

Legal Responsibility for Maladministration in the Issuance of Mining Business Permits

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ABSTRACT

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This study analyzes the forms of maladministration in the issuance of Mining Business Permits and examines the legal responsibilities that may be imposed on officials or government institutions involved in such practices. The study employed a normative legal method, drawing on statutory, conceptual, and case approaches. The legal materials consisted of primary, secondary, and tertiary sources, which were analyzed qualitatively to identify applicable legal norms and accountability mechanisms. The findings indicate that maladministration in mining licensing may take several forms, including abuse of authority, procedural deviations, prolonged delays, neglect of legal obligations, and conflicts of interest. These practices may create legal uncertainty, social harm, environmental damage, and potential financial losses to the state. In legal terms, such maladministration may give rise to administrative, civil, and criminal liability, depending on the nature of the violation and its consequences. Administrative responsibility may result in sanctions, cancellation of decisions, or revocation of permits; civil responsibility may involve compensation for harmed parties; and criminal responsibility may apply when the act fulfills the elements of corruption or abuse of authority. The study also shows that oversight institutions, particularly the Ombudsman and administrative courts, play a vital role in preventing and addressing maladministration in the mining permit process. Strengthening these accountability mechanisms is essential to ensure good governance, legal certainty, and protection of the public interest in the management of mineral and coal resources.



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Introduction

Natural resources are national assets that play a vital role in economic development and social welfare. In Indonesia, a country with abundant mineral and coal resources, the mining sector is a strategic sector that contributes significantly to state revenue and regional development. Therefore, the natural resource management must be carried out responsibly and in accordance with the principles of sustainability and social justice, as mandated by Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that the earth, water, and natural resources contained therein shall be controlled by the state and utilized to the greatest extent possible for the prosperity of the people.¹ In the governance of the mining industry, the state bestows upon the government the authority to regulate and control mining activities through a licensing system. This licensing system is implemented through a mining business permit

¹ Jimly Asshiddiqie, 2016, Introduction to Constitutional Law, Jakarta: Rajawali Pers, pp. 210–225.

(IUP) granted to business entities or individuals to carry out the exploration and exploitation of mineral and coal resources. Provisions regarding mining business permits are regulated in Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, which emphasizes that every mining business activity must have a permit issued by the government.²

However, in practice, the process of issuing mining business permits often gives rise to various legal and administrative issues. One particularly prominent issue is the practice of government officials engaging in maladministration during the licensing process. Maladministration is an act that violates the law, exceeds authority, uses authority for other purposes, or ignores legal obligations in the provision of public services that cause harm to the public.³ Instances of mismanagement in the allocation of mining permits may include issuing permits without adherence to established protocols, awarding permits in restricted zones such as protected forest regions, distributing permits in the absence of environmental impact evaluations, and the misuse of power by governmental authorities. These circumstances not only result in state losses but also potentially lead to social conflict, environmental damage, and legal uncertainty for communities and businesses.⁴

In addition, the maladministration issue in the mining industry is in stark contrast to the principle of good governance, which emphasizes transparency, accountability, and legal certainty. If the permit issuance process is carried out without adhering to these principles, it may lead to the abuse of authority, ultimately harming the public interest.⁵ The maladministration in issuing mining business permits has also become a concern for various supervisory agencies, such as the Ombudsman of the Republic of Indonesia, which has the authority to oversee the provision of public services by government officials. The Ombudsman frequently receives public reports regarding alleged maladministration in the licensing process, including in the mining industry, which carries a high risk of misuse of authority.⁶

On the other hand, Indonesia's state administrative law system provides various mechanisms for holding officials and government agencies accountable for maladministration. These mechanisms may include administrative sanctions, civil lawsuits, and criminal liability if the action satisfies the elements of a criminal act of corruption or abuse of authority, as defined by various laws and regulations.⁷ However, in practice, enforcing legal accountability for maladministration in the issuance of mining permits continues to face various obstacles. One of the main obstacles is the overlapping authority between the central and regional governments in managing the mining sector, as well as the weak oversight of the licensing process by government officials.⁸

The maladministration in the issuance of mining business permits in Indonesia can be empirically observed in East Kalimantan Province. This province, which served as a sample in the Indonesian Ombudsman's Systemic Study on mining business permits governance, has regions that represent the complexity of these issues.^{9,10} Samarinda City, the provincial capital and administrative center, is often the locus of trials for corruption cases related to the acceleration of the issuance of mining business permits, involving regional government officials, as revealed in the case of six mining business permits that were

²Salim HS, 2017, Mineral and Coal Mining Law, Jakarta: RajaGrafindo Persada, pp. 85–120.

