

# Legal Certainty and Executive Office Incompatibility: Constitutional Adjudication, Transitional Compliance, and Governance Integrity

Ismet Hadi<sup>1\*</sup>, Moh. Fadli<sup>2</sup>, Sukardi<sup>3</sup>, Radian Salman<sup>4</sup>, and Rosa Ristawati<sup>5</sup>

<sup>1</sup>Faculty of Social Sciences, Legal Science, Universitas Muhammadiyah Gorontalo, Indonesia

<sup>2</sup>Faculty of Law, Universitas Brawijaya, Indonesia

<sup>3,4,5</sup> Faculty of Law, Universitas Airlangga, Indonesia

\*Corresponding: ismethadi@umgo.ac.id

Article	Abstract
<p><b>Keywords:</b> legal certainty; executive office incompatibility; constitutional adjudication; transitional compliance; governance integrity</p> <p><b>Article History</b> Received: Jan 19, 2026; Reviewed: Feb 2, 2026; Accepted: Jun 5, 2026; Published: Jun 5, 2026.</p>	<p><i>This article examines how Constitutional Court Decision Number 128/PUU-XXIII/2025 reshapes the legal framework of executive office incompatibility in Indonesia by extending the prohibition under Article 23 of the State Ministry Law to vice ministers. Using doctrinal legal research, the study analyses the court's constitutional reasoning, the legal effects of its conditional ruling, and the implications of its transitional compliance period for executive appointments and state-owned enterprise governance. The article finds that the decision strengthens legal certainty by closing a statutory gap where vice ministers were allowed to hold concurrent corporate positions, particularly as commissioners or directors in state owned enterprises. However, the grace period introduced by the court may generate compliance ambiguity unless it is followed by coordinated and transparent administrative measures. The article contributes to constitutional law studies, as it demonstrates how conditional constitutional adjudication can transform judicial reasoning into a binding governance norm. This study recommends an immediate prohibition on new dual appointments, a centralised register of affected office holders, a time-bound replacement schedule, and interim safeguards such as disclosure, recusal, and verifiable reporting to ensure consistent implementation and preserve governance integrity.</i></p>



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## A. INTRODUCTION

Legal certainty is a foundational element of constitutional governance, as it enables public actors to anticipate legal consequences, limits discretionary power, and strengthens the rule of law. In the context of executive appointments, legal certainty is pivotal in matters in which public authority intersects with conflicts of interest, institutional accountability, and state-owned enterprise governance. Weak role boundaries between executive office and

corporate positions may undermine public trust, facilitate policy capture, and weaken the credibility of state decision-making, particularly when senior executive office holders simultaneously occupy strategic positions in state-owned enterprises (hereinafter, SOEs) (Chandranegara & Cahyawati, 2023; Demmke et al., 2021; Umanto et al., 2022).

Against this background, Constitutional Court Decision Number 128/PUU-XXIII/2025 addresses the constitutional validity of dual office holding by vice ministers by reinterpreting Article 23 of Law Number 39 of 2008 on State Ministries. The court held that the term “Minister” must be understood to include “Vice Minister,” thereby extending incompatibility restrictions to vice ministers and prohibiting them from concurrently holding positions as other state officials, commissioners or directors in state-owned or private companies, or leaders of publicly funded organisations. The court also introduced a time-bound adjustment period to facilitate administrative transition, but this grace period raises further questions about legal certainty, institutional compliance, and governance integrity.

The decision has also triggered a prolonged debate in Indonesian constitutional practice over the binding force of the Constitutional Court’s reasoning and the compliance structure that follows interpretive or conditional rulings. Comparative focused research shows that although Constitutional Court decisions are formally final and binding, their practical effects depend on whether political branches and administrative institutions treat interpretive conditions as authoritative and implement them consistently (Butt & Murharjanti, 2022a). Studies on judicial compliance further indicate that perceived noncompliance or selective enforcement can weaken legitimacy and the practical effectiveness of constitutional remedies (Carlin et al., 2022). Amid Indonesian doctrinal debates, conditional unconstitutionality is frequently defended as a pragmatic technique to maintain legal continuity. However, it can also generate uncertainty when subordinate regulations and administrative routines are not promptly aligned with the court’s authoritative interpretation (A. Efendi & Disantara, 2022; Yarni & Amanda, 2024).

