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A Legal Analysis of Constitutional Court Ruling Decision Number 195/PUU-XXIV/2026 on the Affirmation of Direct Popular Elections for Regional Heads from the Perspective of the 1945 Constitution of the Republic of Indonesia

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Abstract: This study aims to analyze the legal reasoning and constitutional implications of Constitutional Court Decision Number 195/PUU-XXIV/2026 concerning the judicial review of Article 1 paragraph (1) of Law Number 8 of 2015 on the Election of Governors, Regents, and Mayors, as last amended by Law Number 6 of 2020. The petition was submitted on the grounds that the phrase "directly" created legal uncertainty and potentially allowed the regional head election mechanism to be shifted to representative institutions. This research employs a normative legal research method using statutory, conceptual, and case approaches. The legal materials consist of the 1945 Constitution of the Republic of Indonesia, statutory regulations, Constitutional Court Decision Number 195/PUU-XXIV/2026, and relevant legal literature and scientific journals. The findings indicate that the Constitutional Court declared the petition inadmissible because the petitioners failed to satisfy the legal standing requirements under the Constitutional Court procedural law. Nevertheless, the Court's legal considerations reaffirm the importance of popular sovereignty, constitutional democracy, and legal certainty in the regional head election system. The decision strengthens the understanding that regional heads must continue to be elected directly by the people in accordance with Article 1 paragraph (2) and Article 18 paragraph (4) of the 1945 Constitution. This study concludes that the Constitutional Court's decision plays a significant role in preserving the consistency of local democracy, ensuring legal certainty regarding the regional election system, and reinforcing the principles of a democratic state governed by the rule of law in Indonesia

Keywords: Constitutional Court, Regional Head Election, Democracy, Popular Sovereignty, 1945 Constitution of the Republic of Indonesia.

INTRODUCTION

Indonesia is a state governed by the rule of law that adheres to the principles of constitutional democracy, as affirmed in Article 1, paragraphs (2) and (3) of the 1945 Constitution of the Republic of Indonesia (1945 NRI Constitution). These two provisions affirm that sovereignty resides with the people and is exercised in accordance with the

Constitution, and that Indonesia is a state governed by the rule of law. The consequence of these two principles is that the exercise of state power, including the mechanisms for filling public office, must be carried out in accordance with the principles of democracy, the supremacy of the Constitution, and legal certainty. Therefore, the system for electing regional heads is a constitutional instrument that plays a strategic role in realizing democratic regional government whilst ensuring the exercise of popular authority at the local level.¹

Article 18(4) of the 1945 Constitution of the Republic of Indonesia determines that governors, regents, and mayors, as heads of regional governments, shall be democratically elected. This constitutional provision affords the legislature scope to regulate the technical mechanisms for conducting regional head elections. However, the discretion of the legislature (open legal policy) is not unlimited. Such regulations must remain within the framework of democratic values, popular sovereignty, equality before the law, and the protection of citizenship rights as guaranteed by the 1945 Constitution of the Republic of Indonesia.²

Since the introduction of direct local elections in 2005, local democracy in Indonesia has seen significant development. Direct elections are seen as capable of enhancing the legitimacy of regional heads, strengthening the accountability of local government to the public, and providing the people with the opportunity to participate directly in selecting their regional leaders. Moreover, this mechanism also serves as a means of political evaluation of regional heads through the granting of political rewards or the imposition of political sanctions in the subsequent election period.³

Nevertheless, within the context of constitutional practice, a debate continues to unfold regarding the ideal model for the election of regional heads. Some argue that elections through the Regional People's Representative Council (DPRD) are more efficient in budgetary terms and can reduce political conflict at the local level. In contrast, others contend that this mechanism has the potential to reduce public participation, reinforce the dominance of the political elite, and shift the principle of popular sovereignty towards an elitist form of democracy. This debate has intensified since concerns arose that the phrase 'directly' in the Regional Head Elections Act does not explicitly state that the election is to be conducted 'by the people', thereby leaving room for multiple interpretations regarding the mechanism for filling regional head positions.⁴

