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A CRITICAL REVIEW OF CONSTITUTIONAL COURT DECISION NUMBER 135/PUU-XXII/2024 ON THE REDESIGN OF ELECTION SCHEDULING: A NORMATIVE APPROACH

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Abstract

Five-ballot simultaneous elections imposed disproportionate administrative complexity and operational burden on electoral administrators, precipitating Constitutional Court Decision 135/PUU-XXII/2024. This study (1) examines whether the Decision's ratio decidendi reflects judicial overreach or legitimate judicial activism, compared with Decision 55/PUU-XVII/2019; (2) tests the scheduling redesign against the principles of periodic elections and fair legal certainty; and (3) analyses its juridical implications for electoral administration. It employs normative legal research with statutory, case, and conceptual approaches and qualitative-deductive analysis. First, the Court interpreted Article 22E(1) of the 1945 Constitution flexibly, shifting from a "menu" of six simultaneity models to a single binding model separating national and local elections. We argue this is conditionally legitimate judicial activism: legitimate because it responded to a constitutional deadlock caused by legislative omission and threats to administrators' constitutional rights, yet conditional because transitional arrangements were delegated entirely to the legislature. Second, until that delegation is exercised, periodic elections remain at risk, particularly the terms of regional legislators elected in 2024; fair legal certainty requires a one-off, explicit transitional arrangement enacted before the new cycle. Third, the Decision necessitates codifying electoral law to end regime dualism and fragmented dispute resolution, and removes the presidential coattail effect from local coalitions.

Keywords: *Judicial Activism; Legal Certainty; Open Legal Policy; Periodic Elections; Decision Number 135/PUU-XXII/2024.*

INTRODUCTION

Indonesia is a democratic state based on the rule of law, in which sovereignty belongs to the people and is exercised in accordance with the Constitution, as stipulated in Article 1 paragraph (2) of the 1945 Constitution (UUD NRI 1945) (Sila et al., 2025; Suryana et al., 2025). Democracy of this kind requires substantive values to be institutionalised into procedural norms, and elections are the principal procedure through which popular sovereignty is transferred to officeholders. Elections and democracy are thus conditio sine qua non: neither can subsist without the other (Amir, 2024; Nugraha, 2015).

The design of simultaneous elections has been one of the most contested questions in this procedural architecture. Since 2019, Indonesia has held five-ballot simultaneous elections, which produced severe logistical complexity and fatigue among polling officers (KPPS), hundreds of whom died or fell ill during the 2019 elections. The design also allowed national campaign narratives to eclipse local legislative issues (Delmana, 2021; Satmawati et al., 2026). In Decision Number 55/PUU-XVII/2019, the Constitutional Court (Mahkamah

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Konstitusi/MK) responded by outlining six constitutionally permissible models of simultaneity and leaving the choice to the legislature as a matter of open legal policy. The Election Law was not subsequently revised before the 2024 elections. Against this background, the Court issued Decision Number 135/PUU-XXII/2024, pronounced on 26 June 2025, which mandates the separation of national elections (for the DPR, DPD, and President/Vice President) from local elections (for provincial and regency/municipal DPRDs and regional heads), with local elections held no sooner than two years and no later than two years and six months after the inauguration of national officeholders.

The Decision of the Constitutional Court carries structurally transformative juridical consequences that fundamentally reconfigure the design of the electoral system, extending well beyond mere technical scheduling adjustments. The separation of the electoral calendar into two cycles within a single five-year period necessitates the reorientation of the normative framework of Law Number 7 of 2017 on General Elections and Law Number 10 of 2016 on Regional Elections, institutional capacity-building of electoral bodies, and a comprehensive overhaul of the supervisory framework (Muhajir et al., 2025). International legal scholarship emphasises that any modification to the electoral calendar must be grounded in the principles of proportionality and legal predictability to preclude political manoeuvring (Issacharoff, 2016).

