



EXECUTORIAL POWER OF CONSTITUTIONAL COURT DECISIONS ON LEGISLATIVE FOLLOW-UP BY THE PEOPLE'S REPRESENTATIVE COUNCIL*

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Abstract:

This study analyzes the executive power of Constitutional Court Decision No. 135/PUU-XXII/2024 in the Indonesian general election system and the legal implications of the lack of legislative follow-up. The study focuses on the decision's final and binding nature, its non-self-executing character, and the role of legislators. This qualitative, normative-juridical research uses legislative, conceptual, and case-based approaches. Data collection was conducted through library research of relevant books, journals, and regulations, analyzed using content analysis. The results show that, despite its final and binding nature, the executive power of the decision does not always take effect immediately when it requires changes to statutory norms. The lack of legislative follow-up to Constitutional Court Decision No. 135/PUU-XXII/2024 creates legal uncertainty, weakens the effectiveness of constitutional supremacy, and has the potential to trigger constitutional issues in the implementation of elections. Therefore, it is necessary to strengthen the design of Constitutional Court decisions to make them more implementable and provide a clear legislative follow-up mechanism to ensure the effective enforcement of decisions within the Indonesian constitutional system.

Keywords: Executorial Power; Constitutional Court Decisions; DPR Legislative Follow-up

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A. INTRODUCTION

The Constitutional Court plays a fundamental role in safeguarding and upholding the constitution as the supreme law of Indonesia, as well as ensuring that the entire process of state governance, including the dynamics of democratic life, proceeds in accordance with the principles set forth in the 1945 Constitution of the Republic of Indonesia.¹ One of its authorities is conducting constitutional review of laws, making it a vital instrument in preserving constitutional integrity and upholding the principles of a democratic state governed by the rule of law in Indonesia. When the Constitutional Court declares a law or parts of a law to be unconstitutional through its ruling, all state institutions, particularly the House of Representatives as the legislative body, bear a constitutional duty to promptly follow up on the decision by repealing, revising, or enacting new regulations aligned with the holding. The enforceability of the Constitutional Court's judicial review rulings reflects a tangible form of the rule of law.² Therefore, the binding force of the Constitutional Court's decisions should guarantee automatic implementation without requiring additional approval or validation from other institutions, serving as a manifestation of constitutional supremacy within the Indonesian legal system.

Although decisions of the Constitutional Court are final and binding, in practice they are not infrequently ignored or left unimplemented by lawmakers. The House of Representatives and the President, as the authorities empowered to enact laws, often encounter obstacles in executing or following up on Constitutional Court decisions, whether due to technical implementation complexities, differing constitutional interpretations, or legislative politics considerations. This phenomenon has drawn renewed attention in the context of Constitutional Court Decision Number 135/PUU-XXII/2024 regarding the judicial review of provisions in Law Number 7 of 2017 on General Elections and Law Number 8 of 2015 on the Election of Governors, Regents, and Mayors, which was decided on June 26, 2025.

The decision corrects the practice of simultaneous five-box elections, which has long caused political exhaustion, institutional strain, and a decline in the quality of democracy. The Court ruled that national elections and regional elections must no longer be held simultaneously, and that a gap of two to two

¹ Bakhtiar, *Mahkamah Konstitusi Pada Pengujian UU Terhadap UUD*, Jakarta: Raih Asa Sukses, 2015), h. 20.

² Maruarar Siahaan, "Peran Mahkamah Konstitusi Dalam Penegakan Hukum Konstitusi", *Jurnal Hukum*, Volume 16, Nomor 3, Juli 2009, h. 359.

and a half years must be provided between them.³ This decision has sparked dynamic constitutional discourse among academics, legal practitioners, election organizers, political parties, and state institutions. However, by the end of 2025, the House of Representatives and the government had yet to demonstrate a consistent stance toward amending the regulations. A variety of responses have emerged regarding this decision, ranging from full support for the election system correction—which is deemed more democratic—to concerns regarding technical implementation aspects and its implications for the stability of local government administration.

On one hand, this decision received appreciation from various groups who consider that separating national and regional elections will improve the quality of democracy. The National Commission on Human Rights (Komnas HAM) welcomed this ruling as a progressive step toward realizing elections that respect human rights, particularly in the context of protecting the right to life and the right to decent work for election workers.⁴ The Association for Elections and Democracy (Perludem), as the petitioner in this case, emphasized that the five-box election system had weakened political party cadre regeneration and increased the number of invalid votes due to the complexity of the voting system.⁵ The General Elections Commission (KPU) also stated that separating the elections would bring positive impacts to technical organization by aligning the nomenclature, duties, and requirements for ad hoc election bodies across all levels.⁶

On the other hand, critical responses emerged from several members of the House of Representatives, particularly from Commission II of the DPR, which oversees domestic governance, including elections. The Chairman of Commission II of the DPR, Muhammad Rifqinizamy Karsayuda, expressed objections to the ruling, stating that the Constitutional Court should not create new norms beyond the authority of the DPR and the government as the

³ Putusan Mahkamah Konstitusi Nomor 135/PUU-XXII/2024.

⁴ Komnas HAM, Keterangan Pers Nomor: 38/HM.00/VI/2025, "Pisahkan Pemilu Nasional dan Pemilu Lokal pada Pemilihan Umum 2029, Komnas HAM Apresiasi Putusan Mahkamah Konstitusi", Jakarta, 29 Juni 2025. Diakses pada 10 Oktober 2025 pukul 15.00 WIB. <https://www.komnasham.go.id/uploads/Rilis%20KH%20Apresiasi%20Putusan%20MK%20135.pdf>

⁵ Sri Pujiarti, Mahkamah Konstitusi Republik Indonesia, "Perludem Perkuat Argumentasi Uji Pemilu Serentak Lima Kotak", 17 Oktober 2024, diakses pada 10 Oktober 13.40 WIB, <https://www.mkri.id/berita/-21722>

⁶ KPU RI, "Putusan MK Perkuat Kualitas Pemilu", 28 Juni 2025, diakses pada 10 Oktober 2025 pukul 19.05 WIB. <https://www.kpu.go.id/berita/baca/12981/putusan-mk-perkuat-kualitas-pemilu>

lawmakers.⁷ A similar view was expressed by the NasDem Party, which considered Constitutional Court Decision Number 135/2024 to be an *ultra vires* act—namely an action exceeding the authority granted by the Constitution—arguing that the classification of Regional Houses of Representatives (DPRD) under the election regime is explicitly stated in Article 22E of the 1945 Constitution, and regional head elections (Pilkada) as part of the election regime were previously affirmed in Constitutional Court Decision Number 95/PUU-XX/2022.

Philosophically, the existence of the Constitutional Court is an embodiment of the fundamental principle of the rule of law (*rechtsstaat*), which positions the constitution as the supreme law. In the perspective of the theory of the rule of law, the law holds a position higher than any power, including state institutions. Therefore, judicial review decisions issued by the Constitutional Court should be final, binding, and serve as a reference for legislative bodies to undertake necessary legislative follow-ups. According to Soetandyo Wignjosoebroto, there are several essential concepts for upholding the rule of law, one of which is the concept of the constitution. This idea posits that the constitution serves as the primary foundation and shared reference in social and state life. The constitution encompasses a set of laws, regulations, and statutes agreed upon through a democratic process to govern the life of the nation and the state.⁸

From a sociological approach, the executory force of Constitutional Court decisions reflects the extent to which society, particularly powerholders, respects the legal system and the constitution. In practice, the implementation of the Court's decisions frequently encounters complex obstacles resulting from differing constitutional perspectives between judicial and legislative institutions. This phenomenon demonstrates that the legal culture of Indonesian society, especially among the political elite, remains in the process of strengthening to support the principle of the rule of law. When dynamic discussions arise regarding the implementation of the highest court's decisions on constitutional matters, it highlights the need to reinforce legal awareness and respect for constitutional supremacy. In fact, in a democratic state, legal enforcement is not

⁷ Hukum Online, "Putusan MK 135/2024 Dinilai Inkonstitusional, Ketua Komisi II DPR: Enggan Tindaklanjuti Revisi UU Pemilu", 10 Juli 2025, diakses pada 15 Oktober 2025 pukul 15.30 WIB, <https://www.hukumonline.com/berita/a/putusan-mk-135-2024-dinilai-inkonstitusional-ketua-komisi-ii-dpr-enggan-tindaklanjuti-revisi-uu-pemilu-lt686f18b5c6153/>

⁸ Soetandyo Wignjosoebroto dalam Abdul Manan, *Aspek-aspek Pengubah Hukum*, (Jakarta: Kencana Prenada Media Group, 2018), h. 440-441.

merely the duty of the judiciary, but also the social and political responsibility of all elements of the nation.

