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An Ideal Formulation of the Prohibition on Dual Positions for Advocacy Organization Leaders from the Perspective of Legislation

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ABSTRACT

This research aims to develop an ideal regulatory framework for the status of leaders of advocate organizations who are appointed or designated as state officials, from the perspective of drafting statutory regulations. The research problem stems from the provisions of Article 28 paragraph (3) of Law Number 18 of 2003 concerning Advocates, which initially only regulated the prohibition of concurrent positions of leaders of advocate organizations with leaders of political parties, so that it did not provide adequate regulations regarding the legal consequences if the leaders of advocate organizations were appointed or designated as state officials. This problem was then tested through the Constitutional Court Decision Number 183/PUU-XXII/2024. In this decision, the Court granted the request in part by providing a conditional interpretation of Article 28 paragraph (3), namely that the leaders of advocate organizations become inactive as leaders of advocate organizations if they are appointed or designated as state officials. However, this interpretation still leaves normative issues regarding the mechanisms, procedures, authorities, and legal consequences of this inactive status. This research uses a normative juridical method with a statutory and conceptual approach through an analysis of the principle of the rule of law in Article 1 paragraph (3), equality before the law in Article 27 paragraph (1), legal certainty in Article 28D paragraph (1), freedom of association in Article 28E paragraph (3), as well as restrictions on rights according to Article 28J paragraph (2) of the 1945 Constitution of the Republic of Indonesia and the principle of establishing statutory regulations in Law Number 12 of 2011. The results of the research show that the Constitutional Court Decision Number 183/PUU-XXII/2024 has provided a constitutional basis for the implementation of inactive status for leaders of advocate organizations who are state officials, but further clear, firm, and operational regulations are needed regarding the mechanism for implementing this inactive status to guarantee legal certainty, prevent structural conflicts of interest, and maintain the independence of advocate organizations as a free and independent professional body.

INTRODUCTION

The concept of a state of law (rechtstaat) and the rule of law places the law as the highest authority in the administration of the state, so that every government action must comply with the principle of the supremacy of law and the protection of the constitutional rights of citizens. Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms Indonesia as a state of law, (Karyudi, 2024) which consequently demands limitations on power and guarantees of equality before the law (Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia) and fair legal certainty (Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia) (Cahyono, 2023). In the structure of the rule of law, the advocate profession holds a strategic position as an officium nobile and part of the judicial system that guarantees due process of law. The independence of advocates is not merely an ethical attribute, but a constitutional requirement so that the function of defending citizens' rights can run without pressure from executive power (Jasmine, 2025). Without structural freedom from government intervention, advocates risk losing their capacity to act as a countervailing power against other law enforcement agencies.

Normatively, the position of advocate organizations is regulated in Law Number 18 of 2003 concerning Advocates, specifically Article 28 paragraph (1), which states that advocate organizations are a free and independent professional organization. The phrase "free and independent" implies that advocate organizations must not be subordinated to state power. The organization's functions include professional education, appointment of advocates, preparation and enforcement of a code of ethics, and supervision through an honorary council (Endira, 2022). This normative architecture is also enriched by Constitutional Court decisions, including Constitutional Court Decision Number 014/PUU-IV/2006, which emphasizes the importance of protecting advocate organizations from practical political interests, and Constitutional Court Decision Number 91/PUU-XX/2022, which limits the term of office of advocate organization leaders and

prohibits concurrent positions with political party leaders. The decision shows that the Court has seen the potential concentration of power in advocate organizations as a constitutional issue that must be limited to maintain independence.

The relevance of this study is highlighted by Constitutional Court Decision Number 183/PUU-XXII/2024, which reviewed Article 28 paragraph (3) of Law Number 18 of 2003 concerning Advocates. The case specifically addressed a petition to expand regulations regarding the holding of concurrent positions, specifically in extending the rules on dual roles to include the position of a state official alongside that of an advocate organization leader. The petitioner argued that the absence of regulations concerning the consequences of such concurrent roles could lead to conflicts of interest, compromise the independence of advocate organizations, and infringe upon constitutional rights to legal certainty and freedom of association. In its decision, the Constitutional Court actually granted the Applicant's request in part by providing a conditional interpretation of Article 28 paragraph (3) as interpreted in Constitutional Court Decision Number 91/PUU-XX/2022, so that the leader of an advocate organization who is appointed or designated as a state official must have inactive status as the leader of an advocate organization. This interpretation establishes a constitutional basis for addressing the issue of concurrent roles between advocate organization leadership and state office; however, it leaves unresolved questions regarding the normative design and implementation mechanisms for this non-active status. During the proceedings, the Court examined, among other things, the proportionality between resignation and non-active status, as well as the implications of each option for an individual's position within the advocate organization upon their appointment as a state official. Therefore, Decision Number 183/PUU-XXII/2024 is a crucial point for the study regarding the reconstruction of the status of leaders of advocate organizations who are state officials, particularly to ensure legal certainty, prevent structural conflicts of interest, and maintain the independence of advocate organizations as a free and independent professional body.