Existing literature provides important insights but leaves a gap related to Decision 128/2025. First, many discussions focus on the dispositive holding and treat the court’s reasoning as persuasive guidance rather than as a constitutive element of the rule that must be implemented; yet, in conditional decisions, the operative meaning of the statute is often interpretive and carried by the court’s ratio decidendi (Tauda, 2024). Second, implementation-oriented analyses rightly highlight the need for follow-up mechanisms to

secure the *erga omnes* effect, but they often remain general and do not specify how integrity-oriented decisions should be translated into concrete appointment vetting, conflict of interest screening, and governance controls within the executive SOE ecosystem (Ningrum, Al Khanif, et al., 2022; Umanto et al., 2022). Third, while recent studies discuss the Constitutional Court's institutional position amid pressures on constitutionalism and judicial independence, there remains limited doctrinal work that connects interpretive remedies, transitional periods, and integrity governance into a single framework for evaluating legal certainty in executive appointments (Buana, 2024).

The novelty of this article lies in its integration of three analytical dimensions that are often examined separately: conditional constitutional interpretation, transitional compliance, and integrity governance at the interface between the executive and state-owned enterprise. Instead of treating Constitutional Court Decision Number 128/PUU-XXIII/2025 merely as a case-specific ruling on vice-ministerial office-holding, this article conceptualises the decision as a broader constitutional mechanism for transforming judicial reasoning into an administrable governance norm. This approach enables the article to contribute not only to studies on constitutional law in Indonesia but also to broader debates on legal certainty, compliance with Constitutional Court decisions, and governance integrity.

This article addresses that gap by analysing Constitutional Court Decision Number 128/PUU-XXIII/2025 as a case of transforming constitutional reasoning into a binding and administrable governance norm. The study has two objectives: (1) to reconstruct the court's ratio decidendi and explain how it redefines the legally valid meaning of Article 23 of the State Ministry Law for vice ministerial incompatibility; (2) to evaluate the implementation pathways and compliance risks arising from the decision's transitional design. By doing so, the article contributes to studies on conditional constitutional adjudication, legal certainty, and public integrity by showing how constitutional interpretation can shape predictable and verifiable administrative practice. (Butt & Murharjanti, 2022; Tauda, 2024).

## **B. METHODS**

This article adopts doctrinal (normative) legal research as its primary method, considering that the research questions concern the authoritative meaning and legal effects of Constitutional Court Decision Number 128/PUU-XXIII/2025 and the constitutionally valid construction of statutory incompatibility norms. Doctrinal research is suited to identifying, systematising, interpreting, and evaluating legal norms within their institutional

setting by treating law as an internally reasoned body of authoritative materials rather than as an empirical dataset (Hoecke, 2013; Hutchinson, 2018; McConville & Chui, 2017). The study, therefore, focuses on (i) the relevant constitutional and statutory texts, (ii) the Constitutional Court decision as an authoritative source of constitutional meaning, and (iii) the doctrinal concepts necessary to evaluate legal certainty and governance integrity. The main research approaches are statutory analysis (mapping the normative framework of office incompatibility and conflicts of interest), case analysis (reconstructing the decision's ratio decidendi and its remedial logic), and conceptual analysis (clarifying the doctrinal content of legal certainty, binding effect, and integrity-based constraints in public office) (Barak, 2012; Marzuki, 2017).

Legal materials are collected through systematic document study. Primary materials include the 1945 Constitution, the State Ministry Law, related regulations, and Decision Number 128/PUU-XXIII/2025. Secondary materials consist of scholarly books and peer-reviewed commentary on constitutional adjudication, compliance, and governance of integrity. The analysis proceeds qualitatively in four steps: first, the study performs structured legal interpretation (textual, systematic, purposive/teleological) to state the decision's operative propositions and the constitutionally required meaning of the contested norm (Barak, 2012; Hoecke, 2013). Second, it applies doctrinal reconstruction to determine the decision's legal consequences for executive appointments and institutional follow-up, including the normative implications of transitional remedies. Third, it evaluates legal certainty through doctrinal criteria of clarity, coherence, and administrability, emphasising how interpretive conditions should guide consistent institutional behaviour (Hutchinson, 2018; McConville & Chui, 2017). Fourth, the study develops prescriptive recommendations consistent with doctrinal scholarship's evaluative function by translating the reconstructed norm into implementable compliance pathways and integrity safeguards, while remaining anchored in the hierarchy of legal sources and the court's constitutional authority (Hoecke, 2013; Marzuki, 2017).