Juridically, the Constitutional Court, as a court of first and final instance, is granted a special prerogative, namely decisions that are final and binding pursuant to Article 24C of the 1945 Constitution of the Republic of Indonesia.⁹ This final and binding nature is further reinforced in Law Number 24 of 2003, as amended by Law Number 7 of 2020 on the Constitutional Court, as well as Article 29 Paragraph (1) of Law Number 48 of 2009 on Judicial Power. Therefore, decisions of the Constitutional Court possess binding legal force that must be obeyed and executed by all members of society and state administrators, and cannot be annulled through any legal remedies.¹⁰ Constitutional Court decisions are binding erga omnes, meaning they bind not only the parties involved in the case but also all legal elements and state administrators.¹¹

Furthermore, the duty of the House of Representatives to follow up on Constitutional Court decisions is explicitly regulated in Article 10 Paragraph (1) Letter d of Law Number 12 of 2011, as amended by Law Number 13 of 2022 on the Establishment of Legislation, which states that "follow-up on Constitutional Court decisions" is one of the subject matters that must be regulated by Law.¹² This provision reinforces that following up on Constitutional Court decisions is not a discretionary policy option, but rather a constitutional duty binding the House of Representatives and the President as lawmakers. Furthermore, Article 23 Paragraph (1) Letter b of the same law affirms that the legal consequences of Constitutional Court decisions must be included in the open cumulative list of the National Legislative Program (Prolegnas), meaning that the follow-up to Constitutional Court rulings must be prioritized in the national legislative agenda.

However, in practice, there is no effective legal mechanism to compel state institutions to execute the Court's decisions. This creates a legal vacuum in terms of executory authority, which subsequently hinders the optimal function of judicial review as the guardian of the Constitution. When decisions of the Constitutional Court lack the enforceable power to be directly executed, the

⁹ Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

¹⁰ M. Ali Syafa'at dkk, *Hukum Acara Mahkamah Konstitusi*, (Jakarta: Kepaniteraan dan Sekretariat Jenderal Mahkamah Konstitusi, 2020), h. 11.

¹¹ Maruarar Siahaan, "Peran Mahkamah Konstitusi Dalam Penegakan Hukum Konstitusi", h. 359.

¹² Undang-Undang Nomor 12 Tahun 2011 sebagaimana telah diubah dengan Undang-Undang Nomor 13 Tahun 2022 tentang Pembentukan Peraturan Perundang-Undangan.

system of checks and balances in the separation of powers fails to operate ideally. Issues in implementing Constitutional Court rulings can be traced to three determining factors. The first factor relates to the formulation of Article 24C Paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which explicitly mentions only the "final" nature of rulings without using the term "binding," thereby frequently giving rise to varied interpretations regarding their binding force. The second factor is the absence of a specific executing body within the organizational structure of the Constitutional Court mandated to guarantee the implementation of its final rulings. The third factor is the reliance of decision realization on the political will and legal awareness of the executive and legislative branches of power to carry out those rulings.¹³

This research holds high urgency because the Constitutional Court frequently faces obstacles due to the absence of a specialized institution authorized to execute its decisions, as well as the lack of strict sanctions for non-compliance. To date, the implementation of Constitutional Court rulings has heavily relied on good relations between the Court as a judicial institution and lawmakers such as the House of Representatives and the President, as well as law enforcers, namely the government.¹⁴ The lack of clarity surrounding the execution mechanism for judicial review decisions has the potential to undermine the rule of law, which serves as a primary pillar in a democratic constitutional state. If the decisions of the highest constitutional judicial body face implementation obstacles from either the executive or legislative branches, the principles of separation of powers and the system of checks and balances encounter serious challenges. Furthermore, the implementation of Constitutional Court Decision Number 135/PUU-XXII/2024 directly impacts the quality of electoral governance and the integrity of democracy in Indonesia, as considered by the Panel of Judges in the ruling. Although the Constitutional Court has provided a new constitutional interpretation regarding the meaning of "simultaneous elections," the concrete application of the verdict cannot be directly realized without comprehensive regulatory amendments.

The decision separating national and local elections starting in 2029 carries legal consequences in the form of a potential vacancy in regional head and regional legislative council (DPRD) positions due to the desynchronization between tenure periods and the new election schedule. The tenure of regional

¹³ Fadzlun Budi Sulisty Nugroho, "Sifat Keberlakuan Asas Erga Omnes Dan Implementasi Putusan Mahkamah Konstitusi", *Gorontalo Law Review*, Vol. 2, No. 2, 2019, h. 98.

¹⁴ Denny Indrayana dan Zainal Arifin Muchtar, "Komparasi Sifat Mengikat Putusan Judicial Review Mahkamah Konstitusi dan Pengadilan Tata Usaha Negara", *Jurnal Mimbar Hukum*, Vol. 19, No. 3, Oktober 2007, h. 441- 442.

heads resulting from the 2024 regional elections (Pilkada) will end around 2029, as will that of DPRD members elected in the 2024 elections; however, if local election schedules are postponed in accordance with the Constitutional Court's ruling, a clear transitional mechanism must be regulated to avoid leadership vacancies or a large-scale influx of acting regional official appointments.¹⁵ This condition necessitates a legislative revision that not only adjusts the election schedule, but also regulates a fair and constitutional transition period.

Furthermore, differing perspectives exist regarding the boundaries of the Constitutional Court's authority in conducting judicial review. Some argue that determining the schedule and format of simultaneous elections falls within the realm of open legal policy, which is under the domain of lawmakers rather than the Constitutional Court. In this context, the Court is viewed as only authorized to invalidate norms that manifestly contradict the Constitution, rather than regulating technical policies such as election schedules.¹⁶ On the other hand, there is a view asserting that when the Constitutional Court invalidates an article or paragraph in a law, a new norm is automatically generated—formulated either within the legal reasoning (*ratio decidendi*) or directly in the ruling's verdict (*amar putusan*). This is considered a legitimate part of the checks and balances function, wherein the Constitutional Court, as the guardian of the Constitution, holds the right to interpret and decide upon the constitutionality of a statutory norm.¹⁷

Several previous studies, such as the one conducted by Ahmad Ari Fatullah et al. in their journal article titled "Constitutional and Systemic Implications: An Analysis of Constitutional Court Decision Number 135/PUU-XXII/2024 on the Separation of National Elections and Regional Elections," examined whether the Constitutional Court's action in establishing a new norm regarding a 2 to 2.5-year gap between national and regional elections exceeded its function as a negative legislator, as well as explored its potential conflict with the five-year election periodicity principle mandated under Article 22E of the

¹⁵ Ahmad Ari Fatullah, dkk., "Implikasi Konstitusional dan Sistemik: Analisis Putusan MK Nomor 135/PUU-XXII/2024 tentang Pemisahan Pemilu Nasional dan Pilkada", *Elqonun: Jurnal Hukum Ketatanegaraan*, Vol. 3, No. 1 (Juni 2025), h. 42.

¹⁶ Tempo, "Alasan Mahfud MD Sebut Jadwal Pemilu Seharusnya *Open Legal Policy*", 28 Juli 2025, diakses pada 10 Oktober 2025 pukul 20.15 WIB, <https://www.tempo.co/politik/alasan-mahfud-md-sebut-jadwal-pemilu-seharusnya-open-legal-policy-2051994>

¹⁷ Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, (Jakarta: Sinar Grafika, 2010), h. 165-166.

