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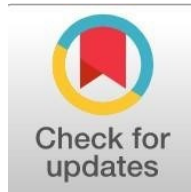
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Implications of the Constitutional Court Ruling Number 135/PUU-XXII/2024 on Separating National and Local Elections for Filling Regional Head Positions

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Abstract

General Background Simultaneous elections in Indonesia caused high complexity, excessive workloads, and organizer fatigue, prompting evaluations of the electoral system. **Specific Background** Constitutional Court Decision Number 135/PUU-XXII/2024 addresses these issues by separating National Elections from Regional Elections, mandating a gap of two to two-and-a-half years between them. **Knowledge Gap** Existing literature predominantly examines the systemic changes of this separation but neglects the protection of regional heads' fixed terms and the legal transition mechanisms for filling leadership vacancies. **Aims** This study investigates the constitutional protection of local leaders' fixed terms, formulates a model for filling transitional vacancies, and proposes a constitutional transition governance concept. **Results** The separation creates a transition period leading to regional head vacancies, though the Court affirmed the constitutionally mandated five-year term remains unaltered. These vacancies necessitate the appointment of Acting Regional Heads with restricted authority to ensure local government continuity without violating democratic legitimacy. **Novelty** This research constructs a constitutional transition governance model that uniquely integrates fixed-term protection, appointment mechanisms, and regulatory harmonization following the judicial ruling. **Implications** Lawmakers must urgently revise the Election Law and Regional Government Law, while providing explicit operational boundaries for Acting Regional Heads to maintain legal certainty and democratic accountability.

Highlights:

- ♦ The judicial ruling guarantees the fixed five-year tenure of territorial administrators despite schedule adjustments.
- ♦ Transitional governance requires appointing interim officials with restricted policy-making authority to prevent administrative voids.
- ♦ Harmonizing legislative and governmental statutes is mandatory to secure democratic accountability during the transition.

Keywords: Constitutional Court, Electoral System, Fixed Term, Acting Officials, Regulatory Harmonization

I. Introduction

Elections are the main tool in a democratic country to realize the sovereignty of the people, as mandated in Article 1, paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Since the simultaneous election model was implemented through Law No. 7 of 2017, Indonesia has held elections for the President and Vice President, the DPR, the DPD, the DPRD, and regional heads within relatively close time frames. Although this design is intended to improve the efficiency of holding elections, in practice it has actually led to various problems, including the high complexity of stages, increased workload for election organizers, high levels of fatigue and even death among election officials, as well as a decline in voters' attention to local issues. This situation has led to evaluations of the design of simultaneous elections in Indonesia.[1]

In response to these issues, the Constitutional Court, through Decision Number 135/PUU-XXII/2024, decided to change the election design by separating the National Elections, which include the President and Vice President, DPR, and DPD elections, from the Regional Elections, which include local leaders and DPRD elections. The Court believes that this separation is necessary to improve the quality of democracy, strengthen political party institutions, and give people more space to focus on making political choices at both the national and regional levels. Additionally, the Court ruled that Regional Elections should be held no sooner than two years and no later than two years and six months after the inauguration resulting from the National Elections.[2]

Nevertheless, the changes in the election design bring about new legal consequences, especially concerning the continuity of local government during the transition period. The gap between the end of the term of regional heads elected in the 2024 Local Elections and the next regional election could lead to vacancies in regional head positions if not accompanied by proper legal arrangements. This issue has sparked debates about the mechanism for filling positions during the transition period, the authority of acting regional heads, and the need to harmonize regulations between the Election Law and the Local Government Law to ensure legal certainty.[3]

On the other hand, there's also a growing view among the public and academics that separating the schedules of National and Regional Elections would reduce the term of regional leaders. In fact, the Constitutional Court firmly stresses that changes in the election schedule cannot be used as a basis to cut the term of regional leaders who have gained democratic legitimacy through direct elections. The term of office for regional leaders remains fixed at five years as regulated in Article 60 of Law Number 23 of 2014 and Article 162 of Law Number 10 of 2016. So, changing the election design only affects the timing of the elections, not reducing the term of officials who are currently in office.[4]

