

Designing Independent Merit Oversight after Indonesia's Abolition of Its Civil Service Commission

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Abstract

Following the abolition of Indonesia's civil service commission (KASN) in 2023, merit oversight was transferred to bodies that also formulate and implement personnel policy. In 2025, the Constitutional Court required oversight by an independent institution. This study examines changes in the formal independence of merit oversight across KASN and two subsequent arrangements and identifies implications for institutional design. Document analysis and directed content analysis covered 14 core documents, including instruments governing the three Indonesian arrangements, the Court's decision, four hearing records, the United Kingdom's Constitutional Reform and Governance Act 2010, and the 1987 Philippine Constitution. An AI model coded 17 indicators using a researcher-designed codebook; blind recoding of one arrangement matched 15 of the 17 indicator codes. KASN received a score of 1 on all 14 indicators concerning independence, mandate, and separation of functions, whereas the subsequent arrangements received that score on one and three indicators, respectively. The Court required institutional separation between the overseer, policy maker, and implementer. Hearing participants disputed whether systemic independence could substitute for institutional independence. Three design options were assessed against stated criteria, without recommending a preferred option. The findings document differences in written safeguards rather than institutional practice. The study contributes an indicator checklist for drafting the new oversight institution and assessing its formal independence, mandate, and separation from personnel policy making and implementation.

Keywords: Merit System; Formal Independence; Institutional Design; Constitutional Court; Indonesia.

INTRODUCTION

Countries that staff their bureaucracies through merit recruitment tend to show lower corruption and higher government effectiveness than countries in which public posts depend on political connections (Dahlström & Lapuente, 2017). In Indonesia, Blunt et al. (2012) describe patronage as a central feature of governance after Soeharto, sustained in part by decentralization. Merit rules on paper depend on a body that can check whether agencies apply them, so how independent that body is from the officials it checks is a question of institutional design, not only of law.

Law No. 5 of 2014 on the State Civil Apparatus created such a body. It described the State Civil Apparatus Commission (Komisi Aparatur Sipil Negara, KASN), Indonesia's civil service commission, as a non-structural institution that is autonomous and free from political intervention, responsible for overseeing the merit system, basic norms, and codes of ethics and conduct (Undang-Undang Nomor 5 Tahun 2014 tentang Aparatur Sipil Negara 2014, arts. 27 and 30). Law No. 20 of 2023 repealed that law, delegated the oversight of merit system application to ministries and agencies, and allowed KASN to continue only until implementing regulations were issued (Undang-Undang Nomor 20 Tahun 2023 tentang Aparatur Sipil Negara (2023), arts. 26(2)(d), 70(3), and 76).

The implementing regulations place this function in existing offices: the National Civil Service Agency (Badan Kepegawaian Negara, BKN) oversees the application of the merit system, and the Minister of Administrative and Bureaucratic Reform (MenPAN-RB) determines the merit index. The ministerial regulation enacted on 31 December 2025 states that oversight follows its provisions until an independent institution is formed Presidential Regulation No. 92 (2024), arts. 3 and 4(e); Ministerial Regulation No. 19 (2025), arts. 18(1), 22(3), and 27).

Three civil society organizations challenged this transfer in the Constitutional Court (Mahkamah Konstitusi, 2024a). In Decision No. 121/PUU-XXII/2024, read on 16 October 2025, the Court held Article 26(2)(d) of Law No. 20 of 2023 conditionally unconstitutional unless it is understood to mean that an independent institution oversees the merit system, including its principles, core values, code of ethics, and code of conduct. That institution

must be established within two years of the ruling, which places the deadline in October 2027, and the choice of model is left to the legislature. The Court reasoned that policy makers, policy implementers, and policy overseers need clearly separated functions and authorities (Mahkamah Konstitusi, 2025a). Under the present regulations, however, BKN both carries out technical civil service management and oversees the merit system (Presidential Regulation No. 92, 2024, arts. 3 and 4).

Scholarly responses have mostly reasoned from statutes and legal doctrine. Ramadhan (2025) argues that dissolving KASN through poor legislation sets back bureaucratic reform, and Hafidz et al. (2025) argue that weakly designed independent oversight leaves the merit system open to political co-optation. Makiin et al. (2024) judge on normative grounds that BKN can keep oversight independent because it reports directly to the President, whereas Alya et al. (2026) propose two institutional models and prefer an independent administrative commission, and Nika (2026) argues for a dedicated statute. Based on the abstracts and sections consulted, none of these studies defines independence in terms that can be checked against legal texts, systematically compares the safeguards of KASN with those of the present arrangement, or uses the Court's hearing records. Empirical studies of merit implementation instead examine the agencies being overseen (Dwiputrianti et al., 2023; Sampe et al., 2022). In the literature located, two questions therefore remain open: which formal safeguards of independence the oversight arrangement provided at each stage, and how the actors before the Court argued about its design.

