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Separation of National and Regional Elections after Constitutional Court Decision Number 135/PUU-XXII/2024
Implications for the Term of Regional Legislatures and the Design of Electoral Simultaneity

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Abstract

Constitutional Court Decision Number 135/PUU-XXII/2024, delivered on 26 June 2025, separates the simultaneous national elections for members of the House of Representatives, the Regional Representative Council, and the President and Vice President from the simultaneous regional elections for members of regional legislatures and regional heads, with an interval of at least two years and at most two years and six months. The decision alters the design of electoral simultaneity that had previously been left to the legislature and raises transitional problems, particularly regarding the term of regional legislators elected in 2024, which ends in 2029, and of regional heads elected in 2024, which ends in 2030. This study analyzes the paradigm shift in electoral simultaneity in Constitutional Court decisions, the implications of the decision for the terms of regional legislators and regional heads, and a constitutional transitional design. It employs a normative juridical method with statutory, case, and conceptual approaches. The findings show that Decision 135/PUU-XXII/2024 positions the Court as the designer of the simultaneity model, intensifying the debate on the limits of the Court's role as a negative legislator. The absence of transitional rules creates a dilemma between extending regional legislators' terms and appointing acting officials, both of which confront the principle of electoral periodicity in Article 22E paragraph (1) of the 1945 Constitution. This study recommends an electoral law that regulates the transition explicitly, narrowly, and on a one-time basis while safeguarding the democratic legitimacy of regional representative bodies.

Keywords: *election separation, Constitutional Court decision, regional legislators' term, electoral simultaneity, constitutional law*

INTRODUCTION

General elections are the constitutional mechanism for realizing popular sovereignty, as affirmed in Article 1 paragraph (2) and Article 22E of the 1945 Constitution. Electoral design not only determines how the people choose their representatives but also affects the quality of representation, the burden on election organizers, and government stability. Since 2019, Indonesia has applied a five-ballot simultaneous election that combines the election of members of the House of Representatives (DPR), the Regional Representative Council (DPD), provincial and district/city regional legislatures (DPRD), and the President and Vice President on the same day. This model drew criticism because of the extremely heavy workload on

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election organizers and the marginalization of regional issues amid the dominance of the presidential race.

On 26 June 2025, the Constitutional Court delivered Decision Number 135/PUU-XXII/2024 on a petition filed by the Association for Elections and Democracy (Perludem) (MKRI, 2025). The Court held that simultaneous elections must be interpreted as simultaneous national elections to elect members of the DPR, the DPD, and the President and Vice President, followed, after an interval of at least two years and at most two years and six months, by simultaneous regional elections to elect members of provincial and district/city DPRD as well as governors, regents, and mayors. The decision marks a new chapter in Indonesia's electoral design (Hukumonline, 2025a).

The decision raises serious transitional problems. The term of DPRD members elected in 2024 ends in 2029, whereas regional elections under the decision can only be held around 2031. The term of regional heads elected in 2024 ends in 2030, also before the regional elections take place (Hukumonline, 2025b). As a result, there is a gap of about two to two and a half years that has not yet been regulated. Meanwhile, several DPR leaders expressed reluctance to follow up the decision by revising the Election Law, creating a risk of a legal vacuum ahead of the 2029 electoral stages.

The debate on this decision concerns not only the electoral schedule but also the position of the Constitutional Court in the constitutional system. In Decision Number 55/PUU-XVII/2019, the Court left the choice of simultaneity model to the legislature. In Decision 135/PUU-XXII/2024, the Court itself chose one of those models. Tanjung (2026) warns that conditional decisions of the Constitutional Court risk creating new norms that should fall within the authority of the legislature. Fathorrahman et al. (2024) likewise emphasize that the legitimacy of the Court's decisions rests not only on formal procedure but also on ethical dimensions and public acceptance.