In accordance with these circumstances, an application for a constitutional review has been submitted to the Constitutional Court regarding Article 1(1) of Law Number 8 of 2015, as last amended by Law Number 6 of 2020. The petitioners argue that the phrase 'directly' gives rise to legal uncertainty because it does not explicitly identify the body responsible for conducting the election, and could therefore potentially be interpreted as meaning an election through a representative assembly. According to the petitioners, this provision contradicts the principle of public sovereignty as guaranteed by Article 1(2) of the 1945 Constitution of the Republic of Indonesia and is also at odds with the democratic spirit expressed in Article 18(4) of the 1945 Constitution of the Republic of Indonesia. This argument is explicitly reflected in the petitioners' application, which asserts that the phrase 'directly' must be interpreted as 'directly by the people' to ensure legal certainty and prevent the mechanism of regional head elections from shifting towards elections by the Regional People's Representative Council (DPRD).⁵

In their petition, the petitioners also argued that local democracy should not be understood merely as a formal electoral procedure, but also as a constitutional mechanism to

¹ Indonesia, Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 1 ayat (2) dan ayat (3).

² Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia* (Jakarta: Sinar Grafika, 2019), 119.

³ Putusan Mahkamah Konstitusi Nomor 195/PUU-XXIV/2026, hlm. 29–31.

⁴ Saldi Isra, *Pergeseran Fungsi Legislasi* (Depok: Rajawali Pers, 2020), 211.

⁵ Putusan Mahkamah Konstitusi Nomor 195/PUU-XXIV/2026, hlm. 29–33.

guarantee the people's direct participation in the process of forming local government. Thus, according to the petitioners, any provision that opens the chances for the domination of the political elite must be regarded as contrary to the principles of a democratic state governed by the rule of law, as it has the potential to diminish the quality of local democracy and erode the relationship of accountability between local heads and the public as the holders of sovereignty.⁶

However, in Judgment Number 195PUU-XXIV/2026, the Constitutional Court did not address the substance of the application, as it ruled that the applicants failed to establish the requisite legal standing as set out in the Constitutional Court's rules of procedure. Consequently, the petition was declared inadmissible (*niet ontvankelijk verklaard*). Nevertheless, this decision remains of significant importance in the development of Indonesian constitutional law as it provides certainty regarding the limits of constitutional review and reaffirms the importance of protecting local democracy within the framework of the rule of law.⁷

This ruling is worth reviewing because it raises two fundamental issues. Firstly, what was the Constitutional Court's legal reasoning in assessing the legal standing of the petitioners, leading to the petition being declared inadmissible? Secondly, what are the constitutional implications of this ruling for the continuity of the system of direct elections for regional heads under the 1945 Constitution of the Republic of Indonesia? These two issues are significant given that the Constitutional Court is the guardian of the constitution, with the authority to uphold the supremacy of the constitution and to protect the constitutional rights of the people through the mechanism of judicial review of statutes.

Based on the explanation, this study aims to analyze the legal rationale (*ratio decidendi*) of the Constitutional Court in Judgment Number 195/PUU-XXIV/2026, to examine its consistency with the principles of a democratic state governed by the rule of law as set out in the 1945 Constitution of the Republic of Indonesia, and to analyze the implications of this judgment for the development of the local democratic system in Indonesia. It is hoped that this study will make an academic contribution to the development of constitutional law, particularly regarding the concepts of constitutional democracy, popular sovereignty, and legal certainty in the conduct of regional head elections.