From a theoretical standpoint, the design of electoral schedules is not merely a technical-administrative matter but a manifestation of constitutional engineering. In its deliberations, the Court sought to balance bureaucratic electoral efficiency against citizens' constitutional right to a quality electoral process. The central difficulty is that this engineering was carried out by a court. Doctrinally, the Constitutional Court is positioned as a negative legislator (Kelsen, 2007), yet in Decision 135 it did not merely annul a norm but prescribed a specific electoral model and timeframe. This raises a doctrinal dilemma that existing commentary has not resolved: did the Court commit a constitutional transgression by exceeding its authority and undermining the legislature's open legal policy, or did it rescue the constitutional system from a deadlock that the legislature had failed to resolve?

A growing body of scholarship has examined Decision 135/PUU-XXII/2024 from several angles. One strand evaluates its constitutionality and implications for democracy and national simultaneity (Safitri et al., 2025; Salsabila, 2026). A second strand analyses the ratio decidendi and the political-legal logic of separating national and local elections (Saputra, 2025; Suryana et al., 2025). A third examines the Decision through specific normative lenses, such as efficiency and popular sovereignty from the perspective of siyasah dusturiyah (Karo-Karo & Irwansyah, 2025) and legal certainty after electoral separation (Satmawati et al., 2026). A fourth, more critical strand questions the Court's drift towards a positive-legislator role in designing simultaneous elections (Alfattah & Wardhani, 2025; Hatimurrazi, 2025).

These studies leave three gaps. First, they rarely juxtapose Decision 135

systematically with Decision 55/PUU-XVII/2019 to determine whether the Court altered, reinforced, or departed from its prior legal stance. Second, they tend either to describe the Decision or to criticise it, without offering a normative test that can resolve the tension between the judicial overreach and judicial activism readings. Third, they give limited attention to the transitional problem the Decision creates for the principle of periodic elections, particularly regarding the terms of DPRD members elected in 2024. The novelty of this article lies in addressing these three gaps together. A related lacuna concerns the harmonisation of this Decision with the Regional Election Law: scheduling changes in one regime are frequently not accompanied by synchronous adaptation in the other, generating potential legal vacuums or overlapping jurisdictions (Siahaan, 2012).

Accordingly, this study addresses three research questions: (1) how the ratio decidendi of Decision 135/PUU-XXII/2024 reframes electoral simultaneity compared with Decision 55/PUU-XVII/2019, and whether this constitutes judicial overreach or legitimate judicial activism; (2) whether the scheduling redesign is consistent with the principles of periodic elections and fair legal certainty; and (3) what juridical implications the Decision carries for the legal structure of electoral administration. The article argues that Decision 135 is best understood as conditionally legitimate judicial activism. Its substance is justified by a constitutional deadlock and by threats to constitutional rights, and the Court respected the limits of its role by leaving the transitional arrangements to the legislature. The redesign is therefore conditional not on anything further the Court must do, but on the legislature discharging the task the Court expressly assigned to it.

RESEARCH METHOD

This study is normative legal (doctrinal) research employing a statutory approach, a case approach, and a conceptual approach. The statutory approach examines the UUD NRI 1945, Law Number 7 of 2017 on General Elections, Law Number 10 of 2016 on Regional Elections, and the Law on Judicial Power. The case approach analyses the ratio decidendi of Decision Number 135/PUU-XXII/2024 comparatively against Decision Number 55/PUU-XVII/2019 and related decisions. The conceptual approach draws on the doctrines of negative legislator, open legal policy, judicial activism, periodic elections, and fair legal certainty. Primary legal materials comprise the Constitution, these statutes, and the relevant Constitutional Court decisions. Secondary legal materials comprise books, journal articles, and expert opinions on electoral and constitutional law. The materials were collected through library research, selected on the basis of relevance, and analysed qualitatively using a descriptive-analytical and deductive method, moving from constitutional norms and legal theory to conclusions about the Decision's reasoning and consequences.

RESULTS AND DISCUSSION

1. The Ratio Decidendi of Decision Number 135/PUU-XXII/2024 and the Boundaries of Constitutional Adjudication

Decision Number 135/PUU-XXII/2024 marks a critical juncture in the evolution of Indonesian electoral law, particularly in how the Constitution is understood in relation to the design and modality of electoral administration. Prior to this Decision, simultaneity tended to be understood rigidly, as a direct consequence of Article 22E paragraph (1) of the UUD NRI 1945, which mandates direct, general, free, secret, honest, and fair elections every five years. Through this Decision, however, the Court adopted a more flexible interpretation. It held that Article 22E paragraph (1) is not merely a technical provision regulating uniform election timing, but a fundamental norm aimed at ensuring the continuity of democracy through a quality electoral process. Simultaneity therefore need not require all categories of elections to be held concurrently, and may be differentiated between national and local elections, provided they remain within the five-year electoral cycle (Saputra, 2025).