³(Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia)

⁴Peter Mahmud Marzuki, 2019, Legal Research, Jakarta: Kencana, pp. 35–60.

⁵Ridwan HR, State Administrative Law, Jakarta: RajaGrafindo Persada, 2020, p. 118.

⁶Ombudsman of the Republic of Indonesia, 2022, "Annual Report of the Ombudsman of the Republic of Indonesia", Jakarta, pp. 110–125.

⁷Indroharto, 2018, Efforts to Understand the State Administrative Court Law, Jakarta: Sinar Harapan Library, pp. 65–80.

⁸Salim, Op.Cit.

⁹Kontan.co.id. 2022. "Ombudsman: Transfer of Mining Permit Authority to Central Government Causes Many Maladministrations." In Kontan.co.id, December 12, 2022. Jakarta: Grahanusa Mediatama

¹⁰IDX Channel. 2022. "Reviewing the Minister of Energy and Mineral Resources' Policy, the Ombudsman Finds Maladministration in the Mining Sector." In IDXChannel.com, December 13, 2022. Jakarta: IDX Channel.

processed quickly on the instructions of regional officials.^{11,12} Meanwhile, as one of the regions with the highest mining concentration, it provides a concrete illustration of the impacts of maladministration at the upstream level. The case of the detention of two former Heads of the Kutai Kartanegara Mining and Energy Agency by the East Kalimantan High Prosecutor's Office for allegedly issuing problematic mining business permits that resulted in state losses of up to IDR 500 billion and environmental damage highlights how weak oversight and overlapping authorities lead to legal and economic losses¹³. As for Bontang City, although its economic structure is dominated by large-scale processing industries, its existence in the provincial context cannot be separated from the issue of downstream sector licensing and the environmental impact of extractive activities in buffer zones, which is also a concern in the Ombudsman's integrated supervision regarding the integration of environmental permits.¹⁴ Thus, the selection of these three regions allows a comprehensive analysis of the dynamics of maladministration, starting from the issuance process at the bureaucratic level (Samarinda), implementation in the field that is detrimental to the state (Kutai Kartanegara), to monitoring of environmental and industrial impacts (Bontang), all of which narrow down to the urgency of strengthening legal accountability mechanisms as outlined previously.¹⁵

The elucidation indicates that the mismanagement in granting mining business permits constitutes a multifaceted legal dilemma with extensive repercussions for the state, society, and ecological systems. Consequently, an extensive legal examination is required to scrutinize the types of maladministration in the granting of mining permits and the legal accountability frameworks applicable to officials or entities engaging in such misconduct. Thus, this research is crucial to provide a deeper understanding of legal accountability for maladministration in the issuance of mining business permits, while offering recommendations to improve the licensing governance system in Indonesia's mining sector. Based on this background, the problem formulation in this research is: What forms of maladministration occur in the issuance of mining business permits in Indonesia, and what forms of legal accountability apply to officials or institutions that commit maladministration in issuing mining business permits?

Method

This research is normative legal research. Normative legal research is the study of library materials and secondary data, including laws and regulations, court decisions, legal doctrine, and scientific literature related to the problem being studied.¹⁶ In the context of East Kalimantan, this approach is highly relevant considering that the province has a high level of complexity in mining regulations, particularly in Kutai Kartanegara Regency, known as one of the largest coal production centers in Indonesia, Samarinda City as the center of provincial government where the licensing bureaucracy process takes place, and Bontang City, which is a barometer for industrial and environmental management for coastal areas.¹⁷

¹¹East Kalimantan Tribune. 2026. "East Kalimantan IUP Case Trial, Witness Reveals Licensing Process, Attorney Says Prosecutor's Charges Refuted." In Tribunkaltim.co, March 5, 2026. Samarinda: Tribun Network. Available at: <https://kaltim.tribunnews.com/>

¹²East Kalimantan Post. 2025. "Rudy Ong's Six IUPs Processed Quickly, Testimony of Provincial Government Civil Servants Reveals the Role of the East Kalimantan Governor's Daughter in the Samarinda Corruption Court." In Kaltim Post Jawapos.com, November 27, 2025. Samarinda: Jawa Pos Group

