



## **Juridical Analysis of the Constitutional Court Decision No. 29/PUU-XIV/2016 About the Attorney General's Authority to Allow Deponer in Indonesia**

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### **Abstract**

The authority of the Attorney General to provide assistance in criminal cases or to exercise deponer is a form of discretionary power regulated under Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. This authority underwent a significant procedural shift following the Constitutional Court Decision Number 29/PUU-XIV/2016. The decision addressed issues with Article 35(c), particularly the phrase requiring the Attorney General to consider the advice and opinions of state power bodies when evaluating the public interest. This study employs normative legal methods with conceptual, statute, case, and comparative approaches. Both primary and secondary legal texts are used. One important thing that makes this study stand out is that it looks closely at the Constitutional Court's decision. This decision is a turning point for making the deferring power process more fair and clear. Unlike other studies, this one focuses on how the decision combines the Attorney General's freedom of choice with ways to stop abuse by making the government more accountable and open. The findings reveal that the Constitutional Court's decision establishes that the advice of state power bodies is not binding but must still be objectively considered by the Attorney General. The decision underscores the importance of transparency in exercising deponer authority, emphasizing the need to base decisions on the public interest. As a result of this ruling, the mechanism for implementing deponer has become more structured and transparent, reducing the risk of abuse of authority by the Attorney General. This study concludes that the Constitutional Court's decision has positively influenced the regulation of criminal law regarding deponer authority in Indonesia and sets a new precedent for the discretionary powers of law enforcement officials.

**Keywords:** Authority, Constitutional Court's, Deponer, Power of Law

### **Abstrak**

Kewenangan Jaksa Agung untuk memberikan pendampingan perkara pidana atau melakukan deponer merupakan salah satu bentuk kewenangan diskresi yang diatur



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dalam Undang-Undang Nomor 16 Tahun 2004 tentang Kejaksaan Republik Indonesia. Kewenangan ini mengalami pergeseran prosedural yang signifikan setelah adanya Putusan Mahkamah Konstitusi Nomor 29/PUU-XIV/2016 yang diprakarsai oleh Irwansyah Siregar dan Dedi Nuryadi. Putusan tersebut membahas masalah-masalah yang berkaitan dengan Pasal 35(c), khususnya frasa yang mewajibkan Jaksa Agung untuk mempertimbangkan saran dan pendapat dari badan-badan kekuasaan negara ketika mengevaluasi kepentingan umum. Metode penelitian hukum normatif digunakan dalam penelitian ini, bersama dengan pendekatan konseptual, perundang-undangan, kasus, dan perbandingan. Teks hukum primer dan sekunder digunakan. Satu hal penting yang membuat penelitian ini menonjol adalah bahwa penelitian ini melihat secara dekat pada putusan Mahkamah Konstitusi. Putusan ini merupakan titik balik untuk membuat proses penundaan kekuasaan menjadi lebih adil dan jelas. Tidak seperti penelitian lainnya, penelitian ini berfokus pada bagaimana keputusan tersebut menggabungkan kebebasan Jaksa Agung untuk memilih dengan cara-cara untuk menghentikan penyalahgunaan dengan membuat pemerintah lebih akuntabel dan terbuka. Temuan-temuan tersebut mengungkapkan bahwa keputusan Mahkamah Konstitusi menetapkan bahwa saran dari badan-badan kekuasaan negara tidak mengikat namun tetap harus dipertimbangkan secara obyektif oleh Jaksa Agung. Putusan ini menggarisbawahi pentingnya transparansi dalam pelaksanaan kewenangan deponering, dengan menekankan perlunya mendasarkan keputusan pada kepentingan publik. Sebagai hasil dari putusan ini, mekanisme pelaksanaan deponering menjadi lebih terstruktur dan transparan, sehingga mengurangi risiko penyalahgunaan wewenang oleh Jaksa Agung. Studi ini menyimpulkan bahwa putusan Mahkamah Konstitusi telah memberikan pengaruh positif terhadap pengaturan hukum pidana terkait kewenangan deponering di Indonesia dan menjadi preseden baru bagi kewenangan diskresi aparat penegak hukum.