This article treats the problem as one of institutional design and borrows the concept of formal independence from research on regulatory agencies. Hanretty & Koop (2012) define it as the degree of independence from politics inherent in the legal instruments that constitute and govern an agency. Gilardi & Maggetti (2011) group its formal features into four dimensions: the agency head and board, relations with elected politicians, finances and organization, and regulatory competencies. Both works distinguish formal from *de facto* independence, and this study addresses only the former. Because these tools were built for agencies that regulate industries, not for a body that oversees personnel management inside government, the study adapts them. Features that Hanretty and Koop found uninformative, such as the way an agency head is appointed, form a separate group of researcher-defined criteria, and the Court's requirements on mandate and separation of functions serve as legal criteria.

The study has three aims: to describe how the formal independence of merit oversight changed across three regulatory arrangements, to identify the positions that actors took before the Court and the requirements the Court set, and to assess three design options for the independent institution against explicit criteria, without recommending one. The first research question (RQ1) asks how the formal independence of merit oversight changed from KASN under Law No. 5 of 2014 to the arrangements that followed Law No. 20 of 2023, up to Ministerial Regulation No. 19 (2025). The second (RQ2) asks what institutional design requirements can be derived from Decision No. 121/PUU-XXII/2024, the positions of actors in the hearings, and two comparator institutions, the civil service commissions of the United Kingdom and the Philippines. The findings on both questions are then applied to the three design options, a step that supports the policy implications and is not a separate research question.

The study contributes in three ways. Conceptually, it tests whether indicators developed for regulatory agencies transfer to a body that oversees personnel management inside government. Empirically, it provides a profile of formal safeguards, with every score traceable to a provision, and a map of the arguments made in the hearings. For policy, it offers criteria for assessing options for the independent institution before the Court's deadline. Figure 1 summarizes the logic: theoretical, legal, and researcher-defined criteria are kept apart but applied through a single codebook to three bodies of documents.

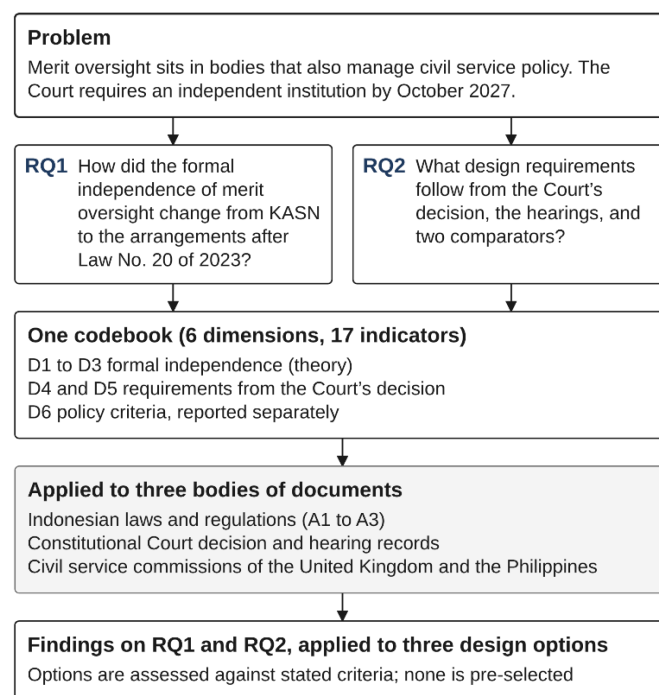


Figure 1. Analytical framework for assessing independent merit oversight

Note. Arrows show analytical sequence, not causal relationships. Research questions are abbreviated. D = codebook dimension. **Source:** Author's construction based on Hanretty & Koop (2012), Gilardi & Maggetti (2011), and Mahkamah Konstitusi (2025).

Literature Review and Analytical Framework

Merit Rules and Their Application

Research on merit systems has mostly asked what merit recruitment does to corruption and government quality. Charron et al. (2017) combined a survey of more than 18,000 public employees with procurement data from 212 European regions and found significantly lower corruption risk where careers rest on professional criteria rather than political connections. Meyer-Sahling & Mikkelsen (2016) report a similar pattern among officials in five East European countries, where merit recruitment is linked to fewer rumors of kickbacks and politicized appointments to more. They also find that civil service laws reduce corruption only when properly implemented. Neither study tests oversight bodies, but both show that what needs to be checked is the application of merit rules and not only their existence on paper.

Executive discretion can work against merit when no one checks it. In an experiment with about 6,500 public servants, Schuster et al. (2020) found that discretionary hiring, firing, and pay were linked to more bureaucratic corruption in three developing countries but had little effect in one OECD country. The study does not test oversight bodies, but it shows why it matters who checks the officials who apply merit rules, a question that arises when oversight sits in the same executive offices that manage personnel.

Studies of Indonesia point in the same direction. Berenschot (2018), drawing on ethnographic fieldwork in Lampung, argues that elections intensify competition over state resources and give politicians reason to favor loyal officials over competent ones, which makes a merit-based civil service hard to establish. Roziqin et al. (2026) study merit implementation in central ministries and institutions through interviews, focus groups, and official reports. Their abstract notes difficulties after KASN was disbanded but gives no detail, so the study does not show how the loss of KASN changed the organization of oversight.