¹³Kompas.id. 2026. "Mining Permit Corruption in Kutai Kartanegara, Two Former Agency Heads Arrested." In Kompas.id, February 19, 2026. Jakarta: Kompas Media Nusantara

¹⁴Kaltim Today. 2025. "East Kalimantan Ombudsman Targets Silica Mining Permits, Partners with Academics to Monitor Maladministration." In Kaltimtoday.co, December 30, 2025. Samarinda: Kaltim Today

¹⁵IDX Channel. 2022. "Reviewing the Minister of Energy and Mineral Resources' Policy, the Ombudsman Finds Maladministration in the Mining Sector." In IDXchannel.com, December 13, 2022. Jakarta: IDX Channel.

¹⁶Soerjono Soekanto & Sri Mamudji, 2015, Normative Legal Research: A Brief Review, Jakarta: RajaGrafindo Persada, pp. 13–20

¹⁷Central Statistics Agency of East Kalimantan Province. 2024. Coal Mining Statistics of East Kalimantan Province 2023. Samarinda: BPS East Kalimantan Province.

Results and Discussion

The Reality of Maladministration in East Kalimantan: An Introduction from the Mining Site

This research was not only conducted in the library's quiet room, with stacks of law books, but also brought the author directly to areas that served as silent witnesses to maladministration in the issuance of mining business permits. Until January 2026, the author conducted field visits to three sample areas in East Kalimantan Province: Samarinda City, as the center of provincial government where the licensing bureaucratic process takes place; Kutai Kartanegara Regency, as one of the largest coal production centers in Indonesia; and Bontang City, known as an industrial area with complex environmental monitoring dynamics. From a trip along the Samarinda-Bontang main road, the author witnessed firsthand how coal transport trucks passed back and forth on public roads, leaving behind dust and damaged asphalt.

In Marangkayu District, on the border between Samarinda and Bontang, the author met local residents who complained about hauling activities on national roads rather than on designated special roads, as required under East Kalimantan Provincial Regulation Number 10 of 2012. A resident of Makarti Village explained that, although the company claimed to possess the necessary permits, the adverse effects on infrastructure and public health had never received serious attention from the government. In Kutai Kartanegara Regency, specifically in Tenggarong Seberang District, the author visited a site that was once a transmigration area, now transformed into a stretch of mining pits. The destroyed homes of transmigrants and the loss of agricultural land were clear evidence of how maladministration in the issuance of mining business permits not only financially harms the state but also destroys the fabric of community life. Meanwhile, in Samarinda, the author witnessed firsthand the trial process at the Corruption Court, which is currently hearing a case of alleged bribery in the mining permit process involving former regional officials and businesspeople. These field testimonies offer a robust empirical foundation for examining how theories of maladministration and legal accountability, previously confined to the normative domain, reveal a far more intricate reality when confronted with the social, economic, and political contexts of the regions.

Maladministration Theory: Examining the Roots of the Problem in Mining Licensing

The term maladministration is composed of two words: the Latin-derived prefix mal-, meaning bad or wrong, and administration, meaning the implementation of government. Thus, etymologically, maladministration can be interpreted as the implementation of government administration that is not in accordance with the principles of law and good governance. In the Indonesian legal system, the legal definition of maladministration is set out in Article 1, paragraph 3, of Law Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia. The provision states that maladministration is unlawful behavior or actions, exceeding authority, using authority for purposes other than the purpose of said authority, including negligence or neglect of legal obligations in the provision of public services carried out by state and government officials, which cause material and/or immaterial losses to the community and individuals.¹⁸

According to Ulfa Pamujiningsih, in her article published in the *Rechtsvinding* Journal, the substance of the definition of maladministration can be described into nine acts as summarized in the *Understanding Maladministration Pocket Book* published by the Indonesian Ombudsman, namely: (1) unlawful behavior and actions; (2) behavior and actions exceeding authority; (3) using authority for purposes other than those for which that authority is intended; (4) negligence; (5) neglect of legal obligations; (6) in the provision of public services; (7) carried out by state and government officials; (8) causing material and/or immaterial losses; (9) for society and individuals.¹⁹ It is important to distinguish between maladministration, administrative errors, and criminal acts of corruption. Pamujiningsih explained that, in maladministration, the losses referred to are those intended for the public and individuals, not those to the state. Maladministration is defined as unlawful acts of an administrative nature, not as acts indicating enrichment of certain parties. Meanwhile, administrative errors refer to mistakes in the implementation of government