Studies on Constitutional Court Decision Number 135/PUU-XXII/2024 started to develop following its issuance in 2025. Several previous studies have examined the implications of this decision from various perspectives, including changes to the electoral system design, constitutional implications, legal certainty, as well as the management of national and regional elections. However, a review of the literature shows that there has not yet been a study that comprehensively examines the implications of Constitutional Court Decision Number 135/PUU-XXII/2024 on the filling of regional head positions, focusing on the protection of the fixed term principle for regional heads as a constitutional right that must be guaranteed.[5]

The legal implications of Constitutional Court Decision Number 135/PUU-XXII/2024 on the separation of National and Local Elections. The study concludes that the Constitutional Court's decision represents a reconstruction of the election system aimed at increasing the effectiveness of election administration and strengthening electoral democracy. However, the study hasn't examined the consequences of the decision on the tenure of regional heads or the mechanism for filling positions during the transition period. Furthermore, the study analyzes the constitutional and systemic implications of Constitutional Court Decision Number 135/PUU-XXII/2024. It emphasizes the importance of harmonizing regulations as a follow-up to the Constitutional Court's decision to prevent legal gaps in election administration. Even so, the research focus is still limited to electoral system reforms and hasn't really explained the protection of the constitutional rights of current regional heads or the mechanisms for filling positions during the transition period.[6]

The legal implications of Constitutional Court Decision Number 135/PUU-XXII/2024 on the administration of Regional Elections. Research shows that separating the schedules of National and Regional Elections requires regulatory adjustments to maintain legal certainty in election administration. However, the study did not provide an analysis regarding the relationship between the time gap in holding elections and the continuity of the term of regional heads as officials elected directly. Another study was conducted examining the constitutional implications of Constitutional Court Decision Number 135/PUU-XXII/2024 on the separation of National and Regional Elections. That study emphasized that separating the election regimes is part of efforts to strengthen the quality of democracy and reduce the complexity of organizing simultaneous elections. However, the study hasn't gone deep into discussing the protection of the fixed-term principle for regional head terms or the legal model for regional government transitions after the Constitutional Court's ruling is implemented.

Furthermore, the study examines the implications of Constitutional Court Decision Number 135/PUU-XXII/2024 from the perspective of state administrative law. The research identifies potential vacancies in regional leadership positions, increased complexity in government management, and the need for institutional readiness in facing changes in the electoral system. However, the study mainly focuses on government administration aspects and has not yet developed legal formulations regarding mechanisms for filling regional leadership positions that still guarantee the constitutional rights of elected officials. Based on these previous studies, it can be concluded that existing research generally focuses on changes in the electoral system design, the constitutional implications of Constitutional Court Decisions, the need for regulatory harmonization, and the effectiveness of election implementation. So far, there hasn't been any research that specifically

integrates the analysis of the fixed term principle for regional heads, the mechanism for filling regional head positions during the transition period, and the model for harmonizing regulations after Constitutional Court Decision Number 135/PUU-XXII/2024.

Based on that research gap, this study offers novelty in three aspects. First, it examines Constitutional Court Decision Number 135/PUU-XXII/2024 not only from the perspective of election system reform but also from the perspective of constitutional law regarding the protection of local leaders' constitutional rights through the fixed term principle of office. Second, this study formulates a model for filling local leader positions during the transition period resulting from the separation of National and Regional Elections, focusing on legal certainty, democratic legitimacy, and the continuity of local government. Third, this study offers the concept of constitutional transition governance, which is a model of local government transition management that integrates the protection of local leaders' constitutional rights, regulatory harmonization, and mechanisms for filling local leader positions to remain consistent with the principles of a democratic rule of law. Thus, this research is expected to provide a theoretical contribution to the development of constitutional law while also serving as a normative recommendation for lawmakers in drafting regulations as a follow-up to the implementation of Constitutional Court Decision Number 135/PUU-XXII/2024.

II. Research Methodology

This type of research is a juridical-normative type of research, which is a scientific research procedure to find the truth based on legal science logic from a normative perspective [7]. Juridical-normative research is considered theoretical research because in its analysis it always involves doctrines or principles related to legal science. [8]. This study is examined based on positive law in Indonesia, adjusted to the issues that will be analyzed through the differences and similarities between one legal source and another. In addition, the author will review and study the opinions of relevant experts or scholars. To support the research analysis, three main approaches are used: the statutory approach, the conceptual approach, and the case approach. The statutory approach is used to study and examine legislation related to the Constitutional Court and elections. Therefore, the author uses Constitutional Court Decision Number: 135/PUU-XXII/2024 regarding the Separation of National and Local Elections, as well as Law Number 7 of 2017 on General Elections, as the focus or central point of the research being discussed.