1945 Constitution.¹⁸ Meanwhile, Widayati's study titled "The Problem of Non-Compliance with Constitutional Court Decisions on Judicial Review" identifies the causes behind the obstacles in implementing Constitutional Court decisions and offers solutions to ensure that judicial review rulings are effectively followed up.¹⁹ Thus, this study offers novelty regarding the executory force of Constitutional Court Decision Number 135/PUU-XXII/2024 from a normative-juridical perspective, by analyzing the executory power of the ruling and identifying the juridical implications that will arise if such follow-up is not executed or delayed by the legislature.

Based on the background described above, the problem formulation centers on the executory force of Constitutional Court decisions regarding non-compliance by the House of Representatives. Therefore, the following research questions have been formulated: How is the executory force of Constitutional Court Decision Number 135/PUU-XXII/2024 within Indonesia's electoral system? What are the juridical implications of the follow-up to Constitutional Court Decision Number 135/PUU-XXII/2024 by the House of Representatives?

B. METHODS

This article employs a qualitative research method with a normative juridical approach to examine the executory force of Constitutional Court decisions regarding legislative follow-up by the House of Representatives (DPR). The research focuses on analyzing written legal materials, including legislation, legal documents, Constitutional Court decisions, and relevant normative literature. Through this juridical approach, the researcher examines the harmony of norms, legal concepts, and constitutional principles without involving field data processing or quantitative statistics. Data collection is conducted through library research, which is subsequently processed using content analysis. This qualitative normative approach enables the researcher to elaborate in depth on legal certainty, the principle of constitutional supremacy, and the juridical implications when final and binding Constitutional Court decisions are not promptly followed up by lawmakers.

¹⁸Ahmad Ari Fatullah, dkk., "Implikasi Konstitusional dan Sistemik: Analisis Putusan MK Nomor 135/PUU-XXII/2024 tentang Pemisahan Pemilu Nasional dan Pilkada", *Elqonun: Jurnal Hukum Ketatanegaraan*, Vol. 3, No. 1 (Juni 2025).

¹⁹Widayati, "Problem Ketidakpatuhan Terhadap Putusan Mahkamah Konstitusi Tentang Pengujian Undang-Undang", *Jurnal Pembaharuan Hukum*, Vol. 4, No. 1 (Januari - April 2017).

C. RESULTS AND DISCUSSION

1. The Substance of Constitutional Court Decision Number 135/PUU-XXII/2024 and the Dynamics of Constitutional Discourse

Constitutional Court Decision Number 135/PUU-XXII/2024 is a ruling on a petition for judicial review of Law Number 7 of 2017 on Elections and Law Number 8 of 2015 on the Amendment to Law Number 1 of 2015 on the Enactment of Government Regulation in Lieu of Law Number 1 of 2014 on the Election of Governors, Regents, and Mayors into Law, against the 1945 Constitution of the Republic of Indonesia, which were deemed contrary to the 1945 Constitution of the Republic of Indonesia. The articles reviewed by the Applicant include Article 1 Paragraph (1), Article 167 Paragraph (3), and Article 347 Paragraph (1) of Law Number 7 of 2017, as well as Article 3 Paragraph (1) of Law Number 8 of 2015, which were considered in conflict with Article 1 Paragraph (2), Article 18 Paragraph (4), Article 22E Paragraphs (1) and (5), Article 27 Paragraph (1), and Article 28D Paragraph (1) of the 1945 Constitution of the Republic of Indonesia. In the main substance of the petition, the Applicant emphasized that the provisions regarding the schedule and format of simultaneous elections (the five-ballot-box election system) gave rise to various serious issues. According to the Applicant, this system weakens the institutionalization of political parties, increases the workload of election administrators, diminishes the quality of popular sovereignty, and deprives voters of an electoral process that is direct, general, free, confidential, honest, and fair.

In addition, the Applicant argued that lawmakers (the House of Representatives and the Government) had disregarded previous Constitutional Court decisions, specifically Constitutional Court Decision Number 55/PUU-XVII/2019, which clearly provided direction on the importance of evaluating the format of simultaneous elections by considering voter ease, administrator effectiveness, and the strengthening of the presidential system. The Court interpreted several options for conducting simultaneous elections, provided that elections to choose the president and vice president, members of the House of Representatives (DPR), and members of the Regional Representative Council (DPD) are held on the same day. However, in reality, the House of Representatives (DPR) failed to conduct a serious evaluation of the 2019 simultaneous elections and instead repeated a similar pattern in the 2024 Elections.

Constitutional Court Decision Number 135/PUU-XXII/2024 was grounded in constitutional considerations regarding the effectiveness of electoral governance and the protection of democratic quality. The Court found that the

practice of conducting simultaneous elections with five ballot boxes imposed an excessive administrative burden, diminished the quality of political participation, and undermined the principles of direct, general, free, confidential, honest, and fair elections as mandated under Article 22E of the 1945 Constitution of the Republic of Indonesia. The Constitutional Court further emphasized that the Constitution does not rigidly regulate the exact form or technical details of simultaneous elections, but rather leaves room for constitutional interpretation to ensure effective and democratic elections. Therefore, separating national and regional elections within a specified time frame is deemed a constitutional solution to uphold the quality of democracy and good governance.²⁰

In its ruling verdict (*amar putusan*), the Court partially granted the petition and declared Article 167 Paragraph (3) of the Election Law unconstitutional and conditionally void of binding legal force, unless interpreted as meaning that "Voting is conducted simultaneously to elect members of the DPR, DPD, and the President/Vice President, and subsequently within a minimum period of two (2) years or a maximum of two (2) years and six (6) months from the inauguration of the DPR and DPD members or the inauguration of the President/Vice President, simultaneous voting is conducted to elect provincial DPRD members, regency/city DPRD members, as well as governors/vice governors, regents/vice regents, and mayors/vice mayors on a holiday or a day designated as a national holiday." The substance of the Court's decision establishes a model of separated elections between the national and regional levels with a time interval of 2 to 2.5 years, wherein national elections will encompass the election of the President/Vice President, DPR, and DPD, while local/regional elections will encompass the election of Governors, Regents/Mayors, and regional legislative councils (DPRD).²¹

Constitutional Court Decision Number 135/PUU-XXII/2024 has elicited various responses from academics, legal practitioners, and political actors. The dynamics of these responses constitute a part of the democratic process in interpreting the implementation of constitutional rulings. The emerging differences in perspectives should not be construed as a form of rejection or non-compliance with the Constitutional Court's decision, but rather as a reflection of an evolving constitutional discourse aimed at enriching the understanding of the ruling's normative and institutional implications.

²⁰ Mahkamah Konstitusi Republik Indonesia, *Putusan Nomor 135/PUU-XXII/2024*, 26 Juni 2025, h. 45–52.

²¹ Mahkamah Konstitusi Republik Indonesia, *Putusan Nomor 135/PUU-XXII/2024*, 26 Juni 2025, h. 45–52.

From a juridical perspective, this ruling is final and binding as well as applicable erga omnes, thereby serving as a constitutional reference in formulating and adjusting legal norms within the electoral field. Nevertheless, because this ruling is non-self-executing, its implementation requires follow-up through legislative amendments by lawmakers.²² Thus, the normative consequences of this ruling do not automatically invalidate the prevailing norm, but rather create a constitutional obligation for lawmakers to make systematic and planned regulatory adjustments.

From the perspective of legal policy, this ruling is understood as part of the process of restructuring the design of Indonesia's electoral system. Several members of the House of Representatives (DPR) expressed concerns regarding the ruling's implications for the principle of election periodicity and the continuity of governance, particularly within the context of regional elections. Critical views were also voiced by the Chairman of Commission II of the DPR, who emphasized the importance of caution in following up on the Constitutional Court's decision to ensure that changes to the electoral system remain aligned with the constitutional framework and the needs of national political stability.²³ Such views should not be construed as a rejection of the Constitutional Court's decision, but rather as an expression of political stance and individual constitutional assessment that constitutes part of the policy considerations within the lawmaking process.