Formal Independence and Its Limits

The formal independence literature began with attempts to measure the legal autonomy of regulators. Gilardi (2002) developed an index of agency independence, scored 33 regulators in Western Europe, and used it to test whether governments delegate to independent agencies to make their policies more credible. Later work reviewed and reworked such measures (Gilardi & Maggetti, 2011; Hanretty & Koop, 2012). Such indices record what the law provides, for example about the agency head, relations with government, and finance. The same literature warns against reading them as measures of behavior.

Hanretty & Koop (2013) find that formal independence is a significant factor in actual independence, which they proxy through the appointment of agency chief executives, but that the rule of law and the number of veto players also matter. Enns-Jedenastik (2016) goes further. Across about 700 top-level appointments in more than 100 agencies in 16 Western European countries, people with ties to the governing party became more likely to be appointed as formal independence increased, which casts doubt on formal independence as a way to limit political influence. These results do not make a formal score useless, but they limit what it can show. This study therefore treats its scores as a description of written safeguards and draws no conclusion about independence in practice.

Independence is also only one design value. Koop & Hanretty (2018) studied competition authorities in 30 OECD countries and found that formal independence improved the quality of their work, while formal political accountability did not. Thatcher & Stone Sweet (2002) analyze delegation to non-majoritarian institutions through a principal-agent framework and note that delegation has raised questions about their legitimacy and accountability. The codebook therefore reports appointment and accountability criteria (D6) apart from the formal independence dimensions (D1 to D3). Most of this work concerns market regulators in Western Europe and the OECD, and the studies located have not tested whether its indicators suit a body that oversees personnel management inside government. This study adapts them for that purpose.

Independent Bodies and Civil Service Commissions

Indonesian scholarship has applied the regulatory agency concept to independent state institutions in general. Ramadani (2020) assessed such institutions against the concept of independent regulatory agencies and found that independence is inconsistent: some institutions meet formal criteria and others have incomplete regulations, and in practice they

face interference and politicization. In the sections consulted, the article does not address KASN or merit oversight. Price (2024) examines how statutory amendment can reduce independence. He argues that the 2019 amendments weakened the Corruption Eradication Commission because a government-appointed body now oversees its internal operations and its employees were reclassified as public servants. The case differs from that of KASN, but it suggests that oversight arrangements and staff status matter for independence.

Civil service commissions elsewhere show a similar contest over design. Bizhan & Howes (2026) examine the Public Services Commission of Papua New Guinea since independence in 1975, including constitutional and legislative changes in 1986, 2003, and 2013 and a court ruling in 2019. They identify a tension between making the civil service flexible and responsive and protecting it from corruption and political interference, and ask whether the commission was sidelined or strengthened. That tension bears on the design options assessed here. For the United Kingdom and the Philippines, the searches for this study found no journal article that analyzes the independence of the commission, so the comparators are analyzed from their legal texts.

Analytical Framework

The framework keeps three sets of criteria apart. Theory-based criteria (D1 to D3) come from the formal independence literature and cover the agency head, relations with the executive, and finance and organization. Legal criteria (D4 and D5) come from the Court's decision and cover the mandate and powers of the institution and the separation of functions. Researcher-defined policy criteria (D6) cover appointment and accountability and are reported apart from formal independence, in line with the separate treatment of independence and accountability by Koop & Hanretty (2018). Each criterion is applied through one codebook to the same three bodies of documents (Figure 1). The review is selective and not exhaustive. Sources were located through web searches in October 2026, and Google Scholar, Scopus, and SINTA were not searched.

METHODS

Type of Research

This study is qualitative and treats legal and institutional documents as data. It combines document analysis Bowen (2009) with directed content analysis (Hsieh & Shannon,

2005), in which categories are set beforehand from theory and the Court’s decision and the documents are then read against them. The study is descriptive: it records what the documents provide and what actors argued.

Research Design

Figure 2 shows the workflow. The unit of analysis was a regulatory arrangement, meaning the rules that applied to merit oversight in one period or country, and, for the hearing records, a passage. Three Indonesian arrangements were compared. A1 is KASN under Law No. 5 of 2014 (D01). A2 is the transition under Law No. 20 of 2023 (D02), (Presidential Regulation No. 178, 2024; Presidential Regulation No. 91, 2024; Presidential Regulation No. 92, 2024) (D03, D04, D03b), and Ministerial Circular Letter No. 4 (2024) (D05). A3 is Ministerial Regulation No. 19 (2025) (D06), read with D02, D03b, and D04. Regulation No. 178 replaced No. 91 on 5 November 2024, but the two do not differ on the provisions coded, so A2 was reported as one arrangement.

RQ1 used the three arrangements, and RQ2 used the Court’s decision, the hearing records, and the civil service commissions of the United Kingdom and the Philippines, coded with the same codebook. The study period runs from 2014 to the data cut-off date of 14 October 2026.

