union and Supreme Audit Institutions (SAIs) in many countries. These bodies are designed to perform professional, politically impartial public oversight while maintaining functional coordination with the executive branch, in Indonesia's case, the President and KemenPAN-RB.

Institutionally, this model takes the form of an independent public legal entity led by a collective supervisory board whose members are selected through an open recruitment and fit-and-proper test conducted by the DPR RI. The body has executive authority to impose ethical sanctions for breaches of ASN conduct codes, revoke merit system-violating promotions, and refer legal follow-ups to the relevant authorities. It must also uphold transparency by publishing its oversight results and performance reports regularly. Its funding comes directly from the national budget (APBN), ensuring financial autonomy and avoiding dependency on other ministries.

The main advantage of this model is its balance between institutional independence and administrative effectiveness. Supported by data-driven and digital oversight systems (real-time oversight and artificial intelligence), it can monitor ASN performance and violations more accurately and quickly. However, this model also faces challenges, particularly in formulating a coherent coordination framework to avoid overlap with BKN and KemenPAN-RB's functions. Comprehensive implementing regulations are essential to ensure national integration of ASN data systems and clear operational mechanisms for the independent supervisory body.

Of the two proposed models, the establishment of the new body should not merely revive the old KASN framework but move toward a modern, transparent, and digitally adaptive institutional design with a strong legal foundation. Therefore, deeper technical analysis is needed.

## Conclusion

The Constitutional Court Decision No. 121/PUU-XXII/2024 underscores the urgency of establishing an independent supervisory body as a pillar of the merit system and bureaucratic reform. In this regard, Commission II of the DPR RI plays a strategic role in ensuring that the new institution is formed constitutionally, efficiently, and accountably. Concrete steps include clearly defining the legal basis, authority, and structure of the body; conducting public hearings with academia and civil society to ensure transparency; and setting up an open selection and fit-and-proper test for leadership candidates in the DPR.

Commission II can further ensure institutional effectiveness through budgetary support, integration of digital oversight systems, and continuous performance evaluations. It should also strengthen interagency coordination, particularly with KemenPAN-RB, BKN, and the Corruption Eradication Commission (KPK), to avoid overlapping authorities. Through these measures, Commission II of the DPR RI can ensure that the independent supervisory body established after the Constitutional Court's decision truly functions optimally to achieve a professional civil service.

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