¹⁸Yours truly, Ulfa. 2023. "Examining the Limits of Administrative Errors, Maladministration, and Criminal Acts of Corruption in the Administration of Government." *Journal of Legal Research*, National Legal Development Agency, January 5, 2023. Available at: <https://rechtsvinding.bphn.go.id/>

¹⁹ Ibid

administration that result in losses to the state. On the other hand, criminal acts of corruption involve state financial losses arising from enriching certain parties, either oneself or others.²⁰

The Indonesian Ombudsman has recognized at least nine types of maladministration that commonly arise in the provision of public services, as summarized and explained in the following table.

Table 1 Forms of Maladministration

	Forms of Maladministration	Explanation
1	Abuse of authority	The use of authority is not in accordance with the purpose for which the authority was granted
2	Prolonged delay	Service that is deliberately slowed down without a valid reason
3	Not providing service	Refusal to provide public services that are the people's rights
4	Procedural deviation	Not following the applicable rules in the service process
5	Conflict of interest	Officials have a personal interest in the decisions taken
6	Discrimination	Unfair treatment of certain parties
7	Incompetent	Inability of the officer to perform his duties
8	Waiver of legal obligations	Not carrying out obligations mandated by regulations
9	Act against the law	Actions that are contrary to the provisions of applicable law

Source: Adapted from the Pocket Book Understanding Maladministration, Indonesian Ombudsman

In the context of mining in East Kalimantan, these forms of maladministration are not merely theoretical discourse, but actually occur and can be observed empirically. The author's search of various data on the East Kalimantan Ombudsman Representative website revealed astonishing data. The Head of the East Kalimantan Ombudsman Representative, Mulyadin, explained that from January to June 2025 alone, the East Kalimantan Ombudsman received 253 public complaints regarding alleged maladministration of public services. Of these, the majority (89.3%) came from direct public reports, with the highest level of allegations being "not providing services at all" at 70.9%, "procedural deviations" at 13 reports, "prolonged delays" at 8 reports, to "neglect of legal obligations" and "abuse of authority".²¹ Interestingly, Mulyadin also revealed that the East Kalimantan Ombudsman is currently conducting a special study to detect potential maladministration in the management of applications for non-metallic

²⁰ Ibid

²¹ Ombudsman of the Republic of Indonesia, East Kalimantan Representative Office. 2025. 2024 Annual Report: Supervision of Public Service Delivery in East Kalimantan Province. Samarinda: Ombudsman of the Republic of Indonesia, East Kalimantan Representative Office

mineral and rock mining permits in East Kalimantan. This step is being taken as part of an early prevention effort against maladministrative practices that could potentially harm the public.²²

Legal Responsibility Theory: A Normative Framework for Prosecuting Maladministration Perpetrators

Legal responsibility is a central concept in law that binds a person or legal entity to bear the legal consequences of their actions. Hans Kelsen, in his Pure Theory of Law, holds that legal responsibility arises when a person violates legal norms and is subject to sanctions. Kelsen distinguishes between individual responsibility and collective responsibility, where in modern law, individual responsibility is the dominant principle. Philipus M. Hadjon distinguishes the accountability of public officials into two main categories. First, official responsibility, namely the responsibility inherent in the position held by an official. In this context, if an error occurs in the execution of duties, then the institution or position is institutionally responsible. Second, personal responsibility, which refers to the responsibility attached to the individual official if his actions are based on bad faith, abuse of authority, or exceeding the authority given.²³ According to *State Administrative Law*, as explained by Ridwan HR, accountability can be classified into three domains as follows:

Table 2. Types of Accountability

Types of Accountability	Explanation	Legal basis
Administrative	Disciplinary sanctions, reprimands, demotions, temporary dismissals, or revocation of decisions	Law No. 30/2014, Law No. 5/2014 concerning the State Civil Apparatus
Civil	Compensation to parties who are harmed by unlawful acts (<i>unlawful government act</i>)	Article 1365 of the Civil Code
Criminal	Imprisonment, fines, or other additional penalties if the elements of a crime are met	Law No. 31/1999 jo. Law No. 20/2001

In cases of maladministration in the issuance of a mining business permit, legal responsibility cannot be seen partially. Indroharto (2018) in *Efforts to Understand the Law on State Administrative Courts* emphasizes that every state administrative decision (decision) issued in a legally flawed manner, whether due to procedural flaws, authority flaws, or substantive flaws, must be accountable. This accountability can take the form of cancellation of decisions, revocation of permits, or demands for compensation.