Next, the Conceptual Approach is an approach that uses views or doctrines that have developed in the field of law, aiming to produce objects that are interesting from a practical and knowledge perspective. Therefore, the conceptual approach can help determine the meanings of words accurately and explain a discussion more clearly. In addition, this research also uses several approaches to legal materials used by the researcher, including: 1. Primary Legal Materials, which are legal materials consisting of applicable legal rules that must be based on a hierarchy starting from the 1945 Constitution, MPR Decrees, Laws, Government Regulations, and other regulations below them. The law used in writing this thesis is Law Number 7 of 2017 concerning General Elections. 2. Secondary Legal Materials are legal materials obtained through texts, journals, expert opinions, as well as previous writings or research related to the topic. 3. Tertiary Legal Materials are legal materials that provide guidance or explanations regarding primary and secondary legal materials, including things like the Great Dictionary of the Indonesian Language (KBBI) and law dictionaries.

The method of collecting legal materials used by the author to compile this research is a literature study, which involves looking for concepts, principles, theories, expert opinions, as well as writings or findings related to the issues being discussed. This literature can include laws and regulations, scientific works, articles, writings of scholars, and other similar sources. Based on the legal materials obtained by the researcher through literature study, regulations, journals, previous research, articles, and other related materials, the researcher will process these materials using a descriptive-analytical technique. The descriptive-analytical technique is a method used to describe the problem being studied through explanations, which is then organized into writing in the form of a thesis based on the collected legal materials.

III. Results and Discussion

Implications of Constitutional Court Ruling Number 135/PUU-XXII/2024 on the Term of Regional Heads

The position of the Constitutional Court as the sole constitutional court that cannot be contested has final and binding decisions, which means these decisions cannot be challenged through any legal efforts. Therefore, they have inkraht strength as soon as they are read in the ruling session of the constitutional judges and must be followed by all related state institutions, including the President, House of Representatives, Regional Representative Council, and other institutions. [9]. On the other hand, the Constitutional Court is also considered an "independent" judicial power system, which means the Court is separate from other branches of power like the government or other institutional systems. Based on Article 24C of the 1945 Constitution, the Constitutional Court is called the final interpreter of the Constitution, where its interpretation is final and binding (*erga omnes*). [10].

Constitutional Court Ruling Number 135/PUU-XXII/2024 changes the way elections are held in Indonesia by separating the National and Regional Elections. The Court believes that holding simultaneous elections with five ballots causes various problems, including increased complexity in running the elections, a high cognitive load on voters, election organizer fatigue, and weakening of political party institutions. [11]. This is what forms the urgent background for evaluating the simultaneous election system, which triggered a petition to the Constitutional Court because it is considered not in line with the "Luber Jurdil" Principle in Article 22E Paragraph (1) of the 1945 Constitution of the Republic of Indonesia, the principle

of fair legal certainty in Article 28D Paragraph (1), hindering the pursuit of collective rights in Article 28C Paragraph (2), and violating human rights in Article 28A, Article 28G Paragraph (1), and Article 28H Paragraph (1) of the 1945 Constitution.

Through Constitutional Court Decision Number 135/PUU-XXII/2024, the Court ruled that National Elections are only held to elect the President/Vice President, the House of Representatives (DPR), and the Regional Representative Council (DPD), while Local Elections are organized at the earliest two years and at the latest two and a half years after the inauguration of the President/Vice President or members of the DPR and DPD. This new design is aimed at improving the quality of democracy, strengthening political party cadre development, and giving voters more room to focus on distinguishing national issues from local issues. [11]. The most fundamental legal implication of this ruling is the strengthening of the principle of a fixed term for regional heads. Even if the election schedule changes, the Court emphasized that the term of office for regional heads is still counted as five years from the inauguration date, as stipulated in Article 60 of Law Number 23 of 2014 and Article 162 of Law Number 10 of 2016. Therefore, changes in the election design should not be used as a basis to shorten the term of office for regional heads who have gained democratic legitimacy through direct elections. [11].