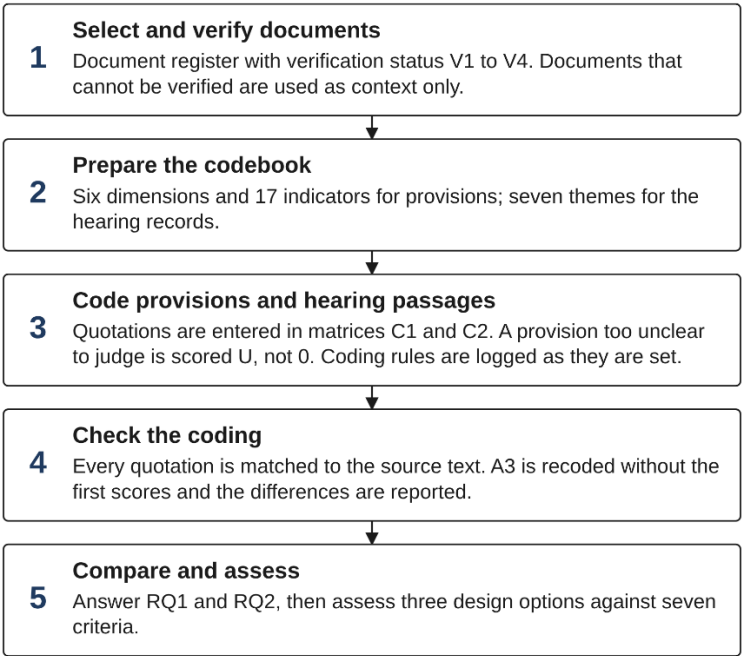


Figure 2. Document analysis and evidence-to-finding workflow

Note. The figure shows the order of procedures, not the number of documents passing each stage.
Source: Author’s construction.

Participants and Sampling Technique

The study used only published documents and involved no human participants or personal data, so no ethical approval was sought. The sample was a purposive set of 14 core documents: the seven Indonesian instruments above (D01 to D06 and D03b), Decision No. 121/PUU-XXII/2024 (D07; Mahkamah Konstitusi (2025)), four hearing records (D08 to D11), the provisions on the Civil Service Commission in the United Kingdom's Constitutional Reform and Governance Act 2010 (C01), and Articles IX-A and IX-B of the 1987 Philippine Constitution (C02).

Four of the eight hearings listed for the case on the Court's website contain substantive statements on the design of oversight and were included. The pronouncement is read within D07, and the other three hearings were preliminary or procedural. The petitioners' arguments within D07 were not coded. The comparators contrast a commission separate from the body that manages the civil service (United Kingdom) with a constitutional commission that is also the central personnel agency (Philippines). Two context documents known only from secondary sources were not coded.

Instruments and Data Collection

Documents were retrieved on 15 October 2026 from official legal databases and the websites of the Court, the House of Representatives, and legislation.gov.uk, and each received a verification status. V1 means that the official text of the relevant provisions was read, and V2 that only a non-official or partial copy was available. Thirteen core documents were V1. C02 was V2 because the Official Gazette text could not be accessed and three online copies differ at two provisions, so its provisions were scored only where the difference does not change the score.

The instrument is a codebook of six dimensions and 17 indicators (Table 1). D1 to D3 are adapted from research on the formal independence of regulatory agencies (Gilardi & Maggetti, 2011; Hanretty & Koop, 2012), D4 and D5 come from the Court's decision, and D6 holds researcher-defined criteria reported apart from formal independence. A provision scores 1 when it explicitly meets an indicator and 0 when it gives no guarantee or contradicts it, NA marks an indicator irrelevant to the design, and U marks a provision too unclear to judge, which is never converted to 0. A second codebook of seven themes, one open for emergent themes, was applied to the hearing records.

Table 1. Codebook dimensions and indicators

Dimension	Indicators
D1 Leadership	I1.1 Fixed term of office; I1.2 limit on renewal; I1.3 closed grounds for removal; I1.4 incompatibility rules
D2 Relations with the executive	I2.1 Statement of independence; I2.2 not under, through, or coordinated by the policy ministry; I2.3 results not overturnable by the executive
D3 Finance and organization	I3.1 Separate budget; I3.2 control of organization and staff
D4 Mandate and powers	I4.1 Mandate matches the holding; I4.2 access to information; I4.3 binding follow-up with consequence
D5 Separation of functions	I5.1 Separate from the policy maker; I5.2 separate from the implementer
D6 Appointment and accountability	I6.1 Open selection; I6.2 more than one actor outside the executive; I6.3 public or parliamentary reporting

Note. Scores are not summed, and D6 is not counted as formal independence.

Source: Author's adaptation of Hanretty & Koop (2012), Gilardi & Maggetti (2011), and Mahkamah Konstitusi (2025).

Provisions and passages were entered verbatim, with article and page numbers, in two matrices (Elo & Kyngäs, 2008): C1 for the 17 indicators in each of the five arrangements, and C2 for hearing passages, with the Court coded apart from other actors. Each entry has a score, a reason, and a note on uncertainty. Five rules governed scoring. Silence scored 0 only where absence means no guarantee, and otherwise U. A matter delegated to a rule that was not opened scored U. I1.1 and I1.2 scored 0, not NA, where identifiable oversight officials existed. A funding clause scored 1 on I3.1, which is a low bar. Comparators were coded by functional equivalence, with U where the constitutional text is silent.