In East Kalimantan, the case involving two former Heads of the Kutai Kartanegara Mining and Energy Agency, with the initials legal entity and Alternative Dispute Resolution, serves as a concrete example of how legal accountability is enforced. During the author's visit to the East Kalimantan High Prosecutor's Office in Samarinda on February 25, 2026, the Head of the Legal Information Section, Toni Yuswanto, explained in detail the chronology of the case. The Legal Entity and Alternative Dispute Resolution are suspected of having issued Production Operation Mining Business Permits to three companies, namely PT Jembayan Muarabara, PT Arzara Baraindo Energitama, and PT Kemilau Rindang Abadi, which operate in the Management Rights area Number 01 belonging to the Ministry of Transmigration. In fact, the land was intended for the Independent Self-Initiated Transmigration Program in five villages in Tenggarong Seberang District.

²² Ibid

²³ Hadjon, Philipus M. 2011. Legal Protection for the People. Surabaya: Civilization.

Due to the issuance of these unauthorized permits, coal mining activities proceeded illegally, destroying hundreds of transmigrant homes, damaging tens of hectares of agricultural land, and failing to maintain previously constructed public and social facilities. The East Kalimantan High Prosecutor's Office estimated state losses at more than IDR 500 billion. This case demonstrates that legal accountability does not stop at the administrative level but also extends to the criminal realm, as it was proven that there was an element of enrichment, whether of oneself or others, that harmed state finances.²⁴

Analysis of Law Number 3 of 2020 concerning Mineral and Coal Mining

Law Number 3 of 2020, which amends Law Number 4 of 2009 on Mineral and Coal Mining, is a key regulation governing all aspects of mining activities in Indonesia. One of the most fundamental changes in this law is the transfer of mining management authority from regional governments to the central government. Article 35 of the Mineral and Coal Mining Law explicitly states that mining activities may only be conducted after obtaining a government permit. Furthermore, Article 37 emphasizes that the central government has the authority to issue mining business permits. This provision represents a complete reversal from the previous law, which granted district/city governments broad authority to issue mining business permits.

In an interview with an academic from the Faculty of Law at Mulawarman University, Herdiansyah Hamzah (familiarily known as Castro), in Samarinda on February 22, 2026, revealed that this centralization of authority actually created new problems in the field. Castro, an expert witness in the Constitutional Court's judicial review of the Mineral and Coal Mining Law, explained that there were 151 illegal mining points (PETI) in East Kalimantan that could not be prosecuted seriously because the local government felt it no longer had the authority to do so. The same reason was also used to avoid following up on deaths in mining pits, because the local government felt that supervisory authority had been transferred to the central government. In fact, Article 158 of the Mineral and Coal Mining Law explicitly stipulates criminal sanctions for illegal mining, namely a maximum prison sentence of five years and a maximum fine of IDR 100 billion. However, without clear oversight authority at the regional level, this article is difficult to implement.²⁵

Article 35, paragraph (4) of the Mineral and Coal Mining Law actually opens up opportunities for the central government to delegate the authority to grant business permits to regional governments in accordance with statutory provisions. However, Franky Butarbutar, a legal expert who was also a witness at the Constitutional Court's judicial review hearing, assessed that the phrase "can" in the article does not provide legal certainty. The use of the term "can" creates uncertainty and makes regional governments hesitate to act. Furthermore, Butarbutar explained that the withdrawal of authority from the central government led to distrust among local governments and communities toward participating in overseeing mining activities. When pollution or environmental damage occurs, local governments often argue, "Oh, it's not my jurisdiction," even though the mining site is in their own yard.

Analysis of Law Number 30 of 2014 concerning Government Administration

Law Number 30 of 2014 concerning Government Administration is a crucial legal basis in preventing maladministration. The Secretary of the Ministry of Administrative and Bureaucratic Reform, Dwi Atmaji, during the Socialization of Law 30/2014, released by the East Java Ministry of Communication and Information, emphasized that this law can prevent government maladministration because it provides legal protection for both citizens and government officials.