The separation of national and regional/local general elections aims to improve the organization of elections in various aspects, from the organizers, election participants, to the voters. This is also part of the evaluation of the previous simultaneous elections, which were considered to have a high complexity burden. [12]. Conceptually, the separation of the National Election and Regional Election regimes aligns with the idea of constitutionalism that distinguishes between national government and local government. This separation is expected to improve the effectiveness of election administration while also strengthening the quality of political representation at every level of government. [13].

The separation of the General Election regime is not just a change in schedule, but an effort to redesign the electoral system to create a healthier democratic ecosystem, where voters are smarter, organizers are more professional, and political parties are more strongly institutionalized. As a result, the Constitutional Court divided elections into two major groups: a) National General Elections: Electing the President and Vice President, members of the House of Representatives, and members of the Regional Representative Council. b) Regional (Local) General Elections: Electing Governors, Regents/Mayors, as well as members of Provincial and Regency/City Councils. With a minimum gap of 2 (two) years and a maximum gap of 2 (two) years and 6 (six) months, counted after the inauguration of officials resulting from the National General Election, following the scheme of simultaneous national and regional elections as shown in Table 1.[14]

Table 1: simultaneous election implementation scheme

Election Organization Grouping	Types of Elections	Current Term Period	The Next Election
National Election	President	2024-2029	2029
	DPR	2024-2029	2029
	DPD	2024-2029	2029
Local Election	Governor, Regent, and Mayor	2025-2031	2031
	DPD Province	2025-2031	2031
	DPD Regency/City	2025-2031	2031

Basically, this Constitutional Court ruling doesn't shorten the term of office for regional officials/mayors even if the election and inauguration processes are separated from the national elections. The Court has reaffirmed that the principle of election schedule efficiency can't be used as a justification to reduce a fixed-term office (for the full five years or sixty months), as mandated by the people. So, even though Constitutional Court Decision Number 135/PUU-XXII/2024 has set a new constitutional standard, it still sticks to the principle that syncing election schedules shouldn't harm the fixed term of office established by law.

Research results show that Constitutional Court Decision Number 135/PUU-XXII/2024 changes the election system design by separating National Elections from Local Elections. This change brings a legal consequence in the form of a gap between the inauguration of National Election results and the conduct of Local Elections. However, the Constitutional Court firmly states that this design change does not reduce or shorten the term of office of regional heads who have obtained democratic legitimacy through direct elections. The term of office for regional heads remains a fixed five-year term as guaranteed by Law Number 23 of 2014 and Law Number 10 of 2016. Therefore, the main implication of Constitutional Court Decision Number 135/PUU-XXII/2024 is not to shorten the term of office of regional heads, but rather the need to adjust the legal system to manage the regional government transition period so as not to create a vacancy in the position.

Efforts to Handle Regional Head Vacancies Due to Election Separation

This study found that the vacancy in regional leadership positions as a consequence of separating the schedules of National and Local Elections can be addressed through several legal instruments. First, the appointment of Acting Regional Heads in accordance with the provisions of laws and regulations as a temporary solution to ensure the continuity of local government. Second, strengthening the legitimacy of Acting Regional Heads by limiting their authority so they only perform administrative functions and public services without making strategic policies that have long-term impacts. Third, harmonizing regulations through revisions of the Election Law, the Regional Head Election Law, and the Regional Government Law to accommodate government transition mechanisms following Constitutional Court Decision Number 135/PUU-XXII/2024. Fourth, in certain situations that meet the criteria of an urgent necessity, the President can issue a Government Regulation in Lieu of Law (Perppu) as a temporary solution to the emptiness of legal norms.

The consequence of separating the election schedules is the emergence of a transition period before the next Regional Elections are held. This situation has the potential to create a vacancy in regional leader positions if not anticipated through

adequate legal instruments. From the perspective of constitutional law, a vacancy in government positions (bestuurs vacuum) can disturb legal certainty because every government action must be carried out by officials who have legitimate authority. [15]. The most feasible legal alternative is the appointment of an Acting Regional Head as regulated in Article 201 of Law Number 10 of 2016, Law Number 23 of 2014, and Ministry of Home Affairs Regulation Number 4 of 2023. This mechanism ensures the continuity of local government administration even though the term of the definitive regional head has ended.