## **C. RESULTS AND DISCUSSION**

### **1. From Judicial Guidance to Binding Norm: Legal Certainty After Constitutional Court Decision Number 128/PUU-XXIII/2025**

Constitutional Court Decision Number 128/PUU-XXIII/2025 (Decision 128/2025) repositions executive integrity from a largely political administrative practice into a

constitutionally enforceable norm by transforming interpretive reasoning into the operative meaning of statutory law. The court's central move is neither an extensive annulment of Article 23 of the State Ministry Law nor a purely advisory statement. Rather, it is a conditional, interpretive reconstruction: Article 23 is constitutional only on the condition that the statutory term "Minister" is read to include "Vice Minister," thereby extending incompatibility rules to vice ministers and closing a structural loophole in the executive appointment regime (Putra, 2023; Yarni & Amanda, 2024). This approach matters for legal certainty because it determines whether addressees' appointment authorities, ministries, state-owned enterprise (hereinafter, SOE) governance bodies, and vice ministers themselves face a single, stable, and administrable rule or, conversely, a fragmented compliance scope in which the force of the decision is contested as mere "guidance".

Legal certainty in constitutional democracies is often operationalised through three interrelated dimensions: clarity of the applicable rule, coherence with the broader legal system, and predictability in institutional application. Contemporary legal studies emphasise that legal certainty is not only a formal drafting objective but also a constitutional value that stabilises legitimate expectations and disciplines discretionary governance (Ait-Aoudia, 2025; Bailey & Norbury, 2025). Decision 128/2025 clarifies by removing the interpretive ambiguity that had been used to legitimise dual office-holding: if the prohibition in Article 23 applied textually only to "ministers", vice-ministers could be framed as outside the scope of incompatibility. Such "label-based avoidance" is precisely the kind of interpretive opportunism that undermines predictability, as the practical effect of a prohibition can be neutralised by institutional designations rather than functional authority. By making the constitutional reading explicit, the court establishes a single authoritative meaning that must be applied whenever the question of incompatibility arises, thereby reducing interpretive flaws and improving the transparency of the compliance standard (Hakiki & Taufiqurrahman, 2023; Putra, 2023).

The decision's contribution to systemic coherence is equally significant. Conflicts of interest and divided loyalties are increasingly treated as constitutional problems because they distort decision-making even without demonstrable corruption; they also weaken public trust, which is a precondition for effective governance (Chandranegara & Cahyawati, 2023; Demmke et al., 2021). Indonesia's executive-SOE ecosystem heightens these risks because SOEs operate simultaneously as market participants and as instruments of public policy.

When senior executive officials sit on SOE boards, role boundaries can blur: the same individual may shape sectoral policy and participate in enterprise strategy, creating a structural risk of policy capture and compromising accountability. The court's interpretive inclusion of vice ministers reflects a coherence-based rationale: if the underlying constitutional objective of Article 23 is to prevent incompatible role collisions in executive governance, that objective would be undermined if vice ministers who may exercise delegated authority within ministries were exempted by statutory phrasing. This coherence argument resonates with studies that frame integrity and conflict-of-interest controls as essential components of constitutional ethics rather than optional administrative preferences (Chandranegara & Cahyawati, 2023).