Article 10 of Law 30/2014 regulates the General Principles of Good Governance, which include:

- a) The principle of legal certainty, namely the principle in a state based on law which prioritizes the basis of statutory provisions, propriety, and consistency in every government action.
- b) The principle of utility, namely the principle that wisely prioritizes public welfare.

²⁴Kompas.id. 2026. "Mining Boss Named Corruption Suspect in Kukar for Working in Transmigration Area." Kompas.id, February 25, 2026. Available at: <https://www.kompas.id/>

²⁵East Kalimantan Media. 2022. "From the Judicial Review of the Mineral and Coal Mining Law at the Constitutional Court, Regional Governments Can Take Action Against Illegal Miners." Mediakaltim.com, February 24, 2022. Available at: <https://mediakaltim.com/>

- c) The principle of impartiality, namely the principle that requires government agencies and/or officials to determine and/or carry out decisions and/or actions by considering the interests of the parties as a whole and not in a discriminatory manner.
- d) The principle of accuracy, namely the principle which means that a decision and/or action must be based on complete information and documents to support the legality of the determination and/or implementation of the decision and/or action, so that the decision and/or action in question is prepared carefully before being determined and/or carried out.
- e) The principle of not abusing authority, namely the principle that requires every government agency and/or official not to use their authority for personal interests or other interests that are not in accordance with the purpose for which the authority was granted.

The Regional Secretary of East Java Province, Akhmad Sukardi, added that the implementation of this law is principally to prevent maladministration, unlawful actions by the ruling government, and exposure of state officials to legal problems. This law serves as the legal basis for governance, aiming to improve governance and prevent corruption, collusion, and nepotism.²⁶

Limitations of Authority and Abuse of Authority

Article 17 of Law 30/2014 explicitly prohibits government officials from abusing their authority. This prohibition covers three forms: (a) exceeding authority, (b) mixing authority, and (c) acting arbitrarily. In the context of mining permits in East Kalimantan, the line between authority and abuse of authority is often blurred. The Kutai Kartanegara case involving two former Heads of the Mining and Energy Agency (District Mining and Energy Agency) demonstrates how public officials can fall prey to abuse of power who served from 2009 to 2010, issued Operation Permits to three companies even though the requested locations were within the Ministry of Transmigration's Land Use Area. Meanwhile, ADR, his successor, allegedly deliberately allowed mining activities without official permits to continue throughout 2011 and 2012. These actions clearly constitute abuse of power, as officials used their positions for purposes inconsistent with their legal mandates.²⁷

Court Decision Analysis: Examining the Jurisprudence of Mining Permit Disputes

Mining permit disputes often end up in the State Administrative Court (PTUN), especially when permit holders feel aggrieved by government administrative decisions. A search of the Supreme Court's decision directory reveals several important patterns related to the annulment of administrative decisions in the mining sector. In the State Administrative Court of Jakarta, Decision Number 257/ G/ TF/ 2023/ PTUN.JKT dated September 19, 2023, the court granted PT. Kasih Makmur Abadi's lawsuit against the Director General of Mineral and Coal, Ministry of Energy and Mineral Resources. The court declared null and void the defendant's administrative action of failing to enter the plaintiff's mining business permit of production operation into the Directorate General of Mineral and Coal's Licensing Database. This decision confirms that failing to enter valid permit data into the system is an unlawful administrative action.

A similar pattern was also found in the State Administrative Court of Jakarta, Decision Number 209/G/TF/2023/PTUN.JKT dated August 14, 2023, which granted PT Mahesa Prima Usaha a first-rate business case. The court stated that the defendant's failure to include the issued mining business permit on the list of mining business permits that met the requirements was an unlawful act.