Previous studies have discussed the implications of this decision for the term of DPRD members (Silva et al., 2026) and the legal certainty of electoral design. This study complements them by linking the transitional problem with the theory of the limits of constitutional adjudication and the principle of electoral periodicity, and by offering a concrete design for transitional arrangements. Accordingly, this study formulates three research questions:

1. How has the paradigm of electoral simultaneity shifted in Constitutional Court decisions up to Decision Number 135/PUU-XXII/2024?
2. What are the implications of the decision for the terms of DPRD members and regional heads elected in 2024?
3. What constitutional transitional design is needed to implement the decision?

This study aims to analyze the development of the doctrine of electoral simultaneity in Constitutional Court jurisprudence, identify the constitutional implications for the terms of regional officials, and formulate a transitional model that can be used by the legislature.

METHOD

This study is normative legal research using statutory, case, and conceptual approaches (Tanjung, 2024). The statutory approach is used to examine the 1945 Constitution, Law Number 7 of 2017 on General Elections, and Law Number 10 of 2016 on the Election of Governors, Regents, and Mayors. The case approach is used to analyze Constitutional Court Decisions Number 14/PUU-XI/2013, Number 55/PUU-XVII/2019, and Number 135/PUU-XXII/2024. The conceptual approach is used to examine the concepts of the negative legislator, conditional decisions, and the principle of electoral periodicity.

Primary legal materials consist of legislation and court decisions, while secondary legal materials consist of books, journal articles, and expert opinions. The materials were analyzed qualitatively using deductive reasoning and systematic interpretation, that is, by placing the

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decision within the overall system of constitutional norms, including the division of power between the Constitutional Court and the legislature.

RESULTS AND DISCUSSION

1. The Paradigm Shift of Electoral Simultaneity in Constitutional Court Decisions

The doctrine of electoral simultaneity in Constitutional Court jurisprudence has developed in three stages. In the first stage, Decision Number 14/PUU-XI/2013 held that the presidential election must be held simultaneously with the legislative elections, which was then applied from the 2019 elections. In the second stage, Decision Number 55/PUU-XVII/2019 offered six alternative simultaneity models and left the choice to the legislature, provided that the elections of the DPR, the DPD, and the President and Vice President remain simultaneous. In the third stage, Decision Number 135/PUU-XXII/2024 itself chose the model separating national and regional elections, together with the range of the interval. This development is summarized in Table 1.

Table 1. Development of the Doctrine of Electoral Simultaneity in Constitutional Court Decisions

Decision	Main Position of the Court	Position of the Legislature
14/PUU-XI/2013	The presidential election is held simultaneously with the legislative elections	Implements simultaneity from the 2019 elections
55/PUU-XVII/2019	Six constitutional alternative models of simultaneity, with the core being the simultaneity of the DPR, the DPD, and the President and Vice President	Given discretion to choose the model
135/PUU-XXII/2024	National elections are separated from regional elections with an interval of at least two years and at most two years and six months	Implements the model chosen by the Court and regulates the transition

Source: Compiled from Constitutional Court decisions.

The shift from the second to the third stage shows a change in the Court's stance from setting constitutional guardrails to designing policy. In classical theory, Kelsen (1945) positions constitutional courts as negative legislators, namely institutions that annul norms contrary to the constitution rather than create new norms. However, the development of constitutional adjudication in various countries shows a tendency of constitutional judges to take part in shaping policy through conditional decisions and interpretive guidelines (Stone Sweet, 2000). Asshiddiqie (2006) explains that in Indonesia, conditionally constitutional decisions emerged as the Court's way of avoiding legal vacuums without annulling norms entirely.

The problem is that the more detailed the norms formulated by the Court, the greater the risk that the Court takes over political choices that should be decided by representative institutions. Tanjung (2026) refers to this phenomenon as the risk of creating new norms through conditional decisions, which can disturb the balance between judicial and legislative power. In Decision 135/PUU-XXII/2024, the Court not only declared the five-ballot model no longer constitutional but also determined the arrangement of elections and the range of the interval. As a result, the remaining space for the legislature lies mainly in technical and transitional arrangements.