The ratio decidendi is founded upon a systematic interpretation of Article 22E. The Court construed the phrase "held every five years" as governing the periodicity of each category of election, rather than as an obligation to conduct all categories simultaneously. This interpretation is read together with Article 1 paragraph (2) and Article 1 paragraph (3) of the UUD NRI 1945 on popular sovereignty and the rule of law, so that electoral administration is positioned as a constitutional instrument for the effective realisation of popular sovereignty. The principles of free and fair elections are thereby treated as substantive rather than merely procedural. On this basis, the Court also redrew the boundaries of open legal policy: legislative discretion to design the electoral system remains, but it is constrained by constitutional supremacy, and where a legislative design risks systemic dysfunction or threatens fundamental democratic principles, the Court considers itself empowered to make conforming adjustments (Azizah et al., 2026).

The Decision restructures the electoral regime by continuing a trajectory the Court had already begun. General elections under Article 22E and regional head elections under Article 18 paragraph (4) were historically treated as distinct regimes. In Decision Number 85/PUU-XX/2022, the Court had already abandoned this distinction for the purpose of dispute resolution. Decision 135 extends the same logic to scheduling. It regroups elections not by constitutional article, but by level of government, placing the national legislative and executive elections in one cycle and all local legislative and executive elections in another. The Court reasoned that irregular and overloaded scheduling harms governmental stability, fiscal efficiency, and the capacity of administrators (Gaffar, 2009; Higashijima et al., 2024; Mahkamah Konstitusi Republik Indonesia, 2022).

The impact on the presidential system follows from this regrouping. Because the President and the DPR remain elected on the same day, the national cycle preserves the concurrence that tends to produce legislative support congruent with the elected President (Munte & Munte, 2025). At the local level, holding DPRD and regional head elections together creates a parallel concurrence between local executives and local legislatures. The

engineering therefore aims less at synchronising national and local terms than at producing coherent executive-legislative relations within each level of government.

The most significant doctrinal feature of Decision 135 emerges only when it is read against Decision 55/PUU-XVII/2019. In Decision 55, the Court held that the simultaneous election of the DPR, DPD, and President/Vice President is constitutionally fixed, but offered six permissible models for the remaining elections: (1) DPR, DPD, President/Vice President, and DPRD together; (2) DPR, DPD, President/Vice President, governors, and regents/mayors together; (3) all of these together with the DPRD; (4) a national simultaneous election followed at a later date by a local simultaneous election for provincial and regency/municipal DPRDs, governors, and regents/mayors; (5) a national simultaneous election followed by a provincial simultaneous election and then a regency/municipal simultaneous election; and (6) any other option that preserves the simultaneity of the DPR, DPD, and President/Vice President elections. The choice among these models was explicitly left to the DPR and the Government as open legal policy (Mahkamah Konstitusi Republik Indonesia, 2020).

Decision 135 selects the fourth model and makes it binding, specifying a timeframe of two years to two years and six months. The shift is therefore not a reversal of Decision 55's constitutional core, since the national simultaneous election remains fixed and the chosen model was one the Court had already declared constitutional. What changed is the allocation of the choice: a menu for the legislature became a mandate from the Court. Because the Indonesian Constitutional Court is not formally bound by stare decisis, this shift is not unlawful in itself. However, consistency of jurisprudence is a component of legal certainty, and any departure from a prior allocation of authority demands explicit justification. The Court's implicit justification is that the legislature did not act on the invitation in Decision 55 and allowed the 2024 elections to proceed under the same overloaded design.