A further contribution lies in predictability and administrability. Conditional and interpretive remedies can expand constitutional protection while preserving the legislative text, but they also risk creating uncertainty when implementing actors contest whether the interpretive condition is binding law or merely persuasive reasoning (A. Efendi & Disantara, 2022; Ningrum, Khanif, et al., 2022). The Indonesian compliance literature shows that disputes often arise not because the legal outcome is unknown, but because institutions disagree on what "follow-up" requires and who bears responsibility for implementing the court's constitutional meaning (Butt & Murharjanti, 2022; Muda, 2023). By couching the remedy as an authoritative interpretive condition attached to the validity of Article 23, Decision 128/2025 shrinks the space for institutional disagreement about whether the court has merely offered guidance. Instead, the decision compels implementing institutions to treat the court's interpretation as the controlling meaning of Article 23 for all future appointments and governance decisions.

This reasoning to norm transformation can be understood through the court's broader remedial pattern in Indonesia, where the Constitutional Court sometimes serves as a "positive legislator" in the limited sense of constructing permissible meanings that the statute must carry to remain constitutional (M. A. F. Efendi et al., 2023). While debates persist about the legitimacy and hierarchy of such positive legislative effects, the practical point for legal certainty is that interpretive reconstruction can provide immediate operational content to an otherwise underinclusive norm. Legal certainty, therefore, is enhanced not by waiting for the legislature to amend Article 23, but by recognising that the legal meaning of Article 23 has

already been constitutionally re-specified by the court and must be internalised by administrative practice (Butt & Murharjanti, 2022; Jufri et al., 2024).

Decision 128/2025 also consolidates a jurisprudential line concerning the constitutional position of vice ministers and the incompatibility of concurrent positions. Earlier controversies regarding vice minister appointments and dual roles have produced a doctrinal record in which the court has repeatedly been asked to clarify whether vice ministers may concurrently serve as commissioners or directors in SOEs or private enterprises, and what constitutional standards govern that question (Sari et al., 2023). The main legal certainty problem revealed by that record is that repeated judicial pronouncements can still be treated as optional in practice when the statutory structure allows executive actors to distinguish between office categories. Decision 128/2025 addresses that problem at its root by aligning the statutory category (“minister”) with the functional reality of executive authority (“vice minister” as part of the ministerial governance structure). In doing so, it reduces the likelihood that executive appointment practice will oscillate between permissive and restrictive interpretations depending on political incentives, which is a recurring triggering factor of uncertainty in governance integrity systems (Demmke et al., 2021).

At the doctrinal level, the binding force of interpretive reasoning depends on whether legal systems treat *ratio decidendi* as a source of law that can guide and constrain administrative action. Recent studies in Indonesia have argued that legal reasoning in constitutional review, particularly when it includes an operative interpretive condition, can serve as binding guidance for administrative decision-making and law-making, thereby supporting legal certainty and reducing arbitrary divergence in subordinate application (Tauda, 2024). This argument becomes more compelling in the context of conditional decisions, where the “condition” is not a peripheral comment but the element that makes the statute constitutional. The court’s interpretive condition thus becomes a normative component of the legal rule itself, not merely an explanatory narrative. The result is a more determinate rule: vice ministers are subject to the same incompatibility structure as ministers for the purposes identified in Article 23.

Yet legal certainty is not produced by doctrinal clarity alone; it is also a social-institutional phenomenon shaped by compliance incentives. Research on judicial noncompliance demonstrates that when political actors fail to implement court orders, or when implementation is perceived as selective, public confidence in legality declines and

judicial remedies lose practical force (Carlin et al., 2022). Indonesian studies similarly identify “disregarding” constitutional decisions as an ongoing issue, particularly when executive and legislative actors treat constitutional review as politically negotiable (Hasani et al., 2022; Sari et al., 2023). Therefore, Decision 128/2025 generates legal certainty at the level of normative meaning, but it simultaneously exposes the compliance question: can the court’s reconstructed meaning be translated into uniform institutional behaviour, or will the new norm be diluted through partial uptake?