**Kata Kunci:** Kewenangan, Mahkamah Konstitusi, Deponering, Kekuatan Hukum

## **Introduction**

Case assistance or deponering is a form of discretionary authority that is expressly regulated in Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia.<sup>1</sup> This authority gives the Attorney General the privilege not to proceed with the prosecution of a criminal case by considering the public interest. Deponering is considered an important mechanism in the Indonesian legal system because it allows for the settlement of cases outside of formal court channels, especially in situations where legal proceedings may be detrimental to the interests of the wider community.<sup>2</sup> However, this authority also raises questions regarding the potential abuse of power, especially in the context of political interests or power that could influence the Attorney General's decisions.<sup>3</sup>

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<sup>1</sup> Gema Yudha, "Lembaga Deponering Sebagai Implementasi Asas Oportunitas Perkara Pidana di Indonesia," *UNES Law Review* 2, no. 3 (July 1, 2020): 331-345, <https://doi.org/10.31933/unesrev.v2i3.126>.

<sup>2</sup> Desi Ratnasari, Sahuri Lasmadi, and Elly Sudarti, "Kedudukan Hukum Deponeering Dalam Sistem Peradilan Pidana," *PAMPAS: Journal of Criminal Law* 2, no. 1 (April 26, 2021): 17-29, <https://doi.org/10.22437/pampas.v2i1.12053>.

<sup>3</sup> Deni Setya Bagus Yuherawan et al., "Building a New Concept of the Purpose of Law: A Preliminary Effort," in *Proceedings of the 3rd International Conference on Law, Governance, and Social Justice (ICoLGaS 2023)* (3rd International Conference on Law, Governance, and Social Justice (ICoLGaS 2023), Atlantis Press, 2023), 1224-1236, [https://doi.org/10.2991/978-2-38476-164-7\\_112](https://doi.org/10.2991/978-2-38476-164-7_112).

Significant developments in the deponer mechanism emerged after the Constitutional Court Decision Number 29/PUU-XIV/2016, which was submitted by Irwansyah Siregar and Dedi Nuryadi. The two petitioners took issue with Article 35 letter c of the Prosecutor's Law, which states that the Attorney General must pay attention to the suggestions and opinions of the relevant state power bodies and consider the public interest in deponing. This decision then sparked an important discussion regarding the extent of the Attorney General's obligation to follow the advice of these bodies. Previously, this article gave the impression that the decision of the deponer was greatly influenced by other parties outside the Prosecutor's Office, thus reducing the independence of the Attorney General.<sup>4</sup>

In the Constitutional Court's decision, it is emphasized that suggestions and opinions from state power bodies are only recommendations, not an obligation that must be followed absolutely by the Attorney General. The Constitutional Court made it clear that although the Attorney General is obliged to heed the advice, the final decision remains in his hands. This decision gives the Attorney General greater freedom in conducting deponing, but at the same time requires strong justification, especially in terms of transparency and accountability to the public. Thus, public interest considerations are central to the decision-making process, requiring the Attorney General to ensure that these actions are truly in line with the interests of the wider community.

After this decision, the deponer mechanism underwent quite fundamental changes. This change not only affects the way the Attorney General uses his authority, but also increases public scrutiny of the department's decision-making process. The emphasis on transparency and accountability aims to avoid abuse of authority that can harm justice and undermine public trust in the legal system. This study seeks to analyze more deeply how these changes have an impact on the practice of assisting cases in Indonesia, as well as how effective the role of the Constitutional Court's decisions is in maintaining a balance between the Attorney General's discretion and the interests of the wider community.<sup>5</sup>

Research conducted by Muhammad Kenan Lubis,<sup>6</sup> Aris Mustriadhi,<sup>7</sup> Romula Hasonangan,<sup>8</sup> Lalu Syaifudin,<sup>9</sup> and Sri Mulyati Chalil<sup>10</sup> has established that the Attorney

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<sup>4</sup> Windi Jannati M.a.s and Frans Simangunsong, "Makna Kepentingan Umum Didalam Deponer," *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 2, no. 2 (August 30, 2022): 235–245, <https://doi.org/10.53363/bureau.v2i2.32>.