However, this progressive interpretation is not without doctrinal flaws. From a formal-procedural standpoint, the Court does not possess authority to issue regulatory orders or to prescribe procedures for amending legislation, since these are prerogatives of the legislature. It may not exercise ultra petita jurisdiction, may not invalidate a statute on the basis of another statute, and must maintain the institutional separation between legislative and judicial functions. Measured against these standards, fixing a specific model and timeframe is quasi-legislative in character. Critics argue on this basis that Decision 135 lacked the urgency of human rights protection or a normative vacuum that could justify the Court assuming a positive-legislator role (Hatimurrazi, 2025), and that the Court's corrective path in electoral design has been inconsistent over time (Alfattah & Wardhani, 2025). Critics might add that the Court left the transitional position of officeholders elected in 2024 unresolved. That criticism, however, misreads the Decision: the Court expressly acknowledged that transitional arrangements are required and assigned

the design of those arrangements to the legislature as a matter of constitutional engineering. The open question is therefore not a defect in the Decision but an unexercised legislative duty (see Section 2).

The authors do not treat these two readings as equally valid alternatives. We argue that Decision 135 is a form of conditionally legitimate judicial activism, and we propose four criteria for assessing when such activism is legitimate: (i) a persistent constitutional deadlock caused by legislative omission; (ii) a demonstrable threat to constitutional rights; (iii) a remedy chosen from options the Court has already derived from the Constitution rather than invented; and (iv) deference to the legislature on implementing and transitional details. Decision 135 satisfies all four criteria. The legislature did not revise the Election Law for more than five years after Decision 55. The overloaded design threatened administrators' right to life and to just working conditions under Articles 28A and 28D paragraph (2), as well as voters' capacity to cast an informed vote. The Court's remedy is a model it had already approved in 2019. For these reasons, we disagree with the view that the Decision lacked constitutional urgency. It satisfies the fourth because, having fixed the constitutional model, the Court expressly acknowledged the need for transitional arrangements and assigned their design to the legislature rather than prescribing them itself. The activism is therefore legitimate on the Court's side; what makes it conditional is external to the Court — the redesign will comply with periodic elections only if the legislature exercises the delegated authority before the transitional cycle begins. The remaining risk is thus a deficit of legislative compliance, not of judicial legitimacy. This position reconciles the article's endorsement of the Decision as constitutional engineering with its criticism of the Court's methodology: the substance is endorsed, while the procedural critique is confined to the transitional gap.

2. The Consistency of Electoral Scheduling with the Principles of Periodic Elections and Fair Legal Certainty

On 26 June 2025, the Constitutional Court pronounced Decision Number 135/PUU-XXII/2024, affirming that national elections and local elections must be conducted separately, a departure from the previously planned unified simultaneous implementation. The separation is premised on considerations of efficiency and popular sovereignty, and the Court held that temporal separation would create conditions for more focused and higher-quality electoral administration (Karo-Karo & Irwansyah, 2025; Mahkamah Konstitusi Republik Indonesia, 2025).

The principle of periodic elections is a foundational pillar of constitutional democracy, guaranteeing the regular circulation of political power (Mutawalli & Paidi, 2023). Article 22E paragraph (1) of the UUD NRI 1945 fixes a five-year cycle, and this figure is not merely administrative but a social contract between the people and those who hold governmental authority. Law Number 7 of 2017 defines elections as the means of popular sovereignty for electing the DPR, DPD, President and Vice President, and

DPRD (Article 1 point 1), which places DPRD elections squarely within the constitutional guarantee of five-yearly elections. This definitional point is the source of the Decision's most serious periodicity problem.

The risk of term extension should be analysed as a single structural problem. DPRD members elected in February 2024 have a five-year term ending in 2029. Under Decision 135, local elections will take place two to two-and-a-half years after the inauguration of national officeholders elected in 2029, that is, around 2031–2032. Regional heads elected in November 2024 face a similar misalignment. The Court did not overlook this problem. It acknowledged that officeholders elected under the 2024 joint model require transitional treatment and assigned the design of that treatment to the legislature. The question is therefore how that delegated authority should be exercised. The legislature has three broad options for bridging this gap: extending incumbents' terms, appointing acting officials (*penjabat*), or holding one-off elections for shortened terms. Extending the terms of DPRD members is the most difficult to reconcile with Article 22E paragraph (1), because it prolongs a mandate the people conferred for five years without their renewed consent. The widespread use of acting regional heads between 2022 and 2024 also raised concerns about democratic legitimacy and accountability. This is precisely the kind of technical adjustment through which the periodisation of power, one of the central gains of the reform era, could be eroded behind formal legality (Fahmi, 2015; Surbakti, 2014). The authors therefore argue that any transitional adjustment is constitutionally tolerable only if it is (a) one-off rather than repeatable; (b) stipulated explicitly in statute rather than left to executive discretion; (c) enacted before the transitional cycle begins, not after incumbents know how they will benefit; and (d) limited to the shortest period necessary to reach the new cycle.