The State Administrative High Court of Jakarta, Decision Number 387/B/TF/2023/PT. TUN.JKT dated February 20, 2024, also confirmed the same pattern. The court annulled the administrative action of the Director General of Mineral and Coal Mining, which did not include PT. Sumpitmas Dinamika's mining business permits in the list of mining business permits that meet the requirements. From these three decisions, it can be concluded that the courts tend to protect the rights of holders of legally issued permits, even if the central government subsequently implements a policy of re-verifying or purging mining business

²⁶Republic of Indonesia. 2014. *Law Number 30 of 2014 concerning Government Administration*. State Gazette of the Republic of Indonesia 2014 Number 292. Jakarta: State Secretariat

²⁷Kompas.id. 2026. "Mining Boss Named Corruption Suspect in Kukar for Working in Transmigration Area." Kompas.id, February 25, 2026. Available at: <https://www.kompas.id/>

permits data. The courts emphasized that administrative actions that fail to adhere to proper procedures and disregard the rights of the community, including business entities, are subject to revocation.²⁸

Although the above decisions originate from outside East Kalimantan, their relevance to the conditions in the sample areas is very strong. In Samarinda, the Corruption Court is currently conducting a hearing of a bribery case involving the former Regent of Kutai Kartanegara, Rita Widyasari, and businessman Rudy Ong Chandra. In the trial that the author attended on December 18, 2025, the practice of "buying and selling permits" at a rate of IDR 500 million per mining business permit was revealed. Witnesses from the Kukar Mining and Energy Agency revealed that six mining business permits were processed quickly at the instructions of regional officials, without following proper procedures. This case shows that maladministration in the issuance of mining business permits does not only take the form of *nonfeasance* (not doing the duty), but also *malfeasance* (doing wrong things) and *misfeasance* (doing things in the wrong way). When public officials use their authority for personal or group interests, maladministration has become a criminal act of corruption.²⁹

Overview of Maladministration in Three Regions in East Kalimantan Province

Samarinda, the capital of East Kalimantan Province, is the epicenter of the mining licensing and supervision process. The East Kalimantan Provincial Investment and One-Stop Integrated Services Office (DPMPSTSP) has been operating for some time. In an interview with a DPMPSTSP staff member who requested anonymity, it was revealed that since the enactment of the 2020 Mineral and Coal Mining Law and *Online Single Submission* (OSS) system, the licensing process has indeed become more centralized, but this does not necessarily reduce the potential for maladministration, for instance, issuing new permits but verifying and validating old permit data. Many mining business permits issued before 2020 have an invalid *clean and clear* status. Data at the regional level is not synchronized with data at the center.

Data from the East Kalimantan Ombudsman corroborates these findings. Of the 253 complaints received during the first half of 2025, infrastructure issues were the most frequently reported, accounting for 47 (45.6%), followed by civil and political rights (17.5%), agrarian affairs (12.6%), and education (10.7%). Although mining-related complaints were not explicitly mentioned, agrarian and infrastructure issues are closely related to mining activities.³⁰ The author's visit to Tenggarong Seberang District on August 23, 2025, revealed various cases not only involving the issuance of illegal mining business permits but also the maladministration that destroyed national strategic programs. The Land Management Rights Number 01, covering thousands of hectares, should have been the location of the Independent Self-Initiated Transmigration Program, which aims to improve community welfare and equitable development. However, due to the issuance of unauthorized mining business permits and the toleration of illegal mining activities, this noble goal was not achieved.³¹

The East Kalimantan High Prosecutor's Office noted that, in addition to the IDR 500 billion state loss, the social impact of this case was also enormous. Hundreds of homes, public facilities, social infrastructure, and agricultural land built over decades were destroyed in a matter of hours. BT, the director of three companies, is a suspect. Bontang is known as an industrial city, home to large companies such as PT Badak NGL and PT Pupuk Kaltim. However, these industries encounter a classic problem that remains unresolved: the use of public roads for coal transportation (*hauling*).

On February 24, 2026, the author traveled along the Samarinda-Bontang main road and witnessed dozens of coal trucks passing by. PT Kaltim Diamond Coal and PT Mula Persada Kartanegara are two companies operating at Kilometer 27, Makarti Village, Marangkayu District, and have acknowledged using the national road for their hauling activities. PT Kaltim Diamond Coal representative, Amat, when contacted by local media, confirmed that the trucks belonged to his company and claimed that its activities were legal because it had an official mining business permit. East Kalimantan Provincial Regulation Number

²⁸Supreme Court of the Republic of Indonesia. 2023. "Decision of the Jakarta State Administrative Court Number 257/G/TF/2023/PTUN. JKT", dated September 19, 2023

²⁹Ombudsman of the Republic of Indonesia, East Kalimantan Representative Office. 2025. 2024 Annual Report: Supervision of Public Service Delivery in East Kalimantan Province. Samarinda: Ombudsman of the Republic of Indonesia, East Kalimantan Representative Office

³⁰ Ibid

³¹Kompas.id. 2026. "Mining Boss Named Corruption Suspect in Kukar for Working in Transmigration Area." Kompas.id, February 25, 2026. Available at: <https://www.kompas.id/>

10 of 2012 concerning the Implementation of Public Roads and Special Roads for Coal and Palm Oil Transportation Activities, in Article 6 Paragraph (1), strictly prohibits coal transportation via public roads. Paragraph (2) requires all coal mining products to be transported via special roads. Violations of these provisions should be subject to administrative sanctions, but weak supervision allows companies to continue doing so.