From the perspective of conflict-of-interest theory, the holding of concurrent positions by leaders of advocates' organizations and state officials creates a potential for structural bias in decision-making, particularly when government policies intersect with the interests of the advocates' organization. A conflict of interest is not merely an ethical violation but a structural issue regarding the design of power that can lead to an abuse of power. When an executive official simultaneously leads a professional organization responsible for the supervision and professional development of advocates, there is a risk that the organization's interests will be subordinated to the government's agenda (Thabrani, 2022). The consequences affect not only the organization's independence but also policy neutrality and public trust in the legal profession. In many other public roles—such as judges, prosecutors, or officials in independent institutions—prohibitions against holding concurrent positions are strictly regulated to safeguard institutional integrity and independence; thus, the absence of similar regulations for advocates' organizations raises fundamental normative questions (Saputra, 2024).

The core issue lies in Article 28 paragraph (3) of the Advocates Law, which prohibits holding concurrent positions only with political party leadership, without mentioning state officials. This regulatory gap allows for multiple interpretations and potentially creates legal uncertainty (Kartadinata, 2023). Viewed through the lens of Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, ambiguous norms conflict with the principle of fair legal certainty. If the leadership of an advocate organization is within the executive power structure, then the meaning of "free and independent" as referred to in Article 28 paragraph (1) of the Advocates Law is substantively reduced. (Rusyan, 2024) Constitutional Court Decision Number 183/PUU-XXII/2024 demonstrates that the issue regarding the status of advocate organization leaders appointed or designated as state officials is not merely a theoretical matter but has become a constitutional issue subject to concrete review before the Court. In its ruling, the Court granted the Petitioner's request in part by providing a conditional interpretation of Article 28 paragraph (3) of Law Number 18 of 2003 concerning Advocates, thereby mandating that leaders of advocate organizations assume non-active status if appointed or designated as state officials. The decision also highlights the need to clarify the legal framework governing this non-active status, particularly regarding implementation mechanisms, the authority of advocate organizations, and legal consequences while the leader holds a state office. This need is relevant to ensure legal certainty, prevent potential conflicts of interest, and maintain the independence of the advocate organization as a free and independent professional body.

From the perspective of Law Number 12 of 2011 concerning the Formation of Legislation, good norms must fulfill the principles of clarity of purpose, suitability of content, implementation, usability, and legal certainty (Cahya, 2025). The norm of Article 28 paragraph (3), which does not explicitly regulate the prohibition on holding dual positions with state officials, shows that the principle of clarity of formulation and protection of public interests has not been fulfilled. Therefore, reformulation of norms is important to

maintain the independence of professional organizations, prevent structural conflicts of interest, strengthen checks and balances, and ensure harmonization between the Advocates Law and the principles of the rule of law in the 1945 Constitution of the Republic of Indonesia. Academically, this study finds a gap in novelty because previous studies have focused more on the independence of advocates or the dynamics of advocate organizations in general, while an in-depth analysis of the formulation of the prohibition of dual positions from the perspective of the technique of forming legislation has not been studied comprehensively.