<sup>5</sup> Muhammad Kenan Lubis, Gunarto Gunarto, and Anis Mashdurohatun, "Legal Reconstruction of the Authority of Deponer Implementation by the Prosecution Office Based on Justice Value," *Scholars International Journal of Law, Crime and Justice* 6, no. 03 (March 27, 2023): 171–176, <https://doi.org/10.36348/sijlcj.2023.v06i03.006>.

<sup>6</sup> Lubis, Gunarto, and Mashdurohatun.

<sup>7</sup> Aris Mustriadhi, "Ratio Legis Tidak Adanya Pengaturan Upaya Hukum Dari Deponer Yang Dikeluarkan Oleh Jaksa Agung," *Yurispruden: Jurnal Fakultas Hukum Universitas Islam Malang* 3, no. 1 (January 31, 2020): 78–92, <https://doi.org/10.33474/yur.v3i1.4966>.

<sup>8</sup> Romula Hasonangan, Hari Purwadi, and Andina Elok Puri Maharani, "The Effects of the Opportunity Principle on the Attorney General's Office's Deponer Implementation," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 20, no. 2 (December 30, 2021), <https://doi.org/10.31941/pj.v20i2.1723>.

General's implementation of deponer, while considering public interest, lacks definitive indicators. Enhanced oversight of the Attorney General's authority is necessary to prevent actions that conflict with justice principles. This supervision also seeks to ensure that the Attorney General's authority is exercised in accordance with legal mandates to foster justice in all case management. Windi Jannati's<sup>11</sup> research elucidates that the Attorney General must prioritize the public interest over personal interests. Nonetheless, a definitive benchmark is required to assess the public interest.

This research focuses on Constitutional Court Decision No. 29/PUU-XIV/2016, regarded as a pivotal moment in the depowering mechanism. The innovation resides in the comprehensive examination of the impact of this decision on the exercise of discretionary authority by the Attorney General. This research emphasizes an integration that has not been extensively addressed in prior studies, specifically how the Constitutional Court's ruling establishes a balance between the Attorney General's discretionary authority and oversight procedures to avert abuse of power.

A normative method is used to assess the Attorney General's authority statutes and regulations. This paper analyses important legal sources to determine how Deponer operates in Indonesian criminal law and the developments that occurred after the Constitutional Court judgment. Normative legal study is necessary to understand legal regulations and how they are used in case handling.<sup>12</sup> This study employs four primary methodologies to attain this objective. The conceptual framework is employed to logically comprehend the notion of deponer, establishing the foundation for comprehending the rationale and justification for the exercise of this authority. The legal analysis centers on Article 35 (c) of Law No. 16 of 2004, particularly in light of the amendments after the Constitutional Court decision Number 29/PUU-XIV/2016. This study employs a case method by analyzing pertinent Constitutional Court decisions and utilizes a comparative technique to assess the deponer mechanism before and after the ruling.

The study sources its data from primary legal materials, specifically relevant laws and decisions from the Constitutional Court. Secondary legal materials such as books, journals, and related literature are also analyzed to provide a more comprehensive perspective on deponer. With these various approaches, the research seeks to present an in-depth and accurate analysis related to changes in the deponer mechanism in criminal law practice in Indonesia after the Constitutional Court decision. The analysis relies on Constitutional Court legislation and decisions. Books, journals, and other legal literature are analyzed to better understand deponer. The research uses these methods to analyze

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<sup>9</sup> Lalu Syaifudin, "Confiscation Of Assets In Corruption Cases Without Court Decision Through Implementation Of Deponer (Case Set-Aside) (A Study In Legal Philosophy Stream)," *Proceedings of Malikussaleh International Conference on Law, Legal Studies and Social Science (MICoLLS)* 3 (December 30, 2023): 0023–0023, <https://doi.org/10.29103/micolls.v3i-.431>.

<sup>10</sup> Sri Mulyati Chalil, "Pengesampingan Perkara (Deponer) Oleh Jaksa Agung," *Wacana Paramarta: Jurnal Ilmu Hukum* 15, no. 1 (May 30, 2016): 1–10.

<sup>11</sup> M.a.s and Simangunsong, "Makna Kepentingan Umum Didalam Deponer."