Nevertheless, the decision has a strong argumentative basis. The Court considered that the five-ballot election had lowered the quality of popular sovereignty because voters found it difficult to assess candidates rationally, regional issues were sidelined, and organizers bore a burden that endangered the safety of election workers. This argument positions the decision as an effort to restore the substantive meaning of popular sovereignty. Thus, the more productive debate is no longer whether the decision must be followed, but how the legislature can implement it without causing new constitutional violations.

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From the perspective of legitimacy, Fathorrahman et al. (2024) emphasize that the Court's decisions derive their force not only from being final and binding but also from the integrity of the process and acceptance by other state institutions. Therefore, the reluctance of some political elites to follow up the decision poses a serious challenge to the rule of law. A decision that is legally final may lose its effectiveness if the legislature does not follow it up, resulting in legal uncertainty instead.

The next question is what happens if the legislature does not follow up the decision. Article 24C paragraph (1) of the 1945 Constitution affirms that Constitutional Court decisions are final. Some experts argue that, at the level of basic norms, the decision can directly serve as guidance for election organizers, so that the General Elections Commission can no longer hold a five-ballot election in 2029 for any reason (Hukumonline, 2026). However, the decision cannot replace technical regulation of the transitional period, so the absence of a law will still create a legal vacuum in aspects not covered by the operative part of the decision.

2. Implications for the Terms of DPRD Members and Regional Heads

The most visible implication of Decision 135/PUU-XXII/2024 is the emergence of a gap between the end of regional officials' terms and the holding of regional elections. If national elections are held in 2029 and regional elections around 2031, then DPRD members elected in 2024, whose term ends in 2029, and regional heads elected in 2024, whose term ends in 2030, will leave a vacancy of about one to two and a half years (Hukumonline, 2025b; Silva et al., 2026).

There are two main options for filling this gap. The first option is to extend the terms of DPRD members and regional heads until the officials elected in the regional elections are inaugurated. The second option is to fill regional head positions with acting officials and to extend or fill DPRD membership through another mechanism. The two options have different constitutional consequences, as summarized in Table 2.

Table 2. Comparison of Options for Filling Positions during the Transition

Option	Advantages	Constitutional Problems
Extension of the terms of DPRD members and regional heads	Maintains continuity of regional government by officials who were once elected by the people	Conflicts with the principle of elections every five years in Article 22E paragraph (1) of the 1945 Constitution; legitimacy during the extension does not derive from elections
Acting regional heads, DPRD extended	Regional executive positions remain filled without extending the mandate of regional heads	Acting officials are not elected by the people, are potentially biased towards central interests, and have limited authority
DPRD vacancy without regulation	None	Regional legislative, budgetary, and oversight functions cease; contrary to Article 18 paragraph (3) of the 1945 Constitution

Source: Author's formulation based on analysis of the 1945 Constitution and Decision 135/PUU-XXII/2024.

The option of extending the term of DPRD members is the most discussed because the DPRD is an element of regional government that cannot be replaced by acting officials. Article 18 paragraph (3) of the 1945 Constitution affirms that regional governments have a DPRD whose members are elected through elections. If the DPRD is vacant, the deliberation of regional budgets and regional regulations cannot take place. However, extending the term also confronts Article 22E paragraph (1), which provides that elections are held once every five years. To reconcile the two, an extension can only be justified if it is regulated by law, applies only once, is limited in time, and serves solely to implement the Court's decision.

For regional heads, the experience of appointing acting officials ahead of the 2024 simultaneous regional elections shows that acting officials have limited legitimacy and authority. Rambe's (2021) study on the authority of acting village heads shows that temporary officials tend to work with limited

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room for manoeuvre, so strategic decision-making is delayed. At the provincial and district/city levels, such limitations may have a wider impact on public services and development programs.