Assessing the decision’s certainty value requires evaluating how it responds to interpretive and drafting challenges that typically produce uncertainty. Comparative legislative scholarship stresses that clarity is vital but not always a reality, and that interpretive frameworks (including interpretation acts and settled interpretive practices) set the benchmark based on which legal texts can deliver predictability (Bailey & Norbury, 2025; Konca, 2025). The Indonesian context differs institutionally, yet legal certainty requires a stable interpretive standard. Decision 128/2025 functions as such a standard with which the meaning of an otherwise underinclusive statutory term is fixed. In this sense, it resembles the comparative logic by which courts sometimes “unenact” or constrain problematic meanings to avoid systemic uncertainty, even though Indonesian constitutional remedies take different forms (Feldman, 2025). The decision also implicitly addresses a rule-of-law problem common in other jurisdictions: when legal systems tolerate temporary or retroactive adjustments without precaution, certainty may be compromised (Makhambetsaliyev, 2025). Although Decision 128/2025 employs an adjustment period rather than retroactive law-making, the same rule-of-law logic applies: transitional techniques must be carefully structured to avoid undermining predictability.

Importantly, legal certainty after Decision 128/2025 also depends on how the decision is congruent with governance structures, particularly SOE governance. Evidence from Indonesian SOE governance research indicates that board structure and appointment practices directly influence the quality of oversight and accountability; thus, the legal rule against incompatibility cannot be treated as merely symbolic without affecting governance performance (Umanto et al., 2022). The court’s norm, therefore, has a dual certainty function: it clarifies the incompatibility rule, and it signals to governance institutions that integrity standards are non-negotiable components of executive administration. To maintain certainty, institutions must embed the norm in appointment investigations, conflict-of-

interest screening, and dismissal mechanisms, so that the rule's application becomes routine rather than exceptional.

The decision also contributes to a broader constitutional message about compliance and the allocation of follow-up responsibilities. Indonesian legal studies on the *erga omnes* effect of MK decisions stress that effective implementation requires cooperation among addressees and operational translation into legal products, procedures, and institutional routines (Jufri et al., 2024; Ningrum, Khanif, et al., 2022). In practice, uncertainty frequently arises when institutions claim that implementation must await legislative amendment. Butt & Murharjanti (2022) argue that many constitutional court decisions require no legislative response and can be implemented through administrative adjustments. Decision 128/2025 aligns with that insight: because it reconstructs statutory meaning through authoritative interpretation, the legal norm is immediately applicable and does not depend on parliamentary amendment to become binding. In this sense, the decision may reduce the "implementation excuse" that often sustains uncertainty.

Finally, Decision 128/2025 invites a refined understanding of legal certainty as an integrity-based constitutional value. Integrity policy research shows that the effectiveness of conflict-of-interest rules depends on the credibility of enforcement and the universality of their application; where enforcement is selective or opaque, the rules can be perceived as political tools rather than legal constraints (Demmke et al., 2021; Silano, 2025). Indonesian analyses of MK decision follow-up similarly highlight that compliance is vulnerable to political bargaining, particularly where executive appointments implicate economic interests (Hasani et al., 2022; Sari et al., 2023). Legal certainty in the wake of Decision 128/2025, therefore, is not merely a textual achievement; it is a governance achievement. The court has established a stable interpretive rule that closes a formal loophole and clarifies the standards for incompatibility. Whether that stability becomes durable certainty depends on whether state institutions internalise the reconstructed meaning of Article 23, treat the interpretive condition as binding law, and apply it uniformly across office holders and sectors. Where that internalisation occurs, Decision 128/2025 functions to amplify a constitutional certainty, aligning executive integrity with rule-of-law predictability and strengthening the legitimacy of executive governance.

## **2. Implementation Pathways and Compliance Risks: Institutional Follow-up, Grace Period, and Governance Integrity**

Decision Number 128/PUU-XXIII/2025 marks a shift from discretionary executive practice to constitutionally structured compliance in Indonesia's executive SOE interface. By construing statutory incompatibility rules to apply not only to ministers but also to vice ministers, the Constitutional Court effectively reclassifies dual appointments (especially vice ministers concurrently serving as commissioners/directors in SOEs) from a "governance preference" into a constitutional risk to role clarity, accountability, and the separation between public regulatory authority and enterprise management. In implementation terms, the decision does not merely prohibit an act; it creates a multi-institutional compliance agenda whose success depends on how quickly and coherently the executive branch translates constitutional meaning into administrative routines, appointment practices, and enforceable integrity safeguards (Butt & Murharjanti, 2022; Muda, 2023).