METHOD

This research uses a normative juridical research method, namely legal research that is based on an analysis of written legal norms as rules that apply in a positive legal system, by placing law as a norm (law in books) and not as social behavior (law in action). The research utilizes both the statute approach and the conceptual approach. The legislative approach is carried out by systematically and hierarchically examining various relevant regulations, in particular Article 1 paragraph (3), Article 27 paragraph (1), Article 28D paragraph (1), Article 28E paragraph (3), and Article 28J paragraph (2) of the 1945 Constitution of the Republic of Indonesia, Law Number 18 of 2003 concerning Advocates, and Law Number 12 of 2011 concerning the Formation of Legislation and its amendments, including analysis of relevant Constitutional Court decisions such as Constitutional Court Decision Number 014/PUU-IV/2006, Constitutional Court Decision Number 91/PUU-XX/2022, and Constitutional Court Decision Number 183/PUU-XXII/2024 as part of the construction of norms and dynamics of constitutional interpretation regarding the leadership of advocate organizations. Meanwhile, a conceptual approach is used to examine fundamental concepts such as the rule of law (rechtstaat), rule of law, independence of the legal profession, conflict of interest, abuse of power, and the principles of establishing laws and regulations, to build theoretical arguments in formulating an ideal formulation for prohibiting dual positions of advocate organization leaders as state officials. By combining these two approaches, this study aims to produce a systematic, coherent, and constitutionally grounded normative framework to strengthen the independence of advocate organizations within the Indonesian legal system.

RESULTS AND DISCUSSION

Constitutional Construction of the Independence of the Advocates' Organization within the Rule of Law State

The concept of a state based on law in the Indonesian constitutional system is explicitly affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that "The State of Indonesia is a state based on law." This formulation is not merely a normative declaration, but rather contains legal consequences that all implementation of state power must be subject to the law, uphold the supremacy of the constitution, and guarantee the protection of human rights. (Siregar, 2024) Within the framework of a state based on law (rechtstaat) and the rule of law, there are principles of limitation of power, recognition of citizens' rights, and a mechanism of checks and balances between state institutions. Therefore, a state based on the rule of law not only demands the existence of laws and regulations, but also requires the existence of an institutional structure that is independent and free from intervention by power that could damage the balance of the legal system (Supena, 2023). In this context, the existence of the legal profession and advocate organizations cannot be separated from the construction of a state based on law because advocates play a role as guardians of citizens' constitutional rights in the judicial process.

The principle of equality before the law as stipulated in Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that all citizens have equal standing before the law and government and are obliged to uphold the law and government without exception. This principle affirms that there must be no discriminatory treatment within the legal system, whether by the state or by institutions exercising public functions (Lubis, 2025). Advocates, as a legal profession, have the function of ensuring that everyone receives equal and fair defense in the legal process. Without independent advocates, the principle of equality before the law would lose its substantive meaning, as citizens facing state power would

lack an effective counterweight. Thus, the independence of the advocate organization is a prerequisite for advocates to carry out their constitutional role in ensuring equal access to justice (Nachrawy, 2025).

In addition to the principle of equality, Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia guarantees that everyone has the right to recognition, guarantees, protection, and fair legal certainty, as well as equal treatment before the law. Fair legal certainty requires a legal institutional system that is not influenced by the interests of certain powers (Putri, 2025). If the advocate organization as a professional body is under the influence or subordination of executive power, then there is the potential for distortion in the function of monitoring and enforcing the advocate code of ethics. This could ultimately disrupt legal certainty and procedural fairness in the judicial system. Therefore, the independence of advocate organizations is not merely an internal organizational issue, but rather part of the constitutional guarantee of fair legal certainty, as guaranteed in Article 28D paragraph (1) (Nasution, 2025).

Article 28E paragraph (3) of the 1945 Constitution of the Republic of Indonesia guarantees that everyone has the right to freedom of association, assembly, and expression. Advocate organizations are a manifestation of the right to freedom of association in the legal profession. (Manulang, 2024) These rights are fundamental, but not absolute, because Article 28J paragraph (2) of the 1945 Constitution of the Republic of Indonesia stipulates that in exercising their rights and freedoms, every person must submit to restrictions stipulated by law solely to guarantee recognition and respect for the rights and freedoms of others and to fulfill just demands in accordance with moral considerations, religious values, security, and public order in a democratic society. (Pasaribu, 2025) Thus, regulations regarding advocate organizations, including restrictions on their leadership, are a form of legitimate constitutional restriction as long as they are carried out by law and aim to maintain the integrity and independence of the legal profession. The independence of advocate organizations in this case must be understood as a mechanism for protecting freedom of association itself so that it is not infiltrated by the interests of state power.

Within this framework, advocates are seen as a noble officium, namely a profession that has a dimension of honor and high moral responsibility in upholding law and justice (Zahara, 2023). This profession is oriented not only toward the client's interests but also toward upholding the rule of law and human rights. As integral components of the judicial system, advocates stand on equal footing with other law enforcement officials and play a pivotal role in guaranteeing due process of law. This status is affirmed by Law Number 18 of 2003 concerning Advocates, which recognizes advocates as free and independent law enforcers (Fazriah, 2022). This recognition implies that neither advocates nor their organizations should be subordinate to any specific branch of state power; such subordination would disrupt the balance of the judicial system and undermine the advocate's function as a guardian of the constitution in practice.