Data Analysis Technique

An AI model (Claude, Anthropic) carried out the first coding pass by applying the codebook to the texts that had been opened. A script then matched each of the 178 quotations (110 in C1 and 68 in C2) to the source text. A separate run of the model, given only the codebook and the four documents of A3, recoded the 17 A3 indicators without the first scores, and the differences were reported. No human second coder took part, so no inter-coder reliability coefficient is reported (O'Connor & Joffe, 2020). The decision log, the matrices, and the quotation checks form the audit trail (Nowell et al., 2017).

For RQ1, scores were compared across A1, A2, and A3 dimension by dimension. For RQ2, hearing passages were grouped by theme and actor, and the safeguards of the two comparators were set against those of A3. Three design options (an independent institution, stronger independence inside the existing architecture, and a hybrid model) were then

assessed against seven criteria fixed beforehand, using only indicators with evidence and ranking none. K1 to K4 draw on coded documents, and K5 to K7 are the authors’ judgments. Only enacted rules were analyzed, because no official record of the status of a bill to amend Law No. 20 of 2023 was located by 15 October 2026.

RESULTS

Main Findings: Formal Independence across Three Arrangements

Figure 3 shows the scores for the three Indonesian arrangements and the two comparators. The 85 cells contain 42 scores of 1, 33 of 0, and 10 of U, and none was scored NA. Scores are not added up, and D6 is read apart from D1 to D5.

	A1 KASN Law 5/2014	A2 Transition 2023 to 2025	A3 Regulation 19/2025	United Kingdom	Philippines
D1 Leadership (formal independence)					
I1.1 Fixed term of office	●	○*	○*	●	●
I1.2 Limit on renewal	●	○*	○*	●	●
I1.3 Closed grounds for removal	●	?*	?*	●	?
I1.4 Incompatibility rules	●	○	○*	○*	●
D2 Relations with the executive (formal independence)					
I2.1 Statement of independence	●	○	○	○	●
I2.2 Not under the policy ministry	●*	○	○	●	●
I2.3 Results not overturnable by executive	●	?	○	●*	?
D3 Finance and organization (formal independence)					
I3.1 Separate budget	●	●*	●*	●*	●
I3.2 Control of staff and organization	●	○*	○*	●	●
D4 Mandate and powers (conformity to the decision)					
I4.1 Mandate matches the holding	●	○*	●*	●*	?
I4.2 Access to information	●	○	○*	●	?
I4.3 Binding follow-up with consequence	●	○	●*	○	?
D5 Separation of functions (conformity to the decision)					
I5.1 Separate from policy maker	●*	○	○*	●*	○
I5.2 Separate from implementer	●	○	○	●	○
D6 Appointment and accountability (researcher-defined criteria)					
I6.1 Open selection	●	?	?*	●	○*
I6.2 More than one actor outside executive	○	○	○	●	●
I6.3 Public or parliamentary report	○	○	○	●	●
Key: ● Safeguard present ○ Absent or contrary ? Cannot be judged					
* A defensible alternative score exists for this cell (see matrix C1).					

Figure 3. Scores on 17 indicators in three Indonesian arrangements and two comparators
Note. Scores are not summed. D6 is read apart from formal independence. A2 combines Presidential Regulations No. 91 and No. 178 of 2024. The Philippine column rests on the constitutional text only (V2). **Source:** Author’s coding (matrix C1).

Under Law No. 5 of 2014 (A1), KASN scored 1 on all 14 indicators in D1 to D5. Members served five years with one extension (art. 40(2)) and could be removed only on listed grounds (art. 40(3)). The law described KASN as independent and free from political intervention (art. 27), made it report to the President (art. 34), and let it request information and require follow-up of its findings (art. 32). In D6, A1 scored 1 for open selection but 0 on the other two indicators, because the Minister formed the selection team (art. 39(1)) and the annual report went only to the President (art. 34).

The transition under Law No. 20 of 2023 (A2) scored 1 on one indicator in D1 to D5, 0 on 11, and U on two. Oversight sits with the National Civil Service Agency (BKN). Its head is appointed and dismissed by the President on the Minister's proposal and has no fixed term (Presidential Regulation No. 92, 2024, art. 50). BKN is under and responsible to the President through the Minister, is coordinated by the Ministry, and reports through the Minister (arts. 2(1), 39, and 42). The Ministry formulates the policy on oversight (Presidential Regulation No. 178, 2024, art. 19(a)), while BKN formulates technical policy and also oversees the merit system (Presidential Regulation No. 92, 2024, arts. 3 and 4), so I5.1 and I5.2 scored 0. The only 1 is I3.1, a funding clause (art. 53), which is a low bar. The two U cells are I1.3, because art. 50 refers removal to other legislation, and I2.3, because the documents do not say who finalizes results and an earlier ministerial regulation that was not opened may have governed them.

Ministerial Regulation No. 19 (2025) (A3) differed from A2 on three indicators. I2.3 moved from U to 0, because the Minister sets the merit index and rating (art. 18(1)) and a correction factor set by ministerial decision can reduce or void the results of BKN's verification (art. 12(1) and (4)). I4.1 and I4.3 moved from 0 to 1. The first rests on an interim clause that lists the merit system, principles, core values, code of ethics, and code of conduct as the object of oversight until an independent institution is formed (art. 27), whereas the operative provisions mention only the merit system (art. 22). The second rests on the duty of agencies to act on oversight recommendations (art. 25(2)) and on sanctions for violations (art. 23(1)), but the sanctioning authority is not named, so I4.3 carries high uncertainty. A3 scored 0 on all indicators in D2 and D5 and differed from A1 on 12 of the 17 indicators, in each case from 1 to 0 or U. In D6, A2 and A3 scored 0 on I6.2 and I6.3, as A1 did, because the President and the Minister alone appoint the head of BKN and reports go through the Minister. Both scored U on I6.1, because the selection procedure is left to other legislation.