METHOD

This study is a piece of normative legal research which aims to examine legal norms, legal principles, legal doctrines and court rulings as its primary objects of study. A normative legal research approach was adopted because the issue under examination focuses on an analysis of Constitutional Court Decision Number 195/PUU-XXIV/2026 concerning the constitutional review of Article 1(1) of Law Number 8 of 2015 on the Election of Governors, Regents, and Mayors, as last amended by Law No. 6 of 2020. This approach was chosen to assess the conformity of the Constitutional Court's legal reasoning with the principles of the rule of law, constitutional democracy, public sovereignty, and legal certainty as stipulated in the 1945 Constitution of the Republic of Indonesia.⁸

The research approaches applied include the statutory, the conceptual, and the case. The statutory approach was carried out by examining various laws and regulations relating to the administration of local government, in particular the 1945 Constitution of the Republic of Indonesia, Law No. 8 of 2015 as last amended by Law No. 6 of 2020, Law No. 48 of 2009 on Judicial Power, and Law No. 24 of 2003 on the Constitutional Court, as last amended by Law No. 7 of 2020. A conceptual approach was employed to analyze the rule of law, constitutional democracy, public sovereignty, legal certainty, legal standing and judicial review based on the

⁶ Putusan Mahkamah Konstitusi Nomor 195/PUU-XXIV/2026, hlm. 30–33.

⁷ Putusan Mahkamah Konstitusi Nomor 195/PUU-XXIV/2026.

⁸ Peter Mahmud Marzuki, *Penelitian Hukum*, Edisi Revisi (Jakarta: Kencana, 2021), hlm. 55–60.

theories of constitutional law experts. The case-based approach involves a depth analysis of Constitutional Court Decision No. 195/PUU-XXIV/2026 as the primary subject of the research to identify the *ratio decidendi* and its legal implications for the regional head election system in Indonesia.⁹

The legal sources used in this study comprise primary, secondary, and tertiary legal sources. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law No. 8 of 2015 and its amendments, Law No. 24 of 2003 and its amendments, and Constitutional Court Decision No. 195/PUU-XXIV/2026. Secondary legal sources consist of books on constitutional law, academic articles in accredited national journals, previous research findings, and experts' opinions relating to democracy, regional head elections, the constitution, and the Constitutional Court. Meanwhile, tertiary legal sources were obtained from legal dictionaries, legal encyclopedias, and various other supporting sources relevant to the subject of the research.¹⁰

The method used to gather legal materials involved library research, which entailed cataloguing, identifying, classifying and analyzing all legal materials relevant to the research issue. Subsequently, all legal materials were analyzed systematically to gain a comprehensive understanding of the Constitutional Court's legal reasoning in adjudicating the case in question (*a quo*), particularly regarding the legal standing of the petitioners, the democratic significance of regional head elections, and the protection of the principle of popular sovereignty within the framework of a democratic state governed by the rule of law.¹¹

The analysis of legal materials was carried out using qualitative analysis methods, employing both descriptive-analytical and prescriptive approaches. Descriptive analysis was used to systematically describe the provisions of positive law, legal doctrine, and the legal considerations of the Constitutional Court in Judgment No. 195/PUU-XXIV/2026. Then, prescriptive analysis was used to provide legal arguments regarding the compatibility of the decision with constitutional principles, whilst also formulating recommendations for the development of legal regulations concerning the regional head election system in Indonesia. through these methods, it is hoped that this research will provide an objective and comprehensive analysis and make an academic contribution to the development of Indonesian constitutional law.

RESULTS AND DISCUSSION

The Constitutional Court's Legal Rationale in Constitutional Court Decision No. 195/PUU-XXIV/2026

The reasoning of the Constitutional Court in Decision No. 195/PUU-XXIV/2026 is an interesting verdict because, although the operative part of the decision declared the petition inadmissible (*niet ontvankelijke verklaard*) because the petitioners lacked legal standing, the Court nevertheless provided legal considerations affirming that, under Indonesian positive law, the system for electing regional heads must continue to be carried out directly by the people. In other words, the significance of this ruling lies not in the operative part of the judgment, but in the *ratio decided*, which forms the foundation of the Court's constitutional reasoning.¹²

The first argument is derived from an interpretation of Article 18(4) of the Constitution of the Republic of Indonesia, which states that governors, regents, and mayors are elected democratically. According to the Court, the phrase 'elected democratically' cannot be

⁹ Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia Publishing, 2019), hlm. 300–308.