The first implementation challenge is institutional follow-up as a matter of governance design. Indonesian studies on Constitutional Court decisions have repeatedly observed that binding force (final and binding/*erga omnes*) does not automatically translate into effective compliance, particularly where a decision requires coordinated action across multiple executive actors, or where the institutional addressee of the decision is unclear (Muda, 2023; Ningrum, Khanif, et al., 2022). In Decision 128/PUU-XXIII/2025, compliance requires (at minimum) alignment among the President as appointing authority, the Cabinet Secretariat and/or coordinating ministries as administrative coordinators, the SOE ministry or relevant sectoral ministry as the shareholder representative in SOEs, and the SOEs as corporate entities that must change board composition through legally recognised processes. In this context, compliance is best conceptualised as an administrative programme rather than a single legal act: a decision triggers a chain of actions (verification, resignation/removal, replacement, and documentation) that must be scheduled, monitored, and publicly defensible.

A legally defensible pathway begins with normative alignment in "subordinate" instruments. Even when the court's remedy is interpretive, altering the legal meaning of an existing provision rather than rewriting, its text implementation still depends on the administrative state's ability to internalise the new meaning into appointment protocols, investigation checklists, and corporate governance rules. Comparative work on legislative and executive responses to judicial review suggests that follow-up often occurs through a spectrum of instruments, ranging from statutory amendment to executive regulations and

internal administrative guidance (Butt & Murharjanti, 2022; Jufri et al., 2024). For Decision 128/PUU-XXIII/2025, a credible minimum is an executive instruction that (i) prohibits new dual role appointments with immediate effect, (ii) mandates a compatibility screening for all vice ministers and candidates, and (iii) directs SOE governance organs to initiate board transitions within the court's time frame. This approach resonates with Indonesian doctrinal arguments that structured follow-up mechanisms are necessary to prevent "constitutional decisions without constitutional effect," especially in complex policy domains (Ningrum, Khanif, et al., 2022; Putra, 2023).

The second challenge is the grace period as both a remedy and a compliance hazard. Conditional remedies and time-limited implementation windows have become increasingly common in constitutional adjudication, mostly because courts seek to avoid abrupt governance disruption while still compelling institutional change (Omara et al., 2024; Yarni & Amanda, 2024). Yet, Indonesian experience with deferred or conditional unconstitutionality shows that grace periods can generate compliance ambiguity: political actors may treat the period as permission to delay, and bureaucratic actors may interpret it as a signal that the underlying norm is negotiable (A. Efendi & Disantara, 2022; Putra, 2023). The risk is not simply slow compliance; it is fragmented compliance. Different ministries may adopt different timelines, SOEs may apply inconsistent standards across sectors, and removals may proceed, selectively creating a perception that constitutional compliance is contingent on political bargaining rather than a uniform duty.

A workable implementation design treats the grace period as a managed transition with explicit milestones, rather than as an open-ended buffer. In practice, this requires (1) a compliance register, (2) an exit and replacement schedule, and (3) a legal justification framework for transitional decisions. A register identifies all vice ministers holding concurrent roles that fall within the incompatibility rule, categorises the roles (commissioner/director/other prohibited positions), and records the specific appointing instruments and corporate processes required for exit. A schedule then sequences resignations and replacements to protect continuity in corporate governance while maintaining constitutional urgency. The legal justification framework clarifies the status of transitional decision-making to reduce the risk that governance actions taken during transition will later be challenged as legally defective. Even where Indonesian administrative law permits good-faith reliance in transitional remedies, the legitimacy of that reliance is

enhanced when institutions can demonstrate a documented compliance plan and consistent, non-discriminatory criteria (Ningrum, Khanif, et al., 2022; Tauda, 2024).

The third challenge concerns institutional execution and the coordination problem. Empirical political science research suggests that public legitimacy of judicial authority depends heavily on whether governments comply with judicial orders; visible noncompliance can trigger negative public reactions and erode trust in the rule of law (Carlin et al., 2022). In Indonesia, compliance problems are amplified by a “multi principal” structure: SOEs are corporate bodies yet strongly embedded in executive control through shareholder representation, political appointments, and sectoral policy goals. This structure generates diffusion of responsibility: SOEs may claim they need shareholder instructions, ministries may claim they need presidential direction, and the centre may claim technical processes require time. Without a coordination mechanism, the grace period becomes a venue for blame shifting.