Supporting Findings: The Court and the Actors

Decision No. 121/PUU-XXII/2024 set requirements of position and scope but gave no list of guarantees. The Court reasoned that policy-making, implementing, and overseeing roles need clearly separated functions and described the overseer as a counterweight outside both the policy maker and the implementer (Mahkamah Konstitusi, 2025, p. 290). It required an independent institution to oversee the merit system, including principles, core values, code of ethics, and code of conduct, left its form to the legislator, and set a two-year deadline (2025a, pp. 290 and 292 to 293). The passages coded to the Court say nothing on the term, removal, or budget of the new institution or on the binding force of its results.

Table 2 separates the Court from the parties and other speakers. Three disputes ran through the passages. The first concerned whether independence belongs to an institution or can be supplied by a system. The head of BKN, as a government witness, pointed to the independence of BKN's systems (Mahkamah Konstitusi, 2025b, pp. 13 and 14), and two justices challenged this line (2025b, pp. 25 and 26).

Table 2. Positions in the Court's decision and the hearing records

Actor and record	Position in the passages coded	C2 rows
The Court (D07)	An independent institution, external to the policy maker and the implementer, must oversee the merit system. The legislator chooses the form. Two-year deadline. The Court reports the legislator's reasoning without adopting it.	C2-01 to C2-10
Dissenting justice (D07)	The transfer is open legal policy, and the Ministry and BKN have enough capacity.	C2-11, C2-12
Justices' questions (D08 to D11)	Questions and remarks, not holdings: is the present design internal oversight, and can a body that is not independent act independently?	C2-18, C2-29, C2-30, C2-43, C2-44, C2-49 to C2-54, C2-67
House of Representatives (D08)	Strengthen the Ministry first. Oversight continues. The petitioners' request would create legal uncertainty.	C2-13 to C2-16
Government: statement and counsel (D08 to D10)	Open legal policy within presidential authority. Combining policy and oversight is rational. KASN recommendations were not binding.	C2-17, C2-19 to C2-24, C2-42
Government's expert and witnesses (D11)	Independence of the system in place of the institution. No legal vacuum. BKN sanctions are stronger than KASN's.	C2-46 to C2-48, C2-61 to C2-66
Informants invited by the Court (D09, D10)	The 2014 law separated the three functions and the 2023 law mixed them. Disputed claim of high compliance. Risk of politicization.	C2-25 to C2-28, C2-31 to C2-36

Actor and record	Position in the passages coded	C2 rows
Petitioners' experts and counsel (D10, D11)	BKN is not independent. An independent commission with BKN as secretariat, or dual oversight.	C2-37 to C2-41, C2-45, C2-55 to C2-60, C2-68

Note. Passages were coded in Indonesian and are summarized here. Row numbers refer to matrix C2, and rows 17, 18, and 49 are procedural.

Source: Author's coding (matrix C2) of (Mahkamah Konstitusi, 2024a, 2024b, 2025a, 2025b)

The second dispute concerned binding force. The Government's statement, an informant, and a justice described weak follow-up as a problem of KASN, citing non-binding recommendations, appointing officials who did not act, and the lack of an executing body (Mahkamah Konstitusi 2024c, p. 10; 2024d, pp. 17 and 20). A former KASN commissioner reported 87.1 percent compliance with neutrality recommendations (2024c, p. 18), a figure that conflicts with these accounts and was not verified.

The third dispute concerned design. The petitioners' experts and one informant proposed an independent authority, a merit protection commission, or dual oversight (2024d, pp. 8 and 14; 2025b, pp. 5 and 36). The House of Representatives, the Government, and the Government's expert defended the transfer. The Government called it open legal policy, and all three said that oversight continued or that no legal vacuum had arisen (2024b, p. 7; 2024c, pp. 4, 6, and 13; 2025b, p. 9). These passages record arguments made in litigation, and the Chair cautioned two witnesses against giving opinions (2025b, p. 34).

Comparator Safeguards

In the United Kingdom, the Civil Service Commission scored 1 on 11 of the 14 indicators in D1 to D5 and on all three in D6. Commissioners serve no more than five years without reappointment (Constitutional Reform and Governance Act 2010, Sch. 1, paras. 2(6), 2(7), and 3(8)) and can be removed only on four listed conditions (Sch. 1, para. 5(3) and (4)). Selection is on merit and open competition after consultation of the First Ministers and opposition leaders (Sch. 1, para. 2(3) and (4)), the Commission is separate from the Minister who manages the civil service (ss. 2(1) and 3(1)), and its report goes to Parliament (Sch. 1, para. 17(3) and (4)). It scored 0 on I1.4 (no incompatibility rule found), I2.1 (no statement of independence found), and I4.3 (complaint outcomes are recommendations only; s. 9(5)(b)). Sections 10 to 14 carry a modification note whose effect on three cells was not examined.