These conditions follow from the principle of fair legal certainty in Article 28D paragraph (1), which has two dimensions. The formal dimension requires that legal norms be clear, predictable, prospective, and consistent over time. The substantive dimension requires that certainty serve justice for those affected, rather than merely supplying a rule (Huda, 2012; Simatupang, 2018). Measured against the formal dimension, Decision 135 performs unevenly. It provides a clear constitutional model and timeframe, but it disrupts jurisprudential consistency by reallocating the choice made in Decision 55, and the transitional status of incumbents remains formally uncertain until the legislature acts on the Court's express assignment. Measured against the substantive dimension, it performs better: it protects administrators from an unsustainable workload, gives voters a better chance to assess local candidates on local issues, and gives local parties a distinct arena. The Decision is therefore just in substance but not yet certain in form, and formal certainty is therefore not something the Decision itself failed to supply, but something only the legislature is constitutionally placed to complete.

This redesign reflects constitutional engineering, in which law is deployed as an instrument for engineering the political system towards greater stability. Such

engineering must remain subject to lex superior derogat legi inferiori: implementing legislation may not deviate from the fundamental constitutional norm. The normative consistency of the Decision will thus depend substantially on how legislators translate the Court's mandate into operational regulations without infringing citizens' constitutionally guaranteed political rights.

A fixed and predictable electoral schedule also functions as an instrument of public oversight, because it enables citizens to evaluate the mandates they conferred on their representatives within known temporal limits. Every future change to the schedule must therefore remain open to constitutional review so that periodicity is preserved in substance and not only in form.

3. The Juridical Impact of Decision Number 135/PUU-XXII/2024 on the Legal Structure of Electoral Administration

The trajectory of Indonesia's electoral system has undergone successive transformations in pursuit of an ideal form of democratic elections. Before Decision 135, simultaneity was understood as unifying national elections into a single polling day for the President and Vice President, the DPR, DPD, and DPRD (Fuadi & Pusat, 2021), and was later extended to plans for simultaneous regional head elections in 2024, aimed at budget rationalisation and aligning the political legitimacy cycle between national and regional levels (Muslih et al., 2024). The 2019 elections showed, however, that this design imposed an extraordinarily high operational and psychological burden on administrators, risking a deterioration in electoral quality and increasing occupational safety hazards (Salsabila, 2026). In Decision 135, the Court held that national and local elections have different constitutional characters: national elections produce officials whose legitimacy derives from the national polity, while local elections produce leaders whose authority is confined to the local sphere, and merging them risks distorting the functions and capacities of administrators (Zainin et al., 2024).

Building on the analysis in Section 1, the implication for the presidential system is that executive-legislative coherence is pursued separately at each level of government rather than through a single synchronised calendar. A more structured electoral schedule is expected to support a more linear and measurable development synergy consistent with a democratic rechtsstaat (Isra, 2018).

The separation also changes the logic of party coalitions, particularly through the loss of the coattail effect at the local level. Under the five-ballot design, DPRD candidates could benefit from the popularity of a presidential candidate on the same ballot day. Once local elections are held two or more years later, that effect disappears. Local parties and candidates will have to form coalitions and campaign on local issues and local performance rather than on national popularity. This may strengthen the local accountability dimension of democracy, but it may also produce local coalitions that diverge from national coalitions, which could complicate coordination between central and regional governments. The claim that separation

will organically simplify the party system should therefore be treated as a possibility rather than a certainty; its realisation depends on nomination thresholds and coalition rules for local elections that the legislature has yet to design.