<sup>12</sup> Sulaiman Sulaiman, "Paradigma dalam Penelitian Hukum," *Kanun Jurnal Ilmu Hukum* 20, no. 2 (August 18, 2018): 255–72, <https://doi.org/10.24815/kanun.v20i2.10076>.

changes in Indonesia's criminal law deponering process after the Constitutional Court judgment.

### **Deponering Mechanism Before the Constitutional Court's Decision**

Deponering is a term in Indonesian law derived from the Dutch language, which literally means 'to save' or 'to postpone'. In the context of criminal law, deponering refers to the authority of the Attorney General not to continue prosecuting a criminal case, even though sufficient evidence has been found to bring the case to court. This authority is regulated in Article 35 letter c of Law Number 16 Year 2004 on the Attorney General's Office of the Republic of Indonesia. Deponering is conducted on the basis of 'public interest' (het algemeen belang). This means that the decision not to proceed with a criminal case is based on the consideration that continuing it could disrupt the interests of the wider community or national stability, whether socially, politically, economically, or security-wise.<sup>13</sup>

The Attorney General's Office Law gives the Attorney General the authority to set aside cases in the public interest, commonly referred to as deponering, as stated in Article 35 letter C of Law Number 16 of 2004, which states that prosecutors are given special duties and authority in setting aside cases in the public interest. Setting aside this case is the implementation of the principle of *opportunitas* by looking at various considerations of opinions from state power bodies that are related to the problem.<sup>14</sup>

Prior to the issuance of the Constitutional Court Decision No. 29/PUU-XIV/2016, the authority to deponering was in the hands of the Attorney General on the condition that he took into account the advice and opinions of the relevant state power bodies. Deponering is a legal action that allows the termination of prosecution of a particular case in the public interest. This condition is regulated in Article 35 letter c of Law No. 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. This rule gives the Attorney General space to consider various factors before deciding whether a case is worthy of deponing, but still listening to the views of other institutions.<sup>15</sup>

The phrase "taking into account suggestions and opinions" in the article raises questions about the extent of the Attorney General's freedom in exercising his authority. This provision seems to give the impression that the Attorney General's decision is not completely independent, but must consider input from other relevant state power bodies. Implicitly, this opens up the possibility of influence or pressure from these institutions, which can affect the independence of decisions taken by the Attorney General.<sup>16</sup>

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<sup>13</sup> Alvena Wafa Ariska and Surbakti Natangsa, "Pendekasan Wewenang Deponering Oleh Jaksa Agung Kepada Jaksa Penuntut Umum" (Thesis, Surakarta, Universitas Muhammadiyah Surakarta, 2022); Ilham Dwi Rafiqi, "Tafsir Wewenang Seponering Jaksa Agung Pasca Putusan Mahkamah Konstitusi Nomor 29/PUU-XIV/2016," *Widya Yuridika: Jurnal Hukum* 4, no. 2 (2021): 307-322.

<sup>14</sup> M.a.s and Simangunsong, "Makna Kepentingan Umum Didalam Deponering."

<sup>15</sup> Lathfan Lathfan Lathfan, "Implikasi Hukum Pengaturan Kepentingan Umum Sebagai Syarat Penggunaan Deponering Oleh Jaksa Agung Menurut Hukum Positif Indonesia," *Dinamika* 26, no. 14 (August 10, 2020): 1712-1725.

<sup>16</sup> Rianda Prima Putri and Suryaningsih Suryaningsih, "Kedudukan Hukum Deponering Oleh Jaksa Agung Dalam Pemberhentian Perkara Tindak Pidana di Indonesia," *Ensiklopedia of Journal* 5, no. 2 (January 3, 2023): 148-155, <https://doi.org/10.33559/eoj.v5i2.1148>.