¹⁰ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Rajawali Pers, 2018), hlm. 12–15.

¹¹ Putusan Mahkamah Konstitusi Nomor 195/PUU-XXIV/2026.

¹² Putusan Mahkamah Konstitusi Nomor 195/PUU-XXIV/2026, hlm. 160-170.

interpreted explicitly as meaning only election through the Regional People's Representative Council (DPRD). In the development of Indonesia's constitutional system following the reform era, the legislature has opted for the direct election model as the form of democracy most consistent with the principle of popular sovereignty as set out in Article 1(2) of the 1945 Constitution of the Republic of Indonesia. Hence, the direct election of regional heads constitutes a constitutional legal policy that remains in force to this day.¹³

The second argument emphasizes that the Court is not creating a new form regarding the system for electing regional heads. The Court is merely reaffirming the existing law as established by various previous rulings. Therefore, the Court's legal reasoning must be understood as an affirmation of the consistency of constitutional interpretation, not as a change to the system for electing regional heads.¹⁴

This viewpoint is in line with the theory of judicial restraint, namely that constitutional judges must not assume the role of the legislature, provided that the applicable provisions do not conflict with the 1945 Constitution of the Republic of Indonesia. The Court merely ensures that such provisions remain within the constitutional framework.¹⁵

The third argument relates to the legal standing of the petitioners. The Court stated that the petitioners were unable to prove the existence of a specific, actual or potential infringement of their constitutional rights, as required in the practice of judicial review before the Constitutional Court. As the requirement for legal standing was not met, the Court did not proceed with the examination of the substance of the petition.¹⁶

These considerations show the Court's consistency in applying the five criteria for legal standing that have evolved since Constitutional Court Decision No. 006/PUU-III/2005 and various subsequent decisions. Legal standing is an important instrument for ensuring that the court only hears cases that genuinely concern the protection of the constitutional rights of citizens.¹⁷

The fourth argument demonstrates that the Court provided an obiter dictum of both academic and constitutional value. Although the petition was declared inadmissible, the Court nevertheless explained that the system of direct elections for regional heads constitutes a form of implementation of the principle of constitutional democracy. These considerations serve as a guide for legislators and for future constitutional practice, and thus possess considerable persuasive force.¹⁸

From the perspective of constitutional democracy theory, direct elections provide stronger political legitimacy because regional heads receive their mandate directly from the people. Furthermore, this mechanism constitutes the implementation of the principle of popular sovereignty, which is a hallmark of a democratic state governed by the rule of law.¹⁹

In general, the Constitutional Court's legal reasoning in Judgment No. 195/PUU-XXIV/2026 demonstrates three key characteristics, namely consistency with previous judgments, the protection of the principles of popular sovereignty, and compliance with the Constitutional Court's procedural rules regarding legal standing. Although the case concluded with a ruling that the petition was inadmissible, the legal reasoning remains significant as an affirmation that the system of direct elections for regional heads remains the constitutional framework in force in Indonesia.²⁰

¹³ Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, Sinar Grafika, Jakarta, 2018, hlm. 214.

¹⁴ Ni'Matul Huda, *Hukum Tata Negara Indonesia*, Rajawali Pers, Jakarta, 2020, hlm. 337.

¹⁵ Putusan Mahkamah Konstitusi Nomor 195/PUU-XXIV/2026

¹⁶ Putusan Mahkamah Konstitusi Nomor 006/PUU-III/2005

¹⁷ Putusan Mahkamah Konstitusi Nomor 195/PUU-XXIV/2026

¹⁸ Saldi Isra, *Pergeseran Fungsi Legislasi*, Rajawali Pers, Jakarta, 2018

¹⁹ Yance Arizona, "Demokrasi Konstitusional dalam sistem Ketatanegaraan Indonesia", *Jurnal Konstitusi*, Vol. 17 No. 2, 2020.

²⁰ Putusan Mahkamah Konstitusi Nomor 195/PUU-XXIV/2026.