From the technical perspective of electoral administration, some parties have questioned the readiness of election administrators to implement an electoral design that separates national and regional elections. The emerging issues primarily concern the adjustment of election stages, budget allocation, and the readiness of election administrators' human resources. Nevertheless, such views place greater emphasis on the technical challenges of implementation rather than the constitutional substance of the Constitutional Court's decision. Thus, this technical perspective demonstrates that the effectiveness of the executory force of a Constitutional Court decision is determined not only by its

²² Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*, Cet. ke-12, (Jakarta: Raja Grafindo Persada, 2019), h. 322-325.

²³ Hukum Online, "Putusan MK 135/2024 Dinilai Inkonstitusional, Ketua Komisi II DPR: Enggan Tindaklanjuti Revisi UU Pemilu", 10 Juli 2025, diakses pada 15 Oktober 2025 pukul 15.30 WIB, <https://www.hukumonline.com/berita/a/putusan-mk-135-2024-dinilai-inkonstitusional-ketua-komisi-ii-dpr-enggan-tindaklanjuti-revisi-uu-pemilu-lt686f18b5c6153/>

normatively binding nature, but also by institutional and administrative readiness in following up on the ruling.

Based on these various perspectives, it is clear that the dynamic responses to Constitutional Court Decision Number 135/PUU-XXII/2024 constitute part of the deliberative process inherent in a democratic state governed by the rule of law. The emerging differences of opinion cannot be construed as a disregard for the Constitutional Court's ruling, but rather reflect the complexity of its implementation, which carries systemic implications for the design and execution of parliamentary elections in Indonesia. The implementation of Constitutional Court Decision Number 135/PUU-XXII/2024 needs to be carried out cautiously through a democratic and participatory process. Lawmakers, namely the DPR together with the government, are constitutionally obligated to follow up on the Constitutional Court decision as a final and binding ruling. In the context of revising the Election Law, this follow-up process should be accompanied by a comprehensive and inclusive dialogue with various stakeholders to formulate an implementation design capable of addressing critical views and technical concerns, without setting aside the substantive goals intended by the Constitutional Court decision.²⁴

2. The Follow-Up by the House of Representatives to Constitutional Court Decisions as Constitutional Ethics and Checks and Balances

The concept of checks and balances is fundamentally linked to the doctrine of the separation of powers, which forms the foundation of modern constitutional systems. Two great thinkers who developed this idea were John Locke and Montesquieu. John Locke, an English philosopher (1632–1704), through his monumental work *Two Treatises of Government*, elaborated the conception of distributing state power into three main realms. First, legislative power, tasked with formulating and establishing statutory laws as the legal framework for the administration of the state. Second, executive power, which functions to implement and execute the established laws in day-to-day governance. Third, federative power, which governs the state's external relations, including matters of war, peace, and diplomatic relations with other nations (commonly known as "foreign relations").²⁵

²⁴ Agil Almunawar, "Implikasi Hukum Putusan Mahkamah Konstitusi Nomor 135/PUU-XXII/2024 tentang Pemisahan Pemilu Nasional dan Lokal", h. 24.

²⁵ Azhari Sellomitha Fodhi, dkk., "Pentingnya Pemisahan Kekuasaan Dalam Mempertahankan Pemerintahan Yang Seimbang", *Jurnal Hukum, Politik, dan Ilmu Sosial (JHPIS)*, Vol 3 No 3, 2024, h. 27.

John Locke's ideas proved to have a profound influence on the thought of French jurist Montesquieu (1689–1755), who subsequently refined the concept of the separation of powers. Montesquieu's ideas in his book *L'Esprit des Lois* (The Spirit of the Laws) articulated the concept of *trias politica*, which consists of *la puissance législative* (the legislative power), *la puissance exécutive* (the executive power), and *la puissance de juger* (the judicial power).²⁶ Montesquieu argued that these three branches of power must be strictly separated from one another, both in terms of the functions performed and the institutions executing them. The three branches of state power must be distinctly separated and exercised by different bodies without interfering in one another's affairs. Accordingly, legislative power is exercised by the legislative body, executive power is carried out by the executive body, and judicial power is executed by the judiciary.²⁷ Montesquieu specifically emphasized the importance of judicial independence, as it is within this institution that the guarantee and protection of individual liberty and human rights are at stake. In his conception, legislative power constitutes the authority to enact statutory laws, executive power encompasses the execution of laws with an emphasis on foreign policy decisions, while judicial power is the authority to adjudicate violations of the law. Furthermore, Montesquieu also asserted that the liberty of a nation can only be guaranteed if power is not concentrated in a single ruler, but rather divided among three distinct and separately functioning bodies. He argued that if executive and legislative powers are combined in a single person or institution, liberty cannot exist.

These two foundational concepts subsequently underwent development through various theoretical adjustments. First, the distribution of powers, which focuses on the allocation of governmental functions without requiring an absolute separation of organs. Second, checks and balances, which underscores the importance of a mutual oversight mechanism among state bodies. Within the context of Indonesia's constitutional transformation, the realization of checks and balances is reflected in the amendments to the 1945 Constitution of the Republic of Indonesia, which established an institutional system based on cross-oversight. The allocation of power is carried out across the executive (President), legislative (DPR), and judicial (Supreme Court, Constitutional Court, Judicial Commission)

²⁶ Brewer Carias dalam Efik Yusdiansyah, *Implikasi Keberadaan Mahkamah Konstitusi Terhadap Pembentukan Hukum Nasional Dalam Kerangka Negara Hukum*, (Bandung: Lubuk Agung, 2010), h. 25.

²⁷ Badan Pengkajian MPR RI, *Checks and Balances Dalam Sistem Ketatanegaraan Indonesia*, (Jakarta: Sekretariat Jenderal MPR RI, 2017), h. 17.

realms.²⁸ In accordance with the principle of checks and balances between the legislature and the judiciary, the relationship between these two institutions ensures that enacted regulations do not deviate from higher-ranking legal orders. The DPR, as the lawmaker, is responsible for the legislative process, while the Constitutional Court exercises constitutional oversight functions with the authority to review laws against the 1945 Constitution, including declaring void any articles that conflict with the constitution.²⁹

The authority of judicial review held by the Constitutional Court under Article 24C Paragraph (1) of the 1945 Constitution positions this institution as a check on the legislative power of the DPR in the lawmaking process. Thus, a mechanism of balance is established between the institution authorized to enact laws and the institution authorized to review their conformity with the constitution. According to Hans Kelsen, in his theory of judicial review, a constitutional court functions as a "negative legislator"—an institution that does not enact laws, but possesses the authority to invalidate laws that conflict with the constitution. This differs from parliament as a "positive legislator," which plays a role in the enactment of laws, thereby creating a distinct yet complementary division of functions in the process of forming and reviewing legal norms.³⁰

The obligation of the House of Representatives (DPR) to follow up on Constitutional Court decisions has a strong constitutional foundation within the Indonesian system of governance. This obligation is not a policy option, but rather a constitutional imperative binding upon the DPR and the President as lawmakers. From the perspective of constitutionalism, constitutional ethics encompasses a moral dimension that drives every state institution to act not merely on the basis of legal rules, but also by upholding constitutional values and demonstrating respect for other state institutions that serve different functions yet jointly maintain the balance of the constitutional system. DPR-RI Regulation Number 1 of 2011 on the Code of Conduct explicitly affirms that DPR members are not permitted to oppose the existence of norms recognized by

²⁸ Mega Ayu Werdiningsih, "Check and Balances dalam Sistem Peradilan Etik", *Jurnal Konstitusi dan Demokrasi*, Vol. 1, No. 1 (2021), h. 2.