This reliance on advice and opinions from other bodies raises concerns about potential intervention in the law enforcement process. If the Attorney General's decision in deponer is too influenced by external parties, then this risks reducing the effectiveness and objectivity of law enforcement. In fact, one of the main principles in a fair judicial system is the independence of institutions that play a role in law enforcement, including the Attorney General.<sup>17</sup>

The Constitutional Court's Decision Number 29/PUU-XIV/2016 provides further affirmation of this issue. With the issuance of the decision, it is hoped that the Attorney General's authority in carrying out deponer will be clearer, and the potential for intervention from relevant state power bodies can be minimized. The reform of this rule is intended to ensure that decisions in the law enforcement process, especially those concerning the public interest, remain under independent control and are not influenced by political interests or institutions outside the prosecutor's office.<sup>18</sup>

The deponer mechanism before the issuance of the Constitutional Court Decision Number 29/PUU-XIV/2016 shows the complexity in the Attorney General's authority in stopping the prosecution. Based on Article 35 letter c of Law No. 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, the Attorney General has the authority to stop the prosecution by taking into account the suggestions and opinions of the relevant state power bodies. This deponer is intended to balance law enforcement with the public interest, so the Attorney General is required to listen to input from other institutions. However, the phrase "paying attention to suggestions and opinions" invites criticism regarding the independence of the Attorney General's decision. In practice, this reliance on external input has the potential to create interventions that are detrimental to the objectivity of law enforcement.<sup>19</sup>

As stipulated in Law Number 31 of 1999 concerning the Eradication of Corruption, effective law enforcement must be carried out independently, without political influence. Uncertainty in the Attorney General's authority can undermine public confidence in the justice system, especially when dealing with cases involving public figures or sensitive political interests. Thus, the Constitutional Court Decision No. 29/PUU-XIV/2016 is expected to overcome this problem by providing affirmation of the Attorney General's authority in the department, as well as minimizing the potential for intervention from other

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<sup>17</sup> Bryan Tambuwun, "Upaya Hukum Terhadap Deponer Dalam Perspektif Hukum Progresif," *LEX CRIMEN* 4, no. 2 (April 30, 2015): 191–98.

<sup>18</sup> I. Gusti Agung Ngurah Satya Widiana, Anak Agung Sagung Laksmi Dewi, and I. Made Minggu Widhyantara, "Wewenang Jaksa Agung dalam Penyampiran Perkara (Deponer) dalam Proses Peradilan Pidana," *Jurnal Analogi Hukum* 4, no. 1 (May 20, 2022): 60–65, <https://doi.org/10.22225/ah.4.1.2022.60-65>.

<sup>19</sup> Rina Melati Sitompul and Juniarti Canceria Pasaribu, "The Position of the Principle of Legality vs the Principle of Opportunity in the Accemination of the Prosecutor's Demands in the Replic Agenda (Valencya Case Study at the Karawang State Attorney)," *Mahadi: Indonesia Journal of Law* 3, no. 01 (February 28, 2024): 79–85, <https://doi.org/10.32734/mah.v3i01.15454>.

institutions.<sup>20</sup> Through this reform, it is hoped that decisions in law enforcement will be maintained within the framework of independence and objectivity, in line with the legal principles upheld in Law No. 24 of 2003 concerning the Constitutional Court and the Criminal Code. Thus, the deponer mechanism can function optimally in protecting the public interest without sacrificing the principle of justice.

### **Constitutional Court Decision Number 29/PUU-XIV/2016**

In 2016, Irwansyah Siregar and Dedi Nuryadi submitted a material test against Article 35 letter c of Law No. 16 of 2004 concerning the Prosecutor's Office to the Constitutional Court. They argue that the provision that requires the Attorney General to pay attention to the advice and opinions of the relevant state power bodies has the potential to reduce the Attorney General's freedom in exercising his discretion. According to them, this could lead to outside interference in the law enforcement process, which should be under the full control of the Attorney General as part of an independent prosecutor's authority.

In their view, the provision opens up space for state power bodies to exert influence in the Attorney General's decisions, which should be free from political pressure or other institutions. This rule is considered contrary to the principle of independence that must be possessed by the Attorney General in carrying out the prosecutorial function, including in terms of departmentality, where the public interest must be a priority without any influence from external parties.

In response to this, the Constitutional Court, through Decision Number 29/PUU-XIV/2016, emphasized that suggestions and opinions from state power bodies are only recommendations and are not binding. This means that the Attorney General must still pay attention to the input, but the final decision is entirely in the hands of the Attorney General. Thus, the Constitutional Court emphasized that even though there is input from relevant institutions, it should not reduce the independence of the Attorney General in carrying out his duties.