The consistency of Constitutional Court Decision No. 195/PII-XXIV/2026 with the 1945 Constitution of the Republic of Indonesia.

Constitutional Court Decision No. 195/PUU-XXIV/2026 is, in essence, a manifestation of the Constitutional Court's role as the Guardian of the Constitution. In exercising its authority to review laws against the 1945 Constitution of the Republic of Indonesia, the Court acts not only as an institution for the resolution of constitutional disputes, but also as the final interpreter of the constitution. Consequently, every legal consideration provided by the Court must be understood as part of the effort to maintain consistency in the implementation of constitutional values, particularly the principles of the rule of law and constitutional democracy.²¹

In case No. 195/PUU-XXIV/2026, the Court declared the petitioner's application inadmissible as it did not meet the requirements for legal standing. Nonetheless, the Court issued legal considerations regarding the system of direct elections for regional heads. These considerations demonstrate that the Court not only upholds the law in accordance with the Constitution but also provides legal certainty regarding disputes over the constitutionality of direct regional head elections. This stance reflects the Court's role as the guardian of the stability of Indonesia's constitutional system.²²

The suitability of this ruling in accordance with the 1945 Constitution of the Republic of Indonesia can firstly be seen from the application of article 24C(1) of the 1945 Constitution of the Republic of Indonesia. This provision grants the Court the authority to review laws against the 1945 Constitution of the Republic of Indonesia. In practice, the Court consistently applies a series of review stages covering the Constitutional Court's jurisdiction, the legal standing of the petitioners, the subject matter of the petition, and the substance of the petition. These stages constitute the implementation of the principle of due process of constitutional adjudication, thereby ensuring that every decision of the Constitutional Court retains constitutional legitimacy even if the petition is dismissed as inadmissible. Research about the Court's practice also shows that the consistent application of formal requirements forms part of the protection of legal certainty in a democratic state governed by the rule of law.²³

Next, the Court's considerations regarding the interpretation of the phrase "democratically elected" in Article 18(4) of the 1945 Constitution of the Republic of Indonesia also demonstrate consistency with the method of constitutional interpretation that has developed within the practice of Indonesian state administration. The Court did not interpret the provision purely grammatically, but rather employed a systematic and historical approach, taking into account the development of democracy following the amendments to the 1945 Constitution. Based on this approach, direct regional head elections are regarded as a tangible implementation of the principle of popular sovereignty as affirmed in Article 1(2) of the 1945 Constitution of the Republic of Indonesia. Therefore, the system of direct regional head elections constitutes a legal policy established by the legislature that remains within the bounds of the Constitution.²⁴

This interpretation is consistent with the concept of constitutional democracy, namely a democracy that is governed by the constitution and guarantees public participation in the process of governance. In the Indonesian context, direct regional elections are viewed as an instrument for realizing the principle of popular sovereignty whilst strengthening the

²¹ Gotfridus Goris Seran, "Konstitusionalitas dan Desain Pemilukada Langsung Serentak Nasional", Jurnal Konstitusi, Vol. 16 No. 3, 2019.

²² Gotfridus Goris Seran, "Konstitusionalitas dan Desain Pemilukada Langsung Serentak Nasional", Jurnal Konstitusi, Vol. 16 No. 3, 2019.

²³ Muhammad Rezky Pratama, "Penyelesaian Perselisihan Hasil Pemilihan Kepala Daerah: Analisis Kedudukan Hukum Pemantau Pemilihan Sebagai Pemohon", Jurnal Reformasi Hukum, Vol. 27 No. 3, 2023.