²⁹ Sunarto, "Prinsip Checks and Balances Dalam Sistem Ketatanegaraan Indonesia", *Journal Article*, Vol. 45, No. 2, (April 2016), h. 162.

³⁰ Tenri Wulan Aris, "Desain Eksekutorial Putusan Mahkamah Konstitusi Tentang Pengujian Undang-Undang (Studi Penegasian Putusan Mahkamah Konstitusi Oleh Putusan Mahkamah Agung)", Tesis S-2 Magister Hukum, Universitas Islam Indonesia, (2020), h. 168.

society, must avoid activities deemed an abuse of power, and must refrain from participating in influencing the judicial process.³¹

Bagir Manan emphasizes that constitutional ethics encompasses a moral obligation to respect the rulings of the constitutional judicial body as a form of honor toward the rule of law and the supremacy of the constitution, as any potential rejection or disregard of Constitutional Court decisions constitutes not only a legal violation but also an ethical breach that can erode public trust in the legal and constitutional system and threaten the overall stability of the constitutional system.³²

Dennis F. Thompson, in his study *Political Ethics and Public Office*, translated into Indonesian as *Etika Politik Pejabat Negara*, identifies three approaches to understanding the legislative ethics of council members: First, minimalist ethics emphasizes the importance of prohibiting various actions deemed unethical or unlawful, such as corrupt practices. This approach is realized through the establishment of objective internal rules that bind all members of the council. In practice, the application of minimalist ethics is reflected in the existence of rules of procedure (*tata tertib*), codes of conduct, and ethics bodies tasked with monitoring behavior and safeguarding the integrity of parliamentarians to ensure alignment with institutional norms.³³

Second, functionalist ethics provides a moral foundation oriented toward the functions and roles of legislative members as representatives of the people. Thompson explains that every member of the council must understand the reasons and purposes behind their election and presence within the representative body. In the absence of this awareness, a legislative office will merely be viewed as a job or a source of income rather than a public trust. Consequently, there emerges a tendency to prioritize personal or material interests, such as accepting gratuities or contributions that potentially lead to corruption. Thus, functionalist ethics demands that council members position themselves as public servants rather than workers serving the interests of specific parties capable of providing personal gain.

Third, rationalist ethics is grounded in fundamental political values such as justice, liberty, and the common good (*bonum commune*). This approach asserts that a legislator must act based on universal moral principles, rather than

³¹ Nur Habibi, "Praktik Pengawasan Etika Dewan Perwakilan Rakyat Republik Indonesia", *Jurnal Cita Hukum*, Vol. 1, No. 1 (Juni 2014), h. 42.

³² Bagir Manan, *Lembaga Kepresidenan*, (Yogyakarta: FHUII Press, 2006), h. 122

³³ Dennis Thompson, *Etika Politik Pejabat Negara*, ed: Terjemahan. 142

mere political or factional interests. Consequently, legislative members are strictly prohibited from engaging in acts aimed at unlawfully enriching themselves, whether in the name of an individual, a group, or a political party. Upon assuming a seat in parliament, a representative's loyalty is no longer directed toward a party or party leaders, but rather to the people and constituents who serve as the ultimate source of their power's legitimacy.³⁴

Political ethics cannot be separated from constitutional responsibility; thus, when the House of Representatives follows up on a Constitutional Court decision that invalidates a law resulting from its own work, this demonstrates political maturity and a strong commitment to the principle that constitutional interests and the protection of citizens' constitutional rights supersede immediate political interests or specific group interests that may be represented in the legislative process, making such follow-up a measure of the quality of democracy and constitutionalism within a state governed by the rule of law.

3. The Executory Force of Constitutional Court Decision Number 135/PUU-XXII/2024 in Indonesia's Electoral System

The executory force of Constitutional Court Decision Number 135/PUU-XXII/2024 must be understood within the framework of the final and binding nature inherent in every Constitutional Court decision as stipulated in Article 24C Paragraph (1) of the 1945 Constitution juncto Article 10 Paragraph (1) of the Constitutional Court Law, which states, "The Constitutional Court has the authority to adjudicate at the first and final instance, whose decisions shall be final..."³⁵ Under Article 47 of the Constitutional Court Law juncto Article 39 of Constitutional Court Regulation (PMK) Number 06/PMK/2005, which states that "a Constitutional Court decision acquires permanent legal force upon being pronounced in a plenary session open to the public."³⁶ Every Constitutional Court decision is final and binding once pronounced in a public session. "Final" means that the decision constitutes the final step in the review process and no further legal action is permitted. "Binding" means that the decision is confirmed and all parties are obligated to comply with it without exception.³⁷

³⁴ Nur Rohim Yunus, "Etika dan Moralitas Politik Anggota Dewan (ETHICS AND MORALITY BOARD MEMBER)", *Mizan: Jurnal Ilmu Syariah*, Vol. 2, No. 2 (Desember 2014), h. 258.

³⁵ Undang-Undang Nomor 7 Tahun 2020 tentang Mahkamah Konstitusi.

³⁶ Peraturan Mahkamah Konstitusi (PMK) Nomor 06/PMK/2005.

³⁷ Rizki Wahyudi dkk, "Optimalisasi Pelaksanaan Putusan Mahkamah Konstitusi dalam Hal Pengujian Undang-Undang Terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945", *Mercatoria, Jurnal Magister Hukum UMA*, Vol. 11, No. 2 (Desember, 2018), h. 181.

Regarding the final and binding nature of Constitutional Court decisions, Moh. Mahfud MD acknowledges the potential risk that a ruling may contain errors or legal defects. Nevertheless, the final and binding status of Constitutional Court decisions must strictly be upheld. Mahfud MD advances three fundamental arguments: first, the outcome of a decision depends on the legal perspective and theory adopted by the constitutional justices; second, the principle of *hukmul hakim yarfa'ul khilaf*, which asserts that a judge's ruling functions to resolve and terminate disputes; and third, there exists no more effective alternative mechanism to replace this finality.³⁸ On the basis of these considerations, a decision of the Constitutional Court holds permanent legal force given its position as a court of first and final instance, thereby precluding any further legal remedies, whether through ordinary or extraordinary legal mechanisms.³⁹

The executory force of Constitutional Court decisions can be divided into two categories based on the nature of their implementation: self-executing decisions and non-self-executing decisions. A self-executing decision is one that can be directly implemented without requiring follow-up action from other state institutions, as the decision is declaratory or constitutive in nature—thereby automatically amending or revoking the legal norm declared unconstitutional. In contrast, a non-self-executing decision is one that requires follow-up action from state institutions, particularly the House of Representatives (DPR) and the Government, to amend or enact new legislation in order to fill a legal vacuum or execute the directives contained in the ruling's dispositive section.⁴⁰

However, the results of the analysis indicate that the executory force of Constitutional Court decisions possesses structural limitations. The Constitutional Court lacks an enforcement mechanism.⁴¹ This was also posited by Wahiduddin Adams, a former Constitutional Court Justice, who explained that the debate surrounding the executory force of Constitutional Court decisions arises because the institution lacks dedicated apparatuses, instruments, or enforcement officers capable of ensuring the execution of its rulings.

³⁸ Fajar Laksono Soeroso, "Pembangkangan" Terhadap Putusan Mahkamah Konstitusi", h.236.

³⁹ Moza Dela Fudika dan Ellydar Chaidir, "Implementasi Putusan Mahkamah Konstitusi dalam Perumusan Norma Peraturan Perundangan di Indonesia Oleh Dewan Perwakilan Rakyat", *Jurnal Kodifikasi*, Vol. 1, No. 1 (2019), h. 74.

⁴⁰ Narwoko dkk, "Non-Compliance with the Constitutional Court's Decision from the Perspective of Constitutional Law (Ketidakpatuhan terhadap Putusan Mahkamah Konstitusi dari Perspektif Hukum Tata Negara)", h. 10.

⁴¹ Amien Ru'ati dkk, "Kekuatan Eksekutorial Putusan Mahkamah Konstitusi Yang Bersifat Final Dan Mengikat di Indonesia", h. 28.