This decision provides legal certainty that the Attorney General has full autonomy in making decisions related to the department, as long as it still pays attention to the public interest. The Court also emphasized the importance of considering the advice of state power bodies objectively and proportionately, but without having to be bound by such recommendations. This ensures that the principle of independence of law enforcement is maintained, while strengthening the position of the Attorney General as the final determinant in deponer policy.

The Constitutional Court's Decision No. 29/PUU-XIV/2016 provides a strong foundation for the practice of deponer in Indonesia, ensuring that although the Attorney General is allowed to listen to advice from state power bodies, the final decision remains within the power of the Attorney General himself. This is in line with the principle of

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<sup>20</sup> Ani Triwati, "Pengesampingan Perkara Demi Kepentingan Umum Pascaputusan Mahkamah Konstitusi," *Jurnal Ius Constituendum* 6, no. 1 (December 29, 2020): 32–54, <https://doi.org/10.26623/jic.v6i1.2092>.

independence upheld in Law No. 24 of 2003 concerning the Constitutional Court, where legal institutions must operate without pressure from outsiders. The existence of this recommendation aims to increase transparency and accountability in the decision-making process, but must not reduce the autonomy of the Attorney General.

Furthermore, with reference to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, it is important to ensure that decisions in terms of deponing are not only based on political interests or external pressure, but also on fair and objective legal principles. The Constitutional Court in its decision also encouraged the Attorney General to use discretion wisely, while still upholding the public interest as a top priority. This has become particularly relevant in the context of law enforcement in Indonesia, where corruption and political intervention are often troubling issues.

The Attorney General's Regulation Number 15 of 2010 concerning the Termination of Criminal Prosecution also reflects the commitment to maintain an independent law enforcement process. With clearer provisions regarding the department, it is hoped that the Attorney General can act proactively in protecting the public interest, while maintaining the integrity of the prosecutor's office as an independent and professional entity. Thus, the Constitutional Court's decision and existing provisions are an important pillar in ensuring that law enforcement in Indonesia is carried out fairly, objectively, and free from undue external influences.

### **Implications of the Decision on the Deponing Mechanism**

The Constitutional Court's decision No. 29/PUU-XIV/2016 has had a significant impact on the practice of deponing in Indonesia, especially in strengthening the independence of the Attorney General. Prior to this decision, the provisions in Article 35 letter c of Law No. 16 of 2004 concerning the Attorney General's Office stated that the Attorney General must pay attention to the suggestions and opinions of state power bodies before conducting a department. This provision raises concerns about interference from external parties, which could affect the Attorney General's decision in handling cases in the public interest. However, with the issuance of the decision, the Constitutional Court clarified that the suggestion is a recommendation, not a binding decision.<sup>21</sup>

Thus, the Attorney General has a wider freedom to exercise his discretion in conducting the department, without being formally bound by the opinions of other state power institutions. Although it is still required to consider the suggestion, the final decision remains entirely in the hands of the Attorney General. This is important because it ensures that decisions taken in the law enforcement process, especially related to the department, are more independent and less susceptible to political pressure and outside influences.<sup>22</sup>

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<sup>21</sup> Sri Hasrina, Said Karim, and Hijrah Adiyanti Mirzana, "Konsep Kepentingan Umum Dalam Asas Oportunitas Pada Sistem Peradilan Pidana Indonesia," *Indonesian Journal of Criminal Law* 3, no. 1 (July 13, 2021): 33-39; Rezeky Setyawan Amir, Kamri Ahmad, and Hamza Baharuddin, "Penghapusan Pidana Demi Kepentingan Umum Dan Membela Diri Pada Kasus Penghinaan Di Media Sosial," *Journal of Lex Generalis (JLG)* 2, no. 3 (March 31, 2021): 1501-1515.

<sup>22</sup> Husin Husaini and Muhammad Afdhal Askar, "Kedudukan Kejaksaan Dan Pengisian Jabatan Jaksa Agung Dalam Sistem Ketatanegaraan Indonesia," *Bertuah Jurnal Syariah Dan Ekonomi Islam* 1, no. 2 (December 15, 2022): 160-171, <https://doi.org/10.56633/jsie.v1i2.167>.