Table of Forms of Maladministration in Mining Business Permits in East Kalimantan

Based on field findings and normative analysis, the following table summarizes the forms of maladministration in the issuance of mining business permits in East Kalimantan, along with the resulting impacts:

Table 3.Forms of Maladministration in Mining Business Permits in East Kalimantan

	Forms of Maladministration	Location of Findings	Impacts Caused
1	Issuance of mining business permits without adequate Environmental Impact Assessment	Kutai Kartanegara	Environmental damage, water pollution, loss of biodiversity
2	Issuance of mining business permits in protected forest areas	Samarinda, Kukar	Legal conflicts, deforestation, and hydrological disasters
3	The mining business overlaps with the transmigration land	Kutai Kartanegara (Tenggarong Seberang)	Social conflict, destruction of transmigrant settlements, state losses of IDR 500 billion
4	Abuse of authority by regional officials	Samarinda, Kutai Kartanegara	Corruption, bribery, loss of public trust
5	Use of public roads for hauling	Marangkayu (Bontang-Samarinda)	Damage to road infrastructure, traffic accidents, and dust pollution
6	Prolonged delays in permit management	Samarinda	Economic losses for entrepreneurs, business uncertainty
7	Not entering mining business permit data into the MODI system	National cases (relevant for East Kalimantan)	Unclear permit status, legal uncertainty
8	Allowing illegal mining	National cases (relevant for East Kalimantan)	State losses, environmental damage, and social inequality

Source: processed data

Theoretical Reflection: Understanding Maladministration from a Local Political and Economic Perspective

Reflecting on the theory of maladministration and legal accountability in East Kalimantan, the author concludes that maladministration in the issuance of mining business permits is not merely a technical-administrative issue. It is a structural issue involving the tug-of-war among interests between the central and regional governments, between capital and power, and between environmental sustainability and economic growth.

Herdiansyah Hamzah, in his testimony at the Constitutional Court, reminded that good law should not only resolve past and present problems but also anticipate future impacts. In this context, the 2020 Mineral and Coal Mining Law, which withdraws authority to the central government, instead of resolving the problem of maladministration, actually creates an accountability gap where local governments feel like they have let go of their responsibilities, while the central government is overwhelmed by monitoring thousands of mining business permits from thousands of kilometers away. East Kalimantan Governor Isran Noor, in his interview with local media in 2021 (his term), highlighted the fundamental problems in central regional relations following the 2020 Mineral and Coal Mining Law. The ambiguity of legal norms creates a grey area that irresponsible actors exploit to engage in maladministration without fear of prosecution.³²

Conclusion

This study shows that maladministration in the issuance of Mining Business Permits in East Kalimantan occurs in various forms, including abuse of authority, issuing permits without proper procedures, granting permits in inappropriate areas, allowing illegal mining activities, the use of public roads for hauling, and inconsistencies in permit data within the MODI system. The findings in Kutai Kartanegara demonstrate that maladministration not only causes state losses but also damages community life and disrupts strategic national programs. Legal responsibility for maladministration in the issuance of mining business permits may arise in three domains: administrative, civil, and criminal, depending on the type of violation and its consequences. However, its enforcement still faces structural obstacles, particularly due to overlapping authority between central and regional governments after the enactment of Law Number 3 of 2020. Therefore, strengthening supervision, clarifying authority, and improving accountability mechanisms are necessary to prevent maladministration from recurring in the mining sector.

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³²East Kalimantan Media. 2022. "From the Judicial Review of the Mineral and Coal Mining Law at the Constitutional Court, Regional Governments Can Take Action Against Illegal Miners." *Mediakaltim.com*, February 24, 2022. Available at: <https://mediakaltim.com/>

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