The meaning of "free and independent advocate organization" as stated in Article 28 paragraph (1) of Law Number 18 of 2003 concerning Advocates must be interpreted systematically within the framework of the rule of law and the constitutional guarantees mentioned. "Free" signifies immunity from interference by the executive branch or political interests that could influence organizational decision-making, while "independent" denotes autonomy in managing education, oversight, the enforcement of the code of ethics, and organizational administration, free from subordination to state institutions. Thus, the independence of advocate organizations is a constitutional consequence of Article 1 paragraph (3), Article 27 paragraph (1), Article 28D paragraph (1), Article 28E paragraph (3), and Article 28J paragraph (2) of the 1945 Constitution of the Republic of Indonesia, so that it cannot be viewed solely as a legislative policy (open legal policy), but rather as a structural need in realizing a democratic and just rule of law (Saputra M. I., 2026).

Legal and Constitutional Analysis of Constitutional Court Decision Number 183/PUU-XXII/2024

Article 28 paragraph (3) of Law Number 18 of 2003 concerning Advocates originally stipulated that the leadership of an advocate organization could not be held concurrently with a leadership position in a political party, whether at the central or regional level. This provision was then interpreted through the Constitutional Court Decision Number 91/PUU-XX/2022 which stated that the leadership of an advocate organization holds a term of office of 5 (five) years and can only be re-elected 1 (one) time in the same position, either consecutively or non-consecutive, and cannot be held concurrently with the leadership of a political party, either at the central or regional level. However, this interpretation did not explicitly address

the status of advocate organization leaders who are appointed or designated as state officials. This condition is the basis for the emergence of Case Number 183/PUU-XXII/2024 which was filed by Andri Darmawan, an advocate, with the object of the test being Article 28 paragraph (3) of the Advocates Law as interpreted through Decision Number 91/PUU-XX/2022. The petition essentially sought to expand the prohibition on concurrent positions to include a ban on advocate organization leaders simultaneously serving as state officials. Consequently, the constitutional issue in the case shifted from the tenure of advocate organization leadership and the relationship with political parties to the broader issue of the relationship between the independence of the advocate organization and an individual's status as a state official.

The applicant based his application, among other things, on concerns that the dual position of the leader of an advocate organization with a state official could give rise to a conflict of interest, affect the independence of the advocate organization, and have implications for equality before the law and fair legal certainty. The Petitioner also links the issue to Article 27 paragraph (1), Article 28D paragraph (1), Article 28E paragraph (3), and Article 28J paragraph (2) of the 1945 Constitution of the Republic of Indonesia. This argument must be properly framed as the Petitioner's contention, rather than being immediately treated as the Court's conclusion. In essence, the Petitioner challenges the distinction between the regulations governing individual advocates and those governing the leadership of advocate organizations. Article 20 paragraph (3) of the Advocates Law stipulates that advocates serving as state officials shall not perform professional advocate duties while holding such office; however, this provision does not explicitly address their status as leaders of advocate organizations. The Petitioner links this situation to a potential conflict of interest, noting that a leader of an advocate organization who simultaneously performs governmental functions could find themselves in a position where the interests of the organization and those of the public office converge. The petition explicitly requests that Article 28 paragraph (3) be interpreted to include the additional stipulation that leaders of advocate organizations may not concurrently serve as state officials.

The issue of the Petitioner's legal standing was a crucial aspect of the case proceedings. The Petitioner is an Indonesian citizen and a practicing advocate, while the alleged constitutional injury stemmed from the situation where leaders of an advocate organization simultaneously hold office as state officials. In the preliminary examination, the Court asked the Petitioner to clarify the constitutional loss he experienced personally and to distinguish it from the interests of the advocate organization. The Chief Justice specifically questioned whether the Petitioner acted in his personal interests or on behalf of the organization, and requested a clearer description of the actual or potential losses directly related to the Petitioner's position as an advocate. This issue demonstrates the importance of the causal relationship between the norm being tested, the Petitioner's legal standing, and the alleged constitutional loss. The examination of legal standing in this case also shows that the issue of the dual position of the leader of an advocate organization and a state official cannot be solely based on the abstract interests of the organization, but must be linked to the Petitioner's constitutional rights as required by the procedural law for judicial review of laws at the Constitutional Court. These considerations simultaneously demonstrate that the issue of the independence of advocate organizations must be translated into concrete, or at least potential, constitutional impairments that can be accounted for according to sound legal reasoning.