²⁴ Lisma dan Lita Tyesta A.L.W, "Implikasi Partisipasi Masyarakat pada Pilkada Serentak dalam Meningkatkan Demokrasi Konstitusional di Indonesia 9Studi Terhadap Pelaksanaan Pilkada Serentak di provinsi Sulawesi Selatan Tahun 2015", Vol. 13, No. 1., 2017.

legitimacy of regional heads. Research published by the Law Reform shows that public participation in direct regional elections contributes to the strengthening of constitutional democracy by providing a space for the public to determine the election of regional heads directly, freely, and democratically. Consequently, the Court's reasoning in Judgment No. 195/PUU-XXIV/2026 has a strong empirical basis.²⁵

Further, the Court's consistency in upholding the system of direct elections for regional heads also reflects respect for the principle of legal certainty as enshrined in Article 28D (1) of the 1945 Constitution of the Republic of Indonesia. Legal certainty is a vital element in a state governed by the rule of law, as changes to the democratic system cannot be made solely based on short-term political considerations, but must be based on legislative policy changes that continue to respect the Constitution. Hence, Decision No. 195/PUU-XXIV/2026 provides certainty that, to date, the mechanism for the direct election of regional heads remains a valid constitutional arrangement under the 1945 Constitution of the Republic of Indonesia.²⁶

In addition to being consistent with the Constitutional Court's jurisdiction as set out in Article 24C (1) of the 1945 Constitution of the Republic of Indonesia, Constitutional Court Decision No. 195/PUU-XXIV/2026 also demonstrates the Court's consistency in the application of the doctrine of constitutional supremacy. This doctrine establishes the constitution as the supreme legal norm, meaning that the formulation and application of all laws must be subject to constitutional values. In this case, the Court not only assessed the formal aspects of the petition but also reaffirmed that the conduct of direct regional head elections remains a system of government that is in line with the Constitution. Consequently, the Court's reasoning provides certainty regarding the direction of Indonesia's democratic system without the need to create new legal forms. This ruling demonstrates that the Court continues to fulfil its role as guardian of the constitution through a constitutional interpretation of the 1945 Constitution of the Republic of Indonesia.²⁷

The application of this principle is closely linked to the concept of constitutional democracy, namely a democracy organized based on the supremacy of the constitution and the protection of the rights of citizens. In the context of regional head elections, democracy is understood not only as the conduct of a vote but also as a mechanism for conferring direct political legitimacy upon regional heads. Thus, when the Court affirmed that the system of direct regional head elections remains consistent with the 1945 Constitution of the Republic of Indonesia, it was in fact upholding the continuity of democratic practices that have developed since the reform era. Research published in the Journal of Constitutional Law indicates that the strengthening of constitutional democracy is one of the Constitutional Court's primary functions, which is maintaining a balance between the principle of popular sovereignty and the supremacy of the constitution.²⁸

The Court's assessment cannot be separated from the application of legal standing as a key requirement in the review of legislation. The Court held that the applicants were unable to prove any specific, actual, or potential infringement of their constitutional rights. Because of this, the petition was declared inadmissible. From the perspective of the Constitutional Court's procedural law, this approach is consistent with article 51 of the Constitutional Court Act and

²⁵ Gotfridus Goris Seran, "Konstitusionalitas dan Desain Pemilukada Langsung Serentak Nasional", Vol. 16 No. 3, 2019.

²⁶ Ansori, "Legalitas Hukum Komisi Pemilihan Umum Daerah dalam Menyelenggarakan Pilkada", Jurnal Konstitusi, Vol 14, No. 3, 2017.

²⁷ Intan Permata Putri dan Mohammad Mahrus Ali, "Karakteristik Judicial Order dalam Putusan Mahkamah Konstitusi dengan Amar Tidak Dapat Diterima", Jurnal Konstitusi, Vol. 16, No. 4, 2019, hlm. 883-904.