The experience leading up to the 2024 simultaneous regional elections also shows that the legislature has previously rearranged the terms of regional heads for the sake of simultaneity. Through Law Number 10 of 2016, some regional heads served less than five years, and vacancies were filled by acting officials for more than a year in many regions. This practice shows that rearranging terms of office for simultaneity is not new, but it always provokes debate on the legitimacy and accountability of officials not elected by the people. The lesson is the need for clear rules on the criteria, authority, and supervision of acting officials if this option is used again.

Another risk arises if the legislature keeps postponing the revision of the Election Law until close to the 2029 electoral stages. In such a situation, the government may be tempted to issue a government regulation in lieu of law (Perppu) on grounds of compelling urgency. Tanjung, Syahnan, and Syahputra (2024) and Tanjung and Arminsyah (2026) warn that the use of a Perppu must be based on an objectively compelling urgency and must not become a shortcut resulting from legislative negligence, as this weakens mutual oversight between the executive and the legislature. An urgency born of deliberate delay cannot be regarded as a legitimate urgency.

3. A Constitutional Design for the Transition and Simultaneity

Based on the above analysis, a constitutional transitional design must meet four principles. The first is legality: transitional arrangements must be set out in a law enacted through a participatory legislative process, not through subordinate regulations or a Perppu. The second is limitation: any extension of terms applies only once, with a precisely determined duration not exceeding the interval set by the Court. The third is accountability: officials whose terms are extended remain subject to the usual oversight and dismissal mechanisms. The fourth is schedule certainty: the voting dates of national and regional elections are fixed in the law to avoid new interpretations.

This design should be set out through a codified election law that unifies the regulation of national and regional elections. However, codification must not be carried out hastily in a way that disregards public participation. The critique by Tanjung and Arminsyah (2024) of omnibus law practice is relevant here: rapidly consolidating many subjects into one law risks lowering the quality of deliberation and triggering further review before the Constitutional Court. Therefore, deliberation on the election law should begin well before the 2029 electoral stages and involve election organizers, regional governments, political parties, academics, and civil society.

A separated electoral design must also take into account the voting rights of vulnerable groups. Separating elections means that voters will go to the polling station twice in each five-year cycle. This can improve the quality of choices because ballots become simpler, but it also requires organizers to ensure equal accessibility. Ningsih et al. (2024) show that digital innovation can help fulfil the voting rights of persons with mental disabilities, so the new regional election design should use this momentum to improve services for vulnerable voters.

Separating elections also has implications for the institutions and budgets of election organizers. The General Elections Commission and the Election Supervisory Agency will hold two major elections in each five-year cycle, so the workload will no longer pile up on a single voting day but be spread across two periods. This can improve the quality of election administration and the safety of workers, but it requires sustainable budget and human resource planning. The new election law needs to regulate the work cycle of organizers clearly, including the terms of regional organizers, to prevent overlapping stages between national and regional elections.

Ultimately, Decision 135/PUU-XXII/2024 requires constitutional cooperation between the Constitutional Court and the legislature. The Court has set the direction, while the legislature bears the responsibility for charting the transition. This mutual respect between institutions is the essence of the

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principle of checks and balances that animated the amendments to the 1945 Constitution (Mahfud MD, 2009). Failure to follow up the decision not only creates a legal vacuum but also erodes public trust in democratic institutions.

CONCLUSION

Constitutional Court Decision Number 135/PUU-XXII/2024 marks a shift in the doctrine of electoral simultaneity from leaving the choice of model to the legislature towards the Court setting the model itself. This shift has a strong argumentative basis for restoring the quality of popular sovereignty, but it also intensifies the debate on the limits of the Court's role as a negative legislator. Its main implication is a gap between the end of the terms of DPRD members and regional heads elected in 2024 and the holding of regional elections around 2031, which creates a dilemma between extending terms of office and appointing acting officials.

This study recommends that the legislature promptly enact an election law that regulates the transition explicitly, narrowly, and on a one-time basis, guided by the principles of legality, limitation, accountability, and schedule certainty. The use of a Perppu because of legislative delay must be avoided. Deliberation should be participatory and begin well before the 2029 electoral stages, so that the Court's decision can be implemented without causing new constitutional violations.

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