The Court's considerations then evolved into the question of the most appropriate legal consequences when the head of an advocate organization is appointed or designated as a state official. Article 20 paragraph (3) of the Advocates Law imposes restrictions on the exercise of the profession by stipulating that advocates who become state officials must not perform their professional duties while holding that position. The Court linked this provision to the position of the head of the advocate organization and the principle of independence of professional organizations. During the examination process, the Court also questioned whether the necessary consequence should be resignation or whether inactive status would suffice. This question has legal significance because resignation terminates a person's position as an organization leader, while inactive status essentially terminates the performance of leadership functions as long as circumstances prevent the person from simultaneously performing that position. The Court ultimately chose the inactive construction. The Court considers that when an advocate is appointed or designated as a minister or deputy minister, the person concerned does not carry out the duties of the advocate profession while holding that

position, so that within the limits of reasonable reasoning there is a question regarding the basis for his position to continue to carry out the function of the leader of the advocate organization. The Court also places the need to avoid potential conflicts of interest as an important basis for the implementation of this inactive status.

The Court's interpretation must then be analyzed as a form of constitutionality testing that produces conditional norms. Decision Number 183/PUU-XXII/2024 states that the Petitioner's petition is granted in part and states that the norm of Article 28 paragraph (3) of the Advocates Law as interpreted in Decision Number 91/PUU-XX/2022 is contrary to the 1945 Constitution of the Republic of Indonesia and does not have conditional binding legal force as long as it is not interpreted that the leader of an advocate organization holds a term of office for 5 (five) years, can only be re-elected 1 (one) time in the same position, cannot be concurrently held as a leader of a political party, and is inactive as a leader of an advocate organization if appointed or designated as a state official. This interpretation shows that the Court does not simply reject the petition because the issue is an open legal policy, but rather provides constitutional consequences for the position of the leader of an advocate organization who is a state official. Inactive status can be seen as a form of restriction aimed at maintaining the independence of an advocate organization while avoiding conflicts of interest between the interests of the professional organization and the interests of public office. These restrictions can also be placed within the framework of Article 28J paragraph (2) of the 1945 Constitution of the Republic of Indonesia, provided they are intended to guarantee respect for the rights of others and to meet just demands based on moral considerations, religious values, security, and public order in a democratic society. The principle of the rule of law in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, as well as the guarantee of fair legal certainty in Article 28D paragraph (1), also require that the consequences of inactive status be clearly formulated so as not to create uncertainty regarding an individual's position within the advocate organization.

This ruling provides a constitutional basis for inactive status, but still leaves open the normative issue of how this status is implemented operationally. The ruling determines the legal consequences but does not detail the administrative and organizational mechanisms regarding who determines inactive status, whether this status applies automatically upon appointment or designation as a state official, how such status is proven and notified, who carries out leadership functions during the inactive period, what the organizational rights of leaders during inactive status are, and the mechanism for reactivation after the end of state office. This issue is relevant because Article 28 paragraph (1) of the Advocates Law positions advocate organizations as a free and independent professional body, while Article 28 paragraph (2) provides space for advocate organizations to determine organizational structures through articles of association and bylaws. Regulatory reconstruction must therefore not eliminate the autonomy of advocate organizations, but must also provide certainty regarding the legal consequences of inactive status determined by the Court. Further regulations need to be directed at establishing mechanisms that are objective, transparent, and can be applied uniformly without changing the substance of the Court's meaning. This need also shows the space for the formation of legislation to clarify the procedures, authority, supervision, and consequences of violations of inactive status while still adhering to the principles of clarity of objectives, appropriate institutional or official formation, suitability between types, hierarchies, and content materials, can be implemented, usability and effectiveness, clarity of formulation, and openness as required by Law Number 12 of 2011. Such reconstruction is necessary so that Decision Number 183/PUU-XXII/2024 does not stop as a declarative constitutional norm, but can be operationalized effectively to prevent conflicts of interest and at the same time maintain the independence of advocate organizations in the rule of law system.