Consequently, the effectiveness of Constitutional Court decisions relies entirely on the awareness and compliance of the parties involved to carry them out. This condition contrasts with District Courts, which possess bailiffs to execute judicial rulings.⁴² The potential non-compliance with Constitutional Court decisions is equivalent to delaying justice or serving as a denial of justice. As the legal adage states, *Justitiae non est neganda, non differenda*—justice is not to be denied nor delayed.

Furthermore, there are no explicit provisions regulating a time limit for lawmakers to follow up on Constitutional Court decisions. The absence of regulations regarding the timeframe for such follow-ups creates considerable discretionary room for the legislature in determining the timing and form of response to Constitutional Court rulings. This condition has the potential to give rise to legal uncertainty, particularly when Constitutional Court decisions carry structural implications for the conduct of elections and governance.⁴³ Without adequate legislative follow-up, the constitutional norms established by the Constitutional Court risk not being optimally implemented in constitutional practice.

The issuance of Constitutional Court Decision Number 135/PUU-XXII/2024 reflects a stage in the evolution of democratic reform within the context of Indonesia's electoral system, which was deemed to have lost its effectiveness in responding to contemporary democratic dynamics. The conduct of simultaneous elections under the five-ballot-box model proved to cause technical operational complexities while simultaneously obscuring attention to local issues, which were eroded by the dominance of national political discourse. This condition necessitated a transformation of the electoral design to be more effective in actualizing the principle of popular sovereignty. By separating national elections and local elections with a time gap of 2 years and 6 months, voters are no longer burdened by the complexity of choosing five types of ballots simultaneously, thereby enhancing the quality of rationality in making political choices and making the workload of electoral management bodies more proportionate. In addition, providing a 2-year interval allows local government

⁴² Ferinda K Fachri, Hukum Online, "Wahidduddin Adams: Pelaksanaan Putusan MK Tergantung Kesadaran Organ Negara", 19 Juli 2022, diakses pada 20 November 2025, <https://www.hukumonline.com/berita/a/wahidduddin-adams--pelaksanaan-putusan-mk-tergantung-kesadaran-organ-negara-lt62d5a51b5c6f7/>

⁴³ Ahmad Ari Fatullah, dkk., "Implikasi Konstitusional dan Sistemik: Analisis Putusan MK Nomor 135/PUU-XXII/2024 tentang Pemisahan Pemilu Nasional dan Pilkada", h. 41.

institutions to operate with better focus without being distorted by national political dynamics, which tend to be centralistic in nature.⁴⁴

The problem surrounding the executory force of Constitutional Court Decision Number 135/PUU-XXII/2024 becomes increasingly complex when linked to practical implications at the regional level. The ruling, which separates national and local elections starting in 2029, carries legal consequences in the form of potential vacancies in regional head and regional legislative council (DPRD) positions resulting from the desynchronization between terms of office and the new election schedule. The terms of office for regional heads elected in the 2024 Regional Elections will expire around 2029, as will those of DPRD members elected in the 2024 Elections; however, if the local election schedule is postponed, for instance to 2031, such office vacancies become inevitable.⁴⁵ This vacancy will be filled by an Acting Head (Penjabat) appointed by the central government pursuant to Article 201 Paragraph (9) of Law Number 10 of 2016, which potentially gives rise to issues of legitimacy and conflicts of interest because it does not result from a direct electoral process. Regional heads elected through direct elections hold political legitimacy from the people grounded in the principles of electoral democracy, whereas acting heads possess merely administrative legitimacy.⁴⁶ If widespread vacancies among regional heads and regional legislative councils (DPRD) occur in 2029 as a result of adjustments to the electoral calendar, the practice of appointing acting heads will take place on a massive scale across Indonesia, potentially diminishing the quality of local democracy as regional governance would no longer arise from electoral processes, but rather from appointment mechanisms that open avenues for the politicization of the bureaucracy.⁴⁷

The researcher disagrees with these concerns and instead posits that the problem of regional office vacancies can be resolved through legal mechanisms available within the theoretical framework of the rule of law. This view aligns with the thought of Jimly Asshiddiqie, who contends that the issue of regional vacancies can be addressed through a concrete solution in the form of holding a

⁴⁴ Kadimuddin Baehaki, "Masa Depan Pemilu Indonesia: Refleksi Putusan Mahkamah Konstitusi Nomor 135/PUU-XII/2024", h. 273.

⁴⁵ Ahmad Ari Fatullah dkk, "Implikasi Konstitusional dan Sistemik: Analisis Putusan MK Nomor 135/PUU-XXII/2024 tentang Pemisahan Pemilu Nasional dan Pilkada", h. 42.

⁴⁶ Agil Almunawar, "Implikasi Hukum Putusan Mahkamah Konstitusi Nomor 135/PUU-XXII/2024 tentang Pemisahan Pemilu Nasional dan Lokal", h. 22.

⁴⁷ Saiful Muhjab, Indekstat, "Putusan MK No. 135/PUU-XXII/2024: Koreksi Sistemik Terhadap Beban Demokrasi", <https://indekstat.com/putusan-mk-no-135-puu-xxii-2024-koreksi-sistemik-terhadap-beban-demokrasi-2/>

transitional election strictly conducted to fill positions for a two-year period (transitional regional elections) until the new local election schedule can be executed. The guiding principle during this transition period is that no party should suffer prejudice, and the legal solution lies in drafting a transitional mechanism codified in statutory regulations governing transitional elections or the adjustment of terms of office.⁴⁸

From the perspective of the theory of the rule of law proposed by A.V. Dicey, the fundamental principle dictates that the law must reign supreme above all powers, and every state action must be grounded in applicable law.⁴⁹ When the Constitutional Court has ruled that the separation of national and local elections is constitutional through Decision Number 135/PUU-XXII/2024, that decision holds binding legal force that must be observed by all state institutions and citizens pursuant to Article 10 Paragraph (1) of Law No. 24 of 2003 juncto Law No. 7 of 2020 on the Constitutional Court, which stipulates that decisions of the Constitutional Court are final and binding.⁵⁰ The rule of law demands that every issue arising from the decision must be resolved through available legal instruments, namely by enacting new statutory regulations or amending existing legislation to govern the transition period.⁵¹ Thus, the cooperative stance of the House of Representatives (DPR) in implementing the Constitutional Court's decision demonstrates a commitment to the rule of law and reinforces Indonesia's system of constitutional democracy.

Based on the dispositive section (*amar putusan*) contained in Constitutional Court Decision Number 135/PUU-XXII/2024, the researcher classifies this ruling as a non-self-executing decision based on several legal arguments as follows. First, this ruling requires significant technical amendments to Law Number 7 of 2017 on General Elections, particularly concerning Article 167 Paragraph (3) on voting schedules, which states, "Voting shall be conducted simultaneously to elect members of the DPR, DPD, President/Vice President, and subsequently, within a minimum of two (2) years or a maximum of two years and six (6) months from the inauguration of the members of the DPR and DPD or the inauguration of the President/Vice President, simultaneous voting shall be held to elect members of provincial DPRD, members of regency/city DPRD, as

⁴⁸ Ady Thea, Hukum Online, <https://www.hukumonline.com/berita/a/begini-pendapat-prof-jimly-soal-putusan-mk-pemisahan-pemilu-nasional-dan-daerah-lt686b88a34aae6/?page=2>

⁴⁹ A.V. Dicey, *Introduction to the Study of the Law of the Constitution*, Edisi Kesepuluh, (London: Macmillan, 1959), h. 39-40.

⁵⁰ Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*, h. 298.

⁵¹ A.V. Dicey, *Introduction to the Study of the Law of the Constitution*, Edisi Kesepuluh, (London: Macmillan, 1959), h. 39-40.

well as governors/vice governors, regents/vice regents, and mayors/vice mayors on a holiday or a day designated as a national holiday."