In the Philippines, the 1987 Constitution scored 1 on seven of the 14 indicators in D1 to D5, 0 on two, and U on five. The commissions are independent Constitution of the Republic of the Philippines (1987), art. IX-A, s. 1, have fiscal autonomy (art. IX-A, s. 5), and appoint their own staff (art. IX-A, s. 4). Commissioners serve seven years without reappointment, with the consent of the Commission on Appointments (art. IX-B, s. 1), and the Civil Service Commission reports annually to the President and Congress (art. IX-B, s. 3). In D6, the text scored 0 on open selection and 1 on the other two indicators. Because the Commission is also the central personnel agency (art. IX-B, ss. 1 and 3), I5.1 and I5.2 scored 0. The five U cells reflect silence on removal, results, information access, follow-up, and scope, with statutes that might regulate them not opened. The text is V2: the copies compared differ in art. IX-A, s. 2 and art. IX-B, s. 2(2), but neither difference changes a sentence that was scored.

Divergent Findings and Uncertain Cells

Ten cells were U: five in A2 and A3 (I1.3 and I6.1 in both, and I2.3 in A2) and five in the Philippines (I1.3, I2.3, and I4.1 to I4.3), each because the matter was left to rules that were not opened. Twenty-five cells have a defensible alternative reading, most of them in A3 (11) and A2 (six), and are marked in Figure 3. The recode of the 17 A3 indicators matched the first pass on 15. The recode scored I3.2 as 1, because the President appoints the deputies and the secretariat head on the proposal of the head of BKN (Presidential Regulation No. 92, 2024, art. 51), and I6.1 as 0, because no selection mechanism appears in the four documents. The first-pass scores are reported because I3.2 also depends on the Minister's written approval of BKN's organization (arts. 36 and 54) and art. 50 refers selection to legislation that was not opened. If every alternative reading that favors A3 and every alternative that lowers A1 were adopted together, A1 would still score 1 on 12 of the 14 indicators in D1 to D5 and A3 on at most six.

DISCUSSION

Analysis and Interpretation of Findings

For RQ1, the documents show a sharp break between the arrangement before 2023 and those after it. KASN under Law No. 5 of 2014 carried a written safeguard on every indicator in D1 to D5. The arrangement under Law No. 20 of 2023 kept one, a funding clause, and Ministerial Regulation No. 19 (2025) added two on mandate, both open to an

alternative reading. The pattern reads more as a relocation of the function than a gradual weakening. Oversight now sits in BKN, whose head has no fixed term, which reports through the Minister, and which also formulates technical personnel policy, so most cells score 0 because the features of an independent overseer are absent and not because each was repealed. This interprets written safeguards, not practice.

For RQ2, the Court's reasoning and the A2 and A3 scores point in different directions on the separation of functions. The Court described the overseer as a counterweight outside the policy maker and the implementer, while the documents place the policy on oversight in the Ministry and both technical policy and oversight in BKN (I5.1 and I5.2 scored 0). This is not a finding that the arrangement is unconstitutional, because the Court conditioned one provision and left the form of the institution to the legislator.

The hearing records add two points. The Government's witness offered independence of the system in place of independence of the institution, but under A3 the Minister sets the merit index and may adjust BKN's verification results (I2.3 scored 0), so on the written rules system-level independence is not secured against the executive. On binding force, A1 scored 1 on I4.3 because KASN's findings required follow-up and unaddressed findings led to a recommendation of sanctions to the President (Law No. 5 of 2014, arts. 32(3) and 33(1)), yet speakers on both sides called its recommendations weak in practice. Those accounts concern implementation, which the documents cannot confirm, and the one compliance figure offered conflicts with them. Binding force is thus a reported problem of KASN, but the evidence does not show that it was the main one.

Comparison with Theory and Previous Studies

The scores follow the premise of the formal independence literature that legal texts can be coded for safeguards (Gilardi & Maggetti, 2011; Hanretty & Koop, 2012), and they show where the adaptation was strained. Indicators written for stand-alone regulators had to be applied to officials who exercise oversight as one task among many, so I1.1 and I1.2 were scored 0 for BKN and not NA, and I3.1 was scored 1 on a bare funding clause. Other coding rules for these cells would change the counts, which is why such cells are flagged and scores are not summed.

The warnings in that literature apply here. Formal independence predicts actual independence only in part (Hanretty & Koop, 2013), and Ennser-Jedenastik (2016) found more appointees with ties to the governing party as formal independence rose. A1 shows a

comparable gap on paper: it scored 1 on every indicator in D1 to D5 but 0 on two of the three in D6, because the Minister formed the selection team and the report went only to the President. Keeping D6 apart, as Koop & Hanretty (2018) keep accountability apart from independence, made this visible. The comparators add that safeguards grouped under independence need separate assessment: the Philippine commission is independent but also administers the civil service (I5.1 and I5.2 scored 0), and the United Kingdom’s commission can only recommend on complaints (I4.3 scored 0).