The Ideal Formulation of the Prohibition on Holding Concurrent Positions from the Perspective of Legislation Drafting

Constitutional Court Decision Number 183/PUU-XXII/2024 needs to be placed as the main basis in strengthening regulations regarding the inactive status of leaders of advocate organizations who are appointed or designated as state officials. The ruling has given a conditional meaning to Article 28 paragraph (3) of Law Number 18 of 2003 concerning Advocates by determining that leaders of advocate organizations who are appointed or designated as state officials must have inactive status as leaders of advocate

organizations. Inactive status is more proportional than permanent dismissal because it does not remove a person's position as part of an advocate organization, but rather stops the implementation of their leadership functions while the person concerned holds a state office. This construction is also related to Article 20 paragraph (3) of the Advocates Law which determines that advocates who become state officials do not carry out the duties of the advocate profession while holding that office. Regulations regarding inactive status should be maintained as a main principle because it can reconcile the need to maintain the independence of advocate organizations with the right of every citizen to obtain the opportunity to hold public office. The strengthening of the norm is not aimed at changing the meaning already established by the Court, but rather at providing clearer legal consequences for inactive status so that it can be implemented consistently and avoid differing interpretations between advocate organizations.

Inactive status needs to be emphasized as being effective upon the appointment or designation of an individual as a state official. The phrase "if appointed/designated as a state official" in Decision Number 183/PUU-XXII/2024 must be translated into objective legal terms so that the validity of inactive status does not depend on the subjective decisions of advocate organizations. An appointment or designation that has a valid legal basis becomes a legal event that directly results in inactive status as a leader of an advocate organization. Internal decisions of advocate organizations are not considered the source of inactive status, but rather serve as administrative instruments to record and follow up on the legal consequences arising from the appointment or designation as a state official. This formulation provides certainty regarding the initial implementation of inactive status while preventing advocate organizations from treating leaders in the same legal situation differently. The application of this mechanism also strengthens the principle of legal certainty in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia because the legal consequences of an appointment or designation as a state official can be known from the start by the relevant party or the advocate organization.

A mechanism for notification and recording of inactive status needs to be established as a simple, transparent, and enforceable administrative procedure. Leaders of advocate organizations who receive a decision on appointment or designation as state officials are required to notify the advocate organization within a specified timeframe, attaching valid appointment or designation documents. The advocate organization then verifies these documents and records the inactive status in the organization's administration and notifies members in accordance with applicable internal mechanisms. The authority of the organization at this stage is administrative and organizational in nature to ensure orderly management, not the authority to freely determine whether someone should be inactive or not. This mechanism must be accompanied by provisions regarding the notification deadline, the organ authorized to carry out the recording, the form of the decision or status notification, and the internal publication procedures. Such regulations strengthen the independence of advocate organizations, as stipulated in Article 28 paragraph (1) of the Advocates Law, because the implementation of inactive status remains within the organization's internal management framework, while the basis for its emergence stems from legal consequences determined by the Constitutional Court.

Inactive status also requires a mechanism for temporarily filling leadership functions to avoid creating vacancies in the organization's administration. Advocates' organizations need to be given the authority to determine the acting head or temporary replacement mechanism based on the articles of association and bylaws of each organization. The state should not directly determine who will replace the head of an advocate organization because such action may undermine the principle of the advocate organization as a free and independent professional body as referred to in Article 28 paragraph (1) of the Advocates Law. Regulations at the statutory level are sufficient to require each advocate organization to have a temporary replacement mechanism if the leader is inactive. The articles of association and bylaws further determine the organs authorized to appoint the executors of the duties, the limits of authority, the validity period, and the accountability mechanisms. The acting head should be limited to actions necessary to ensure the continuity of the organization's administration and functions and not be used to fundamentally change the organizational structure while the definitive leader is inactive. This model maintains organizational

autonomy while ensuring that inactive status does not result in the cessation of the institutional function of the advocate organization.