Second, this ruling requires comprehensive arrangements for a transition period to avoid vacancies in the positions of regional heads and members of regional legislative councils (DPRD) for the 2024–2029 term. The Constitutional Court stated in its considerations that regarding the arrangements for the transition/transitional period for the terms of office of regional heads/deputy regional heads elected on November 27, 2024, as well as the terms of office of members of provincial/regency/city DPRDs elected on February 14, 2024, because this transition/transitional period carries various impacts or implications, the determination and formulation of this transition period fall within the authority of the lawmakers to regulate by conducting constitutional engineering concerning the terms of office of provincial/regency/city DPRD members, including the terms of office of governors/vice governors, regents/vice regents, and mayors/vice mayors, in accordance with the principles of formulating transitional norms.⁵² In this regard, the Court did not provide detailed provisions concerning the transition mechanism; thus, further regulation by the lawmakers is required.

Third, the implementation of this decision requires the harmonization of at least three laws, namely: (a) Law Number 7 of 2017 on General Elections; (b) Law Number 8 of 2015 on the Amendment to Law Number 1 of 2015 on the Election of Governors, Regents, and Mayors; and (c) Law Number 10 of 2016 on the Second Amendment to Law Number 1 of 2015 on the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 on the Election of Governors, Regents, and Mayors into Law. This harmonization cannot occur automatically; rather, it demands a legislative process involving the House of Representatives (DPR) and the President as lawmakers. Consequently, the role of the House of Representatives serves as a *conditio sine qua non* (an absolute prerequisite) for the implementation of this ruling. Without legislative follow-up in the form of statutory revisions, this decision cannot be implemented effectively in the conduct of the 2029 Elections.

Based on best practices in following up on Constitutional Court decisions in previous judicial review cases, as well as referencing the provisions of Article 10 Paragraph (1) Point d and Article 23 Paragraph (1) Point b of Law Number 12 of 2011 as amended by Law Number 13 of 2022 on the Establishment of Laws and

⁵² Putusan Mahkamah Konstitusi Nomor 135/PUU-XXII/2024, h. 143.

Regulations, the researcher formulates the ideal follow-up mechanism as follows.

1. The House of Representatives (DPR) should establish a dedicated Special Committee (Panitia Khusus or Pansus) or Working Committee (Panitia Kerja or Panja) within a maximum period of 6 (six) months following the pronouncement of the decision. The reference to this time limit is based on prior practice in deliberating bills (RUU) following earlier Constitutional Court decisions, such as the follow-up to Constitutional Court Decision Number 14/PUU-XI/2013, which was pursued through the formation of a Special Committee on the Election Bill.⁵³
2. The statutory revision must establish clear transitional clauses for the 2029 Elections, including regulating mechanisms to fill regional office vacancies for regional heads and members of regional legislative councils (DPRD) for the 2024–2029 term, whether through the extension of terms of office by law, by-elections, or the appointment of acting heads with explicit and limited tenures.⁵⁴
3. The completion of the statutory revision must be carried out no later than 1 (one) year before the commencement of the 2029 Election stages, or by the end of 2027 at the latest. This deadline is necessary to provide legal certainty for electoral management bodies in drafting technical regulations and executing preparatory election stages, as well as to afford political parties and prospective election participants sufficient time to conduct internal consolidation.

This ideal mechanism is grounded not only in technical-legal considerations, but also takes into account the principles of legal certainty, the effectiveness of electoral administration, and the protection of citizens' constitutional rights to vote and be elected in democratic general elections. This ruling requires legislative follow-up from the House of Representatives (DPR) and the Government to adapt the norms in Law Number 7 of 2017 on General Elections, particularly regarding the schedule and design of electoral simultaneity. While the Constitutional Court did provide a new constitutional interpretation of the meaning of "electoral simultaneity," the concrete application of that dispositive ruling cannot be directly executed without regulatory amendments. The executory force of Constitutional Court Decision Number

⁵³ Putusan Mahkamah Konstitusi Nomor 14/PUU-XI/2013

⁵⁴ Ahmad Ari Fatullah, dkk., "Implikasi Konstitusional dan Sistemik: Analisis Putusan MK Nomor 135/PUU-XXII/2024 tentang Pemisahan Pemilu Nasional dan Pilkada", h.40.

135/PUU-XXII/2024 depends on the good faith and compliance of the lawmakers, thereby placing it within the category of non-self-executing decisions that necessitate further action to be implemented effectively.⁵⁵

Therefore, the legal consequences of this decision demand concrete follow-up actions from the legislative and executive branches to adjust electoral laws so that they align with the Constitutional Court's ruling. This adjustment is crucial to ensure that all applicable legal provisions remain within constitutional bounds, thereby enabling the principles of law enforcement and constitutional supremacy to be implemented consistently within Indonesia's system of governance. However, even though decisions of the Constitutional Court are legally final and binding, the effectiveness of their execution remains dependent on the political will and responsiveness of the legislative and executive branches, which possess the formal authority to amend the legislation affected by the ruling.⁵⁶

Jimly Asshiddiqie views the Constitutional Court's decision as part of a legitimate function of checks and balances, wherein the Constitutional Court, as the guardian of the constitution, has the authority to interpret and decide upon the constitutionality of a statutory norm.⁵⁷ Jimly argues that when the Constitutional Court invalidates an article or paragraph within a law, a new norm is automatically generated, formulated either in the legal considerations (*ratio decidendi*) or directly in the dispositive section of the ruling (*amar putusan*). From this perspective, the Court does not exceed its authority, but rather exercises its judicial review function as a control mechanism over legislative products that potentially violate the constitution. The concept of checks and balances in a modern constitutional system necessitates mutual control mechanisms among branches of power, including judicial authority to review legislative output.⁵⁸

Furthermore, according to Lon L. Fuller in his work *The Morality of Law*, an essential principle of the rule of law is that law must be capable of being obeyed, which implies that when a new ruling or regulation emerges, the legal

⁵⁵ Ahmad Ari Fatullah, dkk., "Implikasi Konstitusional dan Sistemik: Analisis Putusan MK Nomor 135/PUU-XXII/2024 tentang Pemisahan Pemilu Nasional dan Pilkada", h.40.

⁵⁶ Kadimuddin Baehaki, "Masa Depan Pemilu Indonesia: Refleksi Putusan Mahkamah Konstitusi Nomor 135/PUU-XII/2024", h. 270.

⁵⁷ Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*, (Jakarta: Rajawali Pers, 2009), h. 295-300.

⁵⁸ Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, (Jakarta: Sinar Grafika, 2010), h. 165-168.

system must provide mechanisms for its implementation.⁵⁹ Thus, concerns regarding office vacancies or the decline in the quality of local democracy can actually be overcome if lawmakers promptly fulfill their obligation to draft comprehensive transitional regulations, as mandated by the principle of the rule of law that every valid ruling must be followed by clear and measurable implementation mechanisms.⁶⁰ The optimal solution is to enact legislation governing transitional elections or the adjustment of terms of office, thereby allowing the Constitutional Court's decision to be implemented without compromising the principles of local democracy and without violating the rule of law, which requires compliance with the decisions of competent authorities.

4. Legal Implications of the Follow-Up to Constitutional Court Decision Number 135/PUU-XXII/2024

Constitutional Court Decision Number 135/PUU-XXII/2024, which is legally final and binding, should serve as the definitive conclusion to the constitutional debate and as a mandatory reference for all state institutions in carrying out their constitutional functions.⁶¹ Article 10 Paragraph (1) of Law Number 24 of 2003, as amended by Law Number 7 of 2020 on the Constitutional Court, explicitly states that "The Constitutional Court has the authority to hear cases at the first and final instance whose decision is final," meaning that a decision of the Constitutional Court acquires permanent legal force immediately upon its pronouncement, and no further legal remedies may be sought. Furthermore, Article 47 reinforces this finality by stating that "Decisions of the Constitutional Court acquire permanent legal force upon being pronounced in an open plenary session."⁶²

The authority of the House of Representatives to follow up on the decision of the Court is stipulated in the provisions of Article 10 Paragraph (1) and Paragraph (2) of Law Number 12 of 2011, as amended by Law Number 13 of 2022 on the Establishment of Laws and Regulations.⁶³ Article 10 Paragraph (1)

⁵⁹ Lon L. Fuller, *The Morality of Law*, Edisi Revisi, (New Haven: Yale University Press, 1969), h. 70-79.