Among Indonesian studies, the relocation of oversight into offices that also manage personnel is consistent with the concern of Ramadhan (2025) that dissolving KASN set back bureaucratic reform and with the argument of Hafidz et al. (2025) that weak design exposes the merit system to political co-optation. Makiin et al. (2024), whose abstract and conclusion were consulted, conclude that oversight placed in BKN can preserve independence because BKN reports directly to the President. The provisions coded here differ: BKN is under and responsible to the President through the Minister and is coordinated by the Ministry (Presidential Regulation No. 92, 2024, arts. 2(1) and 39), and I2.2 scored 0. The two readings may rest on different standards of independence.

Implications

For research, the results suggest that indicators from regulatory agency research can be adapted to oversight bodies inside government if rules are set for functions held by multi-purpose agencies. Because civil service laws reduce corruption only when implemented Meyer-Sahling & Mikkelsen (2016), written safeguards of the kind coded here cannot be read as evidence of independence in practice.

For policy, Table 3 sets the three design options against criteria K1 to K7, of which K5 to K7 are the authors’ judgments. The table ranks nothing and recommends nothing.

Table 3. Design options assessed against criteria K1 to K7

Criterion	Option A: independent institution	Option B: stronger independence inside existing agencies	Option C: hybrid
K1 Conformity to the holding	Met: an institution outside the Ministry and BKN.	Met only if the holding is read to allow it.	Met if the independent element holds the authority.
K2 Separation of functions	Met by design.	Not met while BKN manages and oversees.	Depends on which body decides.

Criterion	Option A: independent institution	Option B: stronger independence inside existing agencies	Option C: hybrid
K3 Formal independence	Must be legislated. A1 scored 1 on 14 of 14 indicators in D1 to D5.	New safeguards needed. A3 scored 0 on six of seven indicators in D1 and D2.	Applies to the independent element only.
K4 Binding force	Not secured by independence alone (United Kingdom, I4.3 = 0).	Possible through BKN systems.	Independent findings enforced through personnel systems.
K5 Accountability (judgment)	A reporting line outside the executive is possible.	Reporting stays within the executive.	Split between two bodies.
K6 Feasibility (judgment)	New statute, budget, and staff by October 2027.	Lowest transition cost.	Moderate: statute and coordination rules.
K7 Overlap risk (judgment)	Low, with a clear boundary with BKN.	Low new overlap.	Highest: responsibility can shift between bodies.

Note. K1 to K4 rest on coded documents. K5 to K7 are researcher judgments. The table does not rank or recommend options.

Source: Author's assessment based on matrices C1 and C2 and the option definitions in the study design.

Three conditional readings follow. Option B meets K1 and K2 only if the legislator reads the holding to allow a body inside existing agencies and oversight leaves the office that also manages personnel, since otherwise the scores for I5.1 and I5.2 would persist. Option A meets K1 to K3 by design, but its safeguards would have to be written, and weak follow-up was reported under A1. Option C addresses K4 by joining an independent finding to enforcement through personnel systems, as a petitioners' expert proposed (Mahkamah Konstitusi, 2024d), but it needs a clear division of responsibility (K7). The evidence does not separate A from C, so both are presented with their conditions, and the assessment concerns design on paper, not performance.

Limitations

All coding was done by an AI model, and no human coder checked the matrices, so no reliability coefficient can be reported. The scores describe written safeguards, not practice, and ten cells are U because the governing rules were not opened. The hearing records show arguments made in litigation, and the comparators differ in legal form, so they show how safeguards are written elsewhere and not what Indonesia should adopt. The study does not test effectiveness, the behavior of civil servants, or performance.

CONCLUSION

Summary of Key Findings

For RQ1, the documents show that formal independence fell sharply when the function moved from KASN to BKN. KASN under Law No. 5 of 2014 held a written safeguard on all 14 indicators in D1 to D5, the arrangement under Law No. 20 of 2023 held one, and Ministerial Regulation No. 19 (2025) held three, each open to a lower alternative reading. For RQ2, the Court required an independent institution outside the policy maker and the implementer and left its form to the legislator. The actors disputed whether independence of a system can replace independence of an institution, and no account showed that weak follow-up was the main problem of KASN. The two comparators show that independence can be written with or without separation from personnel management. The three design options carry different conditions, and the evidence does not separate the independent institution from the hybrid model. K5 to K7 rest on the authors' judgment.

Contribution to Knowledge

The study contributes a coded profile of written safeguards in which every score can be traced to a provision, a test of indicators from regulatory agency research on an oversight body inside government, and a separation of the Court's position from those of the parties in the hearing records.

Recommendations for Future Research and Practice

For practice, the legislator drafting the independent institution can use the indicators as a checklist of safeguards to state. For research, human coders should repeat the coding with a reliability check, the implementing rules that were not opened should be read to resolve the U cells, and later studies should examine how oversight worked in practice, which this study does not test.

Declaration of AI Use

Claude (Anthropic) was used to assist with document retrieval, review, and coding based on the predefined codebook. A separate blind recoding of one arrangement was conducted as a consistency check. The authors developed the codebook, selected the documentary corpus, and retain responsibility for interpreting the evidence and drawing the conclusions. The coding scores were not independently verified by a second human coder.

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