To address diffusion, a single compliance owner should be appointed through a formal instrument that is publicly recognisable and operationally capable. While the court’s decision binds all state organs, administrative implementation benefits from a lead institution authorised to issue deadlines, request data, and verify completion. In comparative legislative follow-up research, centralised compliance coordination is often a decisive factor in whether judicial decisions reshape administrative practice (Butt & Murharjanti, 2022). In the Indonesian context, assigning the Cabinet Secretariat or another central coordinating body as compliance owner would reflect the institutional reality that incompatibility rules implicate appointments made at the highest executive level. The owner can then require ministries and SOEs to submit compliance reports, including board changes and supporting documentation.

The fourth issue is governance continuity versus constitutional integrity. SOE boards, particularly supervisory boards and audit committees, perform oversight and fiduciary functions that support public value and corporate accountability. However, simultaneous vacancies can reduce board quorum, weaken oversight, or increase dependence on interim arrangements. Corporate governance scholarship asserts that political intervention and hybrid mandates in SOEs already strain legitimacy; sudden disruptions can further undermine performance and heighten reputational risk (Dragomir et al., 2021). The court’s grace period can therefore be justified as a remedial technique that recognises the

administrative cost of immediate structural change. However, this justification only holds if the state simultaneously invests in a competent and independent replacement process. Board independence and audit committee effectiveness are not abstract ideals; they affect information quality, oversight intensity, and the integrity of procurement and strategic decisions (Umanto et al., 2022).

Simultaneously, a transition cannot compromise the decision's integrity rationale. Dual roles pose a risk of role collision: a vice minister who shapes sectoral policy and also directs or supervises an SOE operating in that sector may blur the boundary between public duty and enterprise interests. Contemporary integrity scholarship affirms that conflicts of interest are often harmful since they undermine impartiality, distort priorities, and create a credible perception that decision-making has been dominated by the interest of a particular group (Chandranegara & Cahyawati, 2023; Demmke et al., 2021). This risk becomes more obvious in procurement facilitated by SOEs under the government's control—the condition in which strategic decisions intersect directly with public policy and fiscal authority.

This leads to the fifth issue: compliance risks during the grace period. The most prominent risk is selective enforcement. If resignations occur in some SOEs but not others without transparent criteria, implementation can appear factional or politically instrumental. Integrity research on political scandals indicates that selective or inconsistent application of ethics rules can trigger legitimacy crises and deepen cynicism about governance reforms (Huberts et al., 2021). The second risk is “paper compliance,” in which a formal resignation is followed by informal influence through advisory roles, proxies, or continued access to strategic information. Revolving door literature shows that influence often survives formal rules when transparency and monitoring are weak, and when enforcement relies on self-reporting (Belli & Stevens, 2024; Silano, 2025). The third risk concerns the legal vulnerability of corporate decisions made during the transition. If a vice minister's dual status is constitutionally incompatible, affected parties may argue that board decisions are tainted by a structural conflict. Even if courts are cautious about invalidating corporate decisions on this basis, the threat of litigation can generate uncertainty and deter investment, especially in strategic SOEs.

A credible mitigation strategy is to treat the grace period as an integrity-controlled environment. First, the government should require conflict-of-interest disclosure for all affected vice ministers and board members, including disclosure of policy portfolios that

overlap with SOE operations. Second, recusal rules should apply to transitional board service: when a vice minister temporarily remains on a board, they should be required to recuse themselves from deliberations that intersect with their ministerial portfolio, procurement, subsidies, licensing, or regulatory enforcement. The effectiveness of disclosure regimes is contested; research cautions that disclosure can paradoxically normalise conflicts or shift the burden to the audience (Sah, 2023). Therefore, disclosure should be paired with enforceable recusals and documentary practices (board minutes, audit committee logs) that make recusals verifiable.