In addition to emphasizing the independence of the Attorney General, the Constitutional Court also emphasizes the importance of transparency in considering the public interest. This ruling requires that any deponer decision taken by the Attorney General must be accompanied by clear and objective reasons regarding how the public interest is considered.<sup>23</sup> It is designed to prevent abuse of authority and ensure that decisions are based on pure considerations in the interest of the wider community, not due to specific political, economic, or personal pressures. Transparency in this decision-making process aims to increase the accountability of the Attorney General. With an open explanation of the basis for the department's considerations, the public can monitor the process and measure whether the decisions taken truly reflect the public interest. This can also minimize the potential for corruption or abuse of power in the process of assisting cases, because every decision must be accounted for to the public.

This decision is also expected to encourage the Attorney General to be more careful in determining whether a case is worthy of being deponed or not. The public interest must be considered in depth, taking into account various related social, political, and economic aspects. Deponer decisions should not be taken arbitrarily, but must be based on objective and transparent considerations, and free from improper intervention.

Overall, the Constitutional Court Decision Number 29/PUU-XIV/2016 strengthens the principles of independence and accountability in the law enforcement system in Indonesia. By giving the Attorney General greater freedom to exercise his discretion, this decision encourages a fairer and more transparent implementation of deponing. At the same time, the affirmation of transparency in considering the public interest is also expected to increase public trust in the process of assisting cases in the public interest carried out by the prosecutor's office.<sup>24</sup>

### **A Review of Deponer Case**

The deponer case carried out by Attorney General HM Prasetyo against Abraham Samad and Bambang Widjajanto on March 3, 2016 is an example of how deponer is used to protect the public interest. In this case, the Attorney General decided to stop the legal proceedings against the former chairman and deputy chairman of the KPK, arguing that they are public figures who have a high commitment to eradicating corruption. In addition, this deponer action is also based on the consideration that the case that ensnared Abraham Samad and Bambang Widjajanto arose as a result of political tensions between the KPK and the National Police, after the KPK designated Commissioner General Budi Gunawan as a suspect in the 'fat' account case. Deponer is carried out to ease conflicts that have the potential to disrupt institutional stability and law enforcement in Indonesia .

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<sup>23</sup> Valentino Nathanael Prabowo, Tjondro Tirtamulia, and Hesti Armiwulan, "Independensi Kejaksaan Agung Republik Indonesia," *CALYPTRA* 12, no. 2 (August 26, 2024): 1-9.

<sup>24</sup> Yovereld Alexetty Artyo, Novita Aristyana, and Aline Philia Antana Sinaga, "Implikasi Putusan Mahkamah Konstitusi Nomor 6/PUU-XXII/2024 Mengenai Syarat Jabatan Jaksa Agung Terhadap Independensi Kejaksaan Dalam Sistem Peradilan Pidana," *JATISWARA* 39, no. 2 (July 30, 2024): 185-200.

From the author's perspective, the deponerung conducted by Attorney General HM Prasetyo in the case of Abraham Samad and Bambang Widjajanto reflects the complexity between law enforcement and politics in Indonesia. Although deponerung is a legitimate instrument in law, its use in this case shows that the law does not always run in a purely objective path, but is sometimes influenced by political dynamics. This case, which emerged after the designation of Commissioner General Budi Gunawan as a suspect by the KPK, indicates a power struggle between legal institutions such as the KPK and the National Police. The termination of the legal process through deponerung can be seen as an effort to avoid further escalation of the conflict which has the potential to weaken the credibility of the two institutions. However, this decision can also create a negative perception in society, as if the law can be negotiated for certain interests. Therefore, although legally justified, this act of deponerung can be considered controversial from the point of view of upholding justice that should be fair and transparent.

## **Conclusion**

The Constitutional Court's Decision No. 29/PUU-XIV/2016 brings important changes to the mechanism for providing deponerung by the Attorney General, especially in terms of clarifying the role of state power agencies and the public interest. After the ruling, the Attorney General has the obligation to consider the advice and opinions of state power bodies, but is not bound to follow them. This provides a wider space of discretion for the Attorney General, but also demands greater transparency and accountability in the implementation of the department. This study concludes that the decision is a positive step in strengthening the criminal law mechanism in Indonesia, especially related to the assistance of cases in the public interest.

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