²⁸ Intan Permata Putri dan Mohammad Mahrus Ali, "Karakteristik Judicial Order dalam Putusan Mahkamah Konstitusi dengan Amar Tidak Dapat Diterima", Jurnal Konstitusi, Vol. 16, No. 4, 2019

with established practice in prior rulings. These consistencies are vital to prevent the Court from becoming a forum that accepts all petitions without a genuine constitutional interest.²⁹

In terms of constitutional law, Constitutional Court Ruling No. 195/PUU-XXIV/2026 reflects the principle of the supremacy of the constitution. The Constitutional Court not only acts as an institution that reviews the constitutionality of laws, but also ensures that any changes to the system of government remain within the framework of the 1945 Constitution of the Republic of Indonesia. In the case *a quo*, the Court affirmed that regional head elections are currently conducted directly by the people and that this mechanism is a consequence of the development of the democratic system in the post-reform era. This affirmation provides legal certainty whilst preventing the emergence of various interpretations of the provisions of Article 1 (1) of the Regional Head Election Law.³⁰

The interpretation of the Court is in line with the concept of constitutional democracy, namely a democracy practiced in accordance with the constitution, such that the exercise of power must derive its legitimacy from the people whilst being constrained by constitutional norms. Article 1 (2) of the 1945 Constitution of the Republic of Indonesia states that sovereignty resides with the people and is exercised in accordance with the Constitution. This provision affirms that the people are the source of the state's legitimacy. Therefore, direct elections for regional heads can be regarded as a manifestation of the principle of popular sovereignty, as the people directly determine the regional head who will govern the region.³¹

From the perspective of the original intent behind the amendments to the 1945 Constitution of the Republic of Indonesia, the phrase 'elected democratically' in Article 18 (4) does not explicitly specify whether the election is to be held directly or through the Regional People's Representative Council (DPRD). However, the Court employed a systematic and evolutionary method of interpretation (the 'living constitution') whilst taking into account the development of Indonesian democracy following the Reform era. This approach demonstrates that the constitution is understood as a living instrument capable of adapting to societal developments, provided that it does not deviate from the constitution's fundamental values. Hence, the Court's affirmation regarding direct regional head elections remains within the bounds of a justifiable interpretation of the constitution.³²

On the other hand, this ruling also demonstrates the Court's consistency in applying the doctrine of legal standing. The Court held that the petitioners were unable to prove the existence of any specific, actual or potential infringement of their constitutional rights that had a causal link with the application of the provision under review. This reasoning indicates that the court continues to regard the requirement of legal standing as the primary gateway to the review of legislation. This approach is consistent with the Court's practice in various previous rulings on the review of legislation, which emphasize that not every citizen may lodge an application in the absence of a tangible constitutional infringement.³³

Nevertheless, from an academic perspective, there is still scope for criticism of the ruling. The operative part of the judgement, which declared the application inadmissible, meant that the Court did not examine the substance of the application in full. Consequently, the Court's reasoning regarding direct elections for regional heads developed more as an *obiter dictum* rather than *decidendi* forming the basis of the ruling. Although in practice these considerations

²⁹ Intan Permata Putri dan Mohammad Mahrus Ali, "Karakteristik Judicial Order dalam Putusan Mahkamah Konstitusi dengan Amar Tidak Dapat Diterima", Jurnal Konstitusi, Vol. 16, No. 4, 2019

³⁰ Berita Mahkamah Konstitusi, "Penyelenggaraan Pilkada saat ini Dilaksanakan Secara Langsung".

³¹ Janpatar Simamora, "Perlindungan Hak Memilih sebagai Hak Konstitusional Warga Negara", Jurnal Yudisial, Vol. 6, No. 2, 2013.

³² Yogi Prasetyo, "The Stringent Support Requirements for Independent Candidates in Regional Elections: A Legal Self-Critique of Indonesian Democracy", Jurnal Konstitusi, Vol 21, No. 2, 2024.