⁶⁰ Yusril Ihza Mahendra, *Mewujudkan Supremasi Hukum...*, h. 6.

⁶¹ Maruarar Siahaan, "Peranan Mahkamah Konstitusi dalam Penegakan Hukum Konstitusi". *Jurnal Hukum*, Vol. 16, No. 3, (Juli 2009).

⁶² Undang-Undang Nomor 24 Tahun 2003 sebagaimana telah diubah dengan Undang-Undang Nomor 7 Tahun 2020 tentang Mahkamah Konstitusi

⁶³ Moza Dela Fudika dan Ellydar Chaidir, "Implementasi Putusan Mahkamah Konstitusi dalam Perumusan Norma Peraturan Perundangan di Indonesia Oleh Dewan Perwakilan Rakyat", h. 71.

states that "The subject matter that must be regulated by Law comprises: a. further provisions regarding the stipulations of the 1945 Constitution of the Republic of Indonesia; b. mandates of a Law to be regulated by Law; c. ratification of certain international treaties; d. follow-ups to decisions of the Constitutional Court; e. fulfillment of legal needs in society." Furthermore, Article 10 Paragraph (2) states that "The follow-up to decisions of the Constitutional Court as referred to in paragraph (1) point d shall be carried out by the DPR or the President."⁶⁴

Although normative provisions regarding the final nature of Constitutional Court decisions entail various problematics, this principle of finality must nonetheless be maintained. When the parties involved perceive injustice in a Constitutional Court ruling, while no supplementary legal remedies are available, there is no other option but to accept and implement the said ruling. In other words, even if a party's sense of justice is disregarded by a Constitutional Court decision, there is no alternative to executing the ruling.⁶⁵ However, the issue shifts when it is a state institution such as the House of Representatives (DPR)—which ought to stand at the forefront of upholding the constitution—that potentially fails to fulfill its obligation to follow up on Constitutional Court Decision Number 135/PUU-XXII/2024.⁶⁶

As a fundamental covenant among all citizens, there is no space for anyone to evade the obligation to obey and uphold the constitution, regardless of assessments or differing views concerning the merits, shortcomings, agreement, or disagreement with its content. The constitution must function as the supreme law serving as the reference point for all legislation and governmental actions. Therefore, the constitution must not be treated merely as a ceremonial document or a normative ideal.⁶⁷ In this context, fostering loyalty to the constitution also encompasses obedience to the rulings of the Constitutional Court. A Constitutional Court decision represents the actualization of the

⁶⁴ Undang-Undang No. 12 Tahun 2011 jo. Undang-Undang No. 13 Tahun 2022 tentang Pembentukan Peraturan Perundang-Undangan.

⁶⁵ Fajar Laksono Soeroso, "Pembangangan" Terhadap Putusan Mahkamah Konstitusi", h.236.

⁶⁶ Ernawati Huroiroh, dkk, "Implications of Constitutional Court Decision Number 135/PUU-XXII/2024 on the Separation of DPR and DPRD Elections on the Electoral System in Indonesia", *Justitia Jurnal Hukum*, Vol. 9, No. 2 (2025), h. 147.

⁶⁷ Bachtiar, *Problematika Implementasi Putusan Mahkamah Konstitusi Pada Pengujian Undang-Undang Terhadap Undang-Undang Dasar*, (Jakarta: Raih Asa Sukses, 2015), h.19.

prevailing constitution as well as the official interpretation rendered by the Court on the examined case.⁶⁸

The implementation of Constitutional Court decisions constitutes a crucial phase in ensuring the protection and concretization of constitutional norms within society. Every decision of the Constitutional Court requires a "safeguard" mechanism capable of ensuring that state institutions genuinely execute it as intended. This safeguard is necessary to prevent the implementation of rulings from being disrupted by interventions from other branches of power disguised under seemingly constitutional pretexts.⁶⁹ Under current legal system conditions, achieving truly operational rulings is exceedingly difficult if reliance is placed solely on normative arguments within prevailing provisions—particularly regarding Constitutional Court decisions that are non-self-executing and necessitate follow-up actions from the Government, the House of Representatives (DPR), and other relevant institutions.⁷⁰

The absence of legislative follow-up to amend the Election Law following Constitutional Court Decision Number 135/PUU-XXII/2024, coupled with the lack of a binding deadline for lawmakers to execute Constitutional Court rulings and compounding political divergence within the House of Representatives (DPR), creates opportunities for delay that can undermine the normative effectiveness of the decision. This condition potentially engenders legal uncertainty, particularly in the planning and execution of the 2029 General Elections. The disharmony between the constitutional norms established by the Constitutional Court's decision and the existing statutory provisions still in force may give rise to regulatory dualism, especially concerning the tenure of public officials and the design of electoral simultaneity.⁷¹

⁶⁸ Fajar Laksono Soeroso, "Pembangkangan" Terhadap Putusan Mahkamah Konstitusi", h.239.

⁶⁹ Rizki Wahyudi, dkk, "Optimalisasi Pelaksanaan Putusan Mahkamah Konstitusi dalam Hal Pengujian Undang-Undang Terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945", *Mercatoria, Jurnal Magister Hukum UMA*, Vol. 11, No. 2 (Desember, 2018), h. 193.

⁷⁰ Tenri Wulan Aris, "Desain Eksekutorial Putusan Mahkamah Konstitusi tentang Pengujian Undang-Undang (Studi Penegasian Putusan Mahkamah Konstitusi oleh Putusan Mahkamah Agung)", (Tesis S-2 Magister Hukum, Universitas Islam Indonesia, 2020), h. 154.

⁷¹ Ernawati Huroiroh, dkk, "Implications of Constitutional Court Decision Number 135/PUU-XXII/2024 on the Separation of DPR and DPRD Elections on the Electoral System in Indonesia", h. 150-151.

D. CONCLUSION

The executory force of Constitutional Court decisions is derived from their final and binding (*erga omnes*) nature, as stipulated in Article 24C Paragraph (1) of the 1945 Constitution juncto Article 10 Paragraph (1) of the Constitutional Court Law and Article 47 of the Constitutional Court Law juncto Article 39 of Constitutional Court Regulation Number 06/PMK/2005. Constitutional Court Decision Number 135/PUU-XXII/2024 is non-self-executing, meaning it requires follow-up actions from other state institutions, namely the House of Representatives (DPR) and relevant parties. The absence of an enforcement mechanism and a dedicated executive body for Constitutional Court rulings causes the executory force of such decisions to rely heavily on the legal awareness and political will of the lawmakers. This condition demonstrates that although the Constitutional Court serves as the guardian of constitutional supremacy, the effectiveness of its rulings still faces structural hurdles in Indonesian constitutional practice, thereby placing a constitutional obligation on the House of Representatives to follow up on the Constitutional Court's decision by drafting equitable transitional regulations.

Legislative follow-up by the House of Representatives (DPR) regarding Constitutional Court Decision Number 135/PUU-XXII/2024 entails legal implications for the constitutional system and the administration of general elections in Indonesia. The absence of legislative amendments or new statutory enactments in response to the ruling results in legal uncertainty, as the legal norms established by the Constitutional Court decision have not yet been integrated into the prevailing legislative framework. This condition also undermines the effectiveness of the principle of constitutional supremacy and the mechanism of checks and balances, as the decisions of the Constitutional Court — acting as the ultimate interpreter of the constitution — have not secured implementative support through legislation. Furthermore, divergent constitutional perspectives between the Constitutional Court and the DPR potentially give rise to constitutional issues in future general and local elections, thereby underscoring the imperative role of legislators in providing a transitional legal framework that guarantees legal certainty and the continuity of governance.

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