From the perspective of electoral law administration, the Decision makes codification urgent, and the doctrinal basis for this urgency is the fragmentation of dispute resolution. Under the current dualism between Law Number 7 of 2017 and Law Number 10 of 2016, a single electoral contest may pass through several bodies with different procedures and deadlines: administrative violations and process disputes before Bawaslu, some process disputes before the Administrative Court (PTUN), election crimes through the Gakkumdu mechanism to the general courts, ethical violations before the DKPP, and results disputes before the Constitutional Court. The Court's jurisdiction over regional election results was itself originally transitional under Article 157 of Law Number 10 of 2016 until Decision Number 85/PUU-XX/2022 made it permanent. Because the two laws regulate similar acts differently, administrators and contestants face uncertainty about which rules, deadlines, and forums apply. Once Decision 135 regroups elections by level of government, keeping two separate statutes organised by the old regime distinction becomes even less coherent. A unified electoral code would apply the principles of lex certa and coherence: one set of definitions, one dispute-resolution map with clear jurisdictional boundaries and timelines, and one transitional chapter implementing Decision 135.

The Decision also has implications for electoral integrity and state capacity. Although separation reduces the burden on each polling day, two major electoral cycles within five years place administrators in almost continuous electoral mode. The Court implicitly cautioned that efficiency must not be purchased at the cost of democratic quality. The state is therefore obliged to provide adequate budgetary and information technology support to keep vote counting and recapitulation accountable and transparent.

Decision Number 135/PUU-XXII/2024 should be understood as a catalyst for the maturation of Indonesian democracy. Its success will depend on the political commitment of lawmakers to follow through with implementing regulations that are honest and just.

CONCLUSION

This study concludes with three findings corresponding to the three research questions and discussion sections:

1. Ratio decidendi and the Court's authority. The Court interpreted Article 22E paragraph (1) flexibly, treating simultaneity as differentiable between national and local elections within the five-year cycle. Compared with Decision 55/PUU-XVII/2019, Decision 135 does not overturn the constitutional core of simultaneity but shifts from a menu of six models left to the legislature to a single binding model. The authors characterise this as conditionally legitimate judicial activism: justified by legislative omission and threats to constitutional rights, and conditional not because the

Court overstepped or fell short, but because the Court deliberately left the transitional arrangements to the legislature, whose inaction would place the redesign in tension with periodic elections.

2. Periodic elections and fair legal certainty. The redesign is consistent with the principle of periodic elections only if the transition does not become a vehicle for extending mandates. The main risk concerns DPRD members and regional heads elected in 2024. The Decision satisfies the substantive dimension of fair legal certainty but not yet its formal dimension, which requires clear, prospective, and consistent transitional rules.
3. Juridical implications for electoral administration. The Decision regroups elections by level of government, demands the codification of Law Number 7 of 2017 and Law Number 10 of 2016 into a single electoral code, and removes the presidential coattail effect from local elections, compelling local coalitions to form around local issues.

Policy recommendations for lawmakers (the DPR and the President):

1. Enact a unified electoral code that consolidates Law Number 7 of 2017 and Law Number 10 of 2016 and organises elections into national and local cycles in line with Decision 135.
2. Include a transitional chapter governing the terms of DPRD members and regional heads elected in 2024. The arrangement should be one-off, explicit, enacted before the transitional period begins, and limited to the shortest period necessary. It should prefer shortened-term transitional elections over extensions of incumbents' mandates.
3. Establish a single dispute-resolution map that clearly allocates jurisdiction among Bawaslu, the DKPP, the Administrative Court, the general courts, and the Constitutional Court, with uniform timelines across both cycles.
4. Design nomination thresholds and coalition rules specifically for local elections, and set workload, safety, and budgetary standards for administrators working across two cycles.

Limitations. This study is normative and relies on the text of the Decision, legislation, and secondary literature. It does not measure the Decision's empirical effects on administrators, voters, or parties, and it cannot account for legislative developments after the time of writing. Future research should examine the legislature's implementation of the Decision empirically and compare Indonesia's separated cycles with other presidential democracies that stagger national and local elections.

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