The meaning of inactive status needs to be clarified through restrictions on authority while the leader of an advocate organization holds office as a state official. Inactive leaders should not exercise leadership functions, make organizational decisions in their capacity as leaders, sign organizational decisions, officially represent the organization, or give instructions to administrators carrying out temporary leadership functions. These restrictions are necessary so that inactive status is not merely formal, but truly separates the implementation of the advocate organization's leadership functions from the implementation of state office. This prohibition should not be interpreted as the removal of all organizational rights or professional status, as restrictions must be specifically directed at leadership functions that have the potential to give rise to conflicts of interest. The principle of proportionality needs to be applied so that restrictions do not exceed the goal of maintaining the independence of the advocate organization. The implementation of inactive status also needs to be accompanied by a proportional oversight mechanism and sanctions. The advocate organization needs to have an internal organ tasked with conducting supervision, receiving reports or complaints, conducting investigations, providing opportunities for clarification, and determining consequences for violations. Sanctions can be formulated in stages, ranging from reprimands or warnings to dismissal from the board if the leader continues to perform leadership functions after being inactive, while still providing a mechanism for objections or internal dispute resolution.

Final strengthening needs to be realized through regulatory harmonization so that the inactive status determined by the Court can be effectively implemented within the legal system of advocate organizations. The Advocates Law needs to provide a clear basis for inactive status, the timing of its effectiveness, notification requirements, and principles for filling leadership functions while the leader is serving as a state official. Technical regulations regarding registration, implementation of duties, limitations of authority, supervision, reactivation, and sanctions can be delegated to the internal regulations of the advocate organization as long as they do not conflict with statutory norms and the constitutional interpretation provided by the Court. A reactivation mechanism also needs to be formulated, specifying that the termination of the term of office as a state official is the basis for terminating inactive status after administrative verification in accordance with organizational mechanisms. All of these regulations must be harmonized with Article 20 paragraph (3) and Article 28 of the Advocates Law, provisions regarding state officials, and the principles for establishing statutory regulations in Law Number 12 of 2011, in particular the principles of clarity of purpose, implementation, usefulness and effectiveness, clarity of formulation, and openness. This regulatory model is not intended to replace Decision Number 183/PUU-XXII/2024, but rather to strengthen the enforceability of the decision by dividing regulations between laws and internal provisions of advocate organizations. Such reconstruction makes inactive status a clear, automatic, measurable, supervised legal consequence, and remains in line with the principle of independence of advocate organizations.

CONCLUSION

Based on the overall analysis, it can be concluded that Constitutional Court Decision Number 183/PUU-XXII/2024 has given constitutional meaning to Article 28 paragraph (3) of Law Number 18 of 2003 concerning Advocates by determining that the head of an advocate organization becomes inactive as the head of the advocate organization if appointed or designated as a state official. The Court granted the Petitioner's petition in part, so that the issue of the relationship between the leadership of an advocate organization and state office can no longer be viewed as a normative void lacking a legal basis. This inactive status constitutes a more proportional form of restriction than permanent dismissal because it separates the implementation of the advocate organization's leadership function from the performance of state office without completely eliminating an individual's professional standing or organizational rights. This construction simultaneously strengthens the principle of the independence of advocate organizations as a free and independent professional body and provides a basis for preventing potential conflicts of interest between the interests of the professional organization and the interests of public office. The legal issue that

still requires strengthening is no longer the necessity of a ban on dual positions, but rather how the inactive status determined by the Court can be implemented with certainty, effectiveness, and measurability.

Based on these findings, it is necessary to strengthen and operationalize norms through clearer regulations regarding the inactive status of leaders of advocate organizations. These regulations must at least stipulate that inactive status applies from the time the appointment or designation as a state official becomes legally binding, accompanied by the obligation to notify the advocate organization and a mechanism for administratively recording inactive status. Advocate organizations need to be given the authority to regulate the mechanism for temporarily filling leadership functions based on their respective articles of association and bylaws while maintaining the principle of freedom and independence of the organization as referred to in Article 28 paragraph (1) of the Advocates Law. Limitations on the authority of leaders during inactive status also need to be formulated explicitly so that the person concerned does not carry out leadership functions, make organizational decisions, or use the organization's position for the benefit of state office. Mechanisms for supervision, reporting, inspection, proportional sanctions, and reactivation after the end of state office need to be established as a series of mechanisms that ensure inactive status does not cease to be a declarative norm. This strengthening needs to be implemented through harmonization between the Advocates Law and the internal provisions of advocate organizations by referring to the principles of establishing statutory regulations, especially the principles of clarity of objectives, implementation, usability and effectiveness, clarity of formulation, and openness as regulated in Law Number 12 of 2011. Such reconstruction ultimately strengthens the implementation of the Constitutional Court Decision Number 183/PUU-XXII/2024 while providing legal certainty, preventing structural conflicts of interest, and maintaining the independence of advocate organizations in the rule of law system.

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