Third, monitoring must be institutional rather than merely ethical. The compliance owner should require periodic reports with measurable indicators: the number of dual-role cases identified, the number resolved, the number pending with deadlines, and the reasons for delay. Public reporting can be calibrated to Indonesia's political context, and aggregate reporting may be more feasible than full individual disclosure. However, some transparency is essential to counter suspicions of privilege and to demonstrate constitutional seriousness. This approach aligns with Indonesian scholarship that emphasises systematic follow-up formats to realise *erga omnes* effects and to reduce disobedience by legal addressees (Muda, 2023; Ningrum, Khanif, et al., 2022).

Fourth, replacement should be competence-based and independence-sensitive. The SOE governance literature indicates that hybrid organisations are vulnerable when boards are filled primarily by political logic rather than by expertise and independence criteria (Dragomir et al., 2021). Therefore, an integrity-oriented transition requires a replacement pipeline that employs fit-and-proper assessments, independence screening, and audit committee reinforcement, particularly for SOEs with high procurement exposure or strategic assets. Importantly, the objective is not to depoliticise SOEs entirely (a complex structural problem), but to prevent constitutional compliance from becoming a mere reshuffling of political appointments.

Finally, implementation should be framed within constitutional discipline rather than administrative convenience. Indonesian debates over the binding force of Constitutional Court reasoning and orders show that the strongest compliance occurs when executive actors treat constitutional decisions as normative constraints on discretion rather than optional guidance (Sari et al., 2023; Tauda, 2024). In a system where executive dominance can expand through technocratic regulation and control of appointments, enforcing

incompatibility rules also serves as a power separator, preventing the concentration of policy authority and enterprise influence in the same hands. Broader constitutional scholarship on Indonesia's governance trajectory warns that institutional design choices, particularly within presidential systems, can either constrain or enable accountability deficits (Dramanda et al., 2024; Mahy, 2022).

In sum, the implementation of Decision 128/PUU-XXIII/2025 requires a legally structured, operationally sequenced, and integrity-centred transition system. Institutional follow-up should be organised as a centralised administrative programme with a compliance owner, a register, deadlines, and verifiable reporting. The grace period should be treated as a managed remedy with milestones rather than as a permissive delay window. Governance integrity during transition must be protected through disclosure plus recusal rules, monitoring capacity, and competence-based replacement processes. Without these measures, the state risks transforming a constitutional remedy into prolonged ambiguity, in which the norm is formally acknowledged but negotiated in practice, thereby undermining legal certainty and public trust in constitutional supremacy (Butt & Murharjanti, 2022; Carlin et al., 2022; Demmke et al., 2021).

#### **D. CONCLUSION**

Decision Number 128/PUU-XXIII/2025 consolidates a constitutional integrity standard within Indonesia's executive branch by converting an interpretive determination into a binding norm: the statutory incompatibility rule in Article 23 of the State Ministry Law applies to vice ministers as part of the ministerial governance structure. In doing so, the court closes a previously exploitable statutory gap and reinforces legal certainty through a single authoritative meaning that constrains appointment discretion and curbs "label-based" avoidance. The decision also clarifies that conflicts of interest and divided loyalties in executive appointments are not merely administrative inconveniences but rather constitutional risks that can undermine accountability and public confidence. As a result, legal certainty after the decision must be understood not only as textual clarity, but as the predictability of institutional conduct: whether the executive and SOE governance organs uniformly internalise and apply the court's constitutional reading.

Simultaneously, the decision's remedial architecture, particularly the time-limited adjustment window, makes compliance design decisive for governance integrity. The transition period can facilitate orderly institutional change, while triggering strategic delay,

fragmented follow-up, and superficial “paper compliance” unless implementation is structured, monitored, and transparently sequenced. To secure the decision’s constitutional purpose, follow-up should be operationalised as a coordinated compliance programme: immediate prohibition of new dual appointments; a centralised register and timetable for resolving existing incompatible positions; and enforceable integrity safeguards, including disclosure, recusal, and verifiable reporting during the transition. When these measures are adopted, Decision 128/PUU-XXIII/2025 functions as a practical rule-of-law instrument that aligns constitutional supremacy with accountable executive governance and credible SOE oversight; when they are not, legal certainty risks being reduced to a formal acknowledgement without a durable institutional effect.

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