³³ Muhammad Rezky Pratama, "Penyelesaian Perselisihan Hasil Pemilihan Kepala Daerah: Analisis Kedudukan Hukum Pemantau Pemilihan Sebagai Pemohon", Reformasi Hukum, Vol. 27, No. 3, 2023.

carry considerable persuasive weight, theoretically, the strength of their argument is not equivalent to that of the legal reasoning which directly determines the ruling.³⁴

This criticism does not imply that Decision No. 195/PUU-XXIV/2026 is inconsistent with the 1945 Constitution of the Republic of Indonesia. On the contrary, this decision demonstrates a balance between the enforcement of the Constitutional Court's procedural law and the need to provide legal certainty regarding constitutional issues arising within society. The Court continues to uphold the limits of its authority as a 'negative legislator', that is, it does not create new norms, but merely reaffirms the constitutional meaning of norms already established by the legislature. This stance demonstrates the Court's respect for the principles of the separation of powers and checks and balances within Indonesian constitutionalism.³⁵

Another implication of this ruling is the strengthening of legal certainty regarding the structure of local democracy in Indonesia. As long as there are no amendments to the Regional Head Elections Act nor to the 1945 Constitution of the Republic of Indonesia, the system of direct elections for regional heads remains a constitutional mechanism. This certainty is important for election organizers, local governments, political parties and the public alike to prevent differing interpretations regarding the mechanism for filling regional head positions. Furthermore, this ruling reaffirms that any changes to the regional head election system must be made through the legislative process and remain subject to constitutional review by the Constitutional Court.³⁶

CONCLUSION AND RECOMMENDATIONS

Conclusion

Based on the findings of the research into Constitutional Court Ruling No. 195/PUU-XXIV/2026 concerning the Affirmation of Direct Elections of Regional Heads by the People, the following conclusion may be drawn

1. The Constitutional Court's legal reasoning in Decision No. 195/PUU-XXIV/2026 is based on a systematic interpretation of the 1945 Constitution of the Republic of Indonesia, in particular Article 1(2), Article 18(4), and Article 24C (1). Although the petitioner's application was declared inadmissible because it did not meet the legal standing requirements, the Court nevertheless provided legal considerations affirming that the regional head elections in Indonesia are currently conducted directly by the people in accordance with the legal framework established by the legislature. These considerations demonstrate the Court's consistency in carrying out its functions as the guardian of the constitution and the final interpreter of the constitution.
2. Constitutional Court decision No. 195/PUU-XXIV/2026 is, in principle, consistent with the 1945 Constitution of the Republic of Indonesia, as evidenced by the application of the principles of the rule of law and popular sovereignty and constitutional democracy, as well as the exercise of the Constitutional Court's powers as stipulated in Article 24C of the 1945 Constitution. The Court's interpretation of the phrase 'elected democratically' in Article 18(4) of the 1945 Constitution was carried out in a systematic, historical and contextual manner, such that the direct election of regional heads is regarded as a form of democratic implementation in line with the development of Indonesia's constitutional system following the reform era. Furthermore, from an academic perspective, this ruling still leaves room for discussion regarding the distinction between the *ratio decidendi* and *obiter dictum* in Constitutional Court rulings.

³⁴ Berita Mahkamah Konstitusi, "Penyelenggaraan Pilkada Saat Ini Dilaksanakan Secara Langsung".

³⁵ Janpatar Simamora dan Bintang M.E. Naibaho, "Strengthening of Legal Foundation of the Prosecutor's Office in the Constitutional System of the Republic of Indonesia", Jurnal Konstitusi, Vol. 22, No. 2, 2025.

³⁶ Khirul fahmi, "pergerseran Pembatasan Hak Pilih dalam Regulasi Pemilu dan Pilkada", Jurnal Konstitusi, Vol. 14, No.4, 2017.

Recommendations

Based on the findings of this study, the author offers the following recommendations

1. To the legislator, it is necessary to refine the regulations concerning the election of regional heads in order to provide greater legal certainty regarding the criteria and meaning of the phrase 'elected democratically' as stipulated in Article 18(4) of the Constitution of the Republic of Indonesia, to avoid giving rise to ambiguous legal interpretations in the future.
2. To the Constitutional Court, legal considerations should be formulated more comprehensively so that they may serve as clearer guidelines for election organizers, academics and the public in understanding developments in Indonesian constitutional law.
3. Academics and researchers are encouraged to conduct further research into the evolution of the Constitutional Court's interpretation of the local democratic system in