However, the appointment of Acting Regional Heads still leaves a question of democratic legitimacy because these officials are not directly elected by the people. Therefore, strengthening legitimacy needs to be done by limiting the authority of the Acting Heads so that they only perform administrative functions and do not make strategic policy decisions without the approval of the Minister of Home Affairs. In addition, revisions are needed to the Election Law and Regional Election Law as a follow-up to the Constitutional Court's decision. These revisions should include transitional provisions that regulate the filling of positions during the transition period so that it does not create legal uncertainty. In certain situations that meet the criteria of urgent necessity, the President can also issue a Government Regulation in Lieu of Law (Perppu) based on Article 22 paragraph (1) of the 1945 Constitution of the Republic of Indonesia as a temporary solution to a legal vacuum. Thus, Constitutional Court Decision Number 135/PUU-XXII/2024 not only creates a new paradigm for holding elections, but also calls for regulatory harmonization so that changes to the electoral system still ensure legal certainty, effective local governance, and protection of constitutional democratic principles.

IV. Conclusion

The Constitutional Court's Decision Number 135/PUU-XXII/2024 is basically not intended to reduce or shorten the term of local leaders as a result of separating national and local elections. The Court clearly sees the term of local leaders as part of the fixed term principle, meaning the term must be fully served for five years as given through the democratic mandate of the people and guaranteed under the constitution. Therefore, changing the design of election simultaneity cannot be used as a reason to limit or reduce the constitutional rights of officials currently in office. Furthermore, the ruling emphasizes that considerations of election efficiency, simplification of stages, or schedule adjustments cannot override the principles of legal certainty and respect for the term of office as determined by the law. In other words, synchronizing the election schedule must be done without sacrificing the fixed term principle, because the term of office of regional heads is part of the political legitimacy obtained through a democratic election process.

From a constitutional perspective, the Constitutional Court Ruling Number 135/PUU-XXII/2024 indeed introduces a new constitutional standard regarding the design of elections in Indonesia by separating national and local elections. However, this update does not change the essence of protecting the terms of office of regional heads. On the contrary, the Court emphasizes that any reconstruction of the election system must still be based on the principles of protecting the constitutional rights of elected officials, legal certainty, and respect for the mandate given by the people through democratic mechanisms. Therefore, the implementation of this ruling must be designed in such a way that adjustments to the election schedule do not affect the length of regional heads' terms, but rather are carried out through a transition mechanism that remains in line with constitutional principles.

Based on the research results, some recommendations can be made as follows. First, to the House of Representatives of the Republic of Indonesia to immediately harmonize and revise Law Number 7 of 2017 on General Elections, Law Number 10 of 2016 on Regional Head Elections, and Law Number 23 of 2014 on Regional Government in order to accommodate transitional norms as a follow-up to Constitutional Court Decision Number 135/PUU-XXII/2024. Second, to the Government through the Ministry of Home Affairs to draft Government Regulations or Ministry of Home Affairs Regulations that provide detailed rules regarding the mechanism for filling regional head positions during the transition period, the scope of authority of Acting Regional Heads, evaluation mechanisms, and a supervision system that continues to uphold the principles of democracy, accountability, and legal certainty. Third, to the General Election Commission of the Republic of Indonesia to immediately draft a roadmap for the implementation of National and Local Elections in accordance with the Constitutional Court Decision Number 135/PUU-XXII/2024 so that all election stages can be prepared in a planned, effective manner and provide legal certainty for all stakeholders. Fourth, to the Constitutional Court to provide implementative guidelines (constitutional guidelines) in future constitutional decisions regarding the mechanism for carrying out decisions that impact the state system, so as to avoid multiple interpretations in its implementation. Fifth, to academics and constitutional law researchers to develop further research on the effectiveness of local government administration while led by Acting Regional Heads, the impact of separating National and Local Elections on the quality of local democracy, and the protection of the constitutional rights of regional heads, as well as evaluating the implementation of Constitutional Court Decision Number 135/PUU-XXII/2024 after it is applied in the 2029 General Election. This empirical research is important to produce a model of regional government transition that not only ensures legal certainty but also strengthens the quality of constitutional democracy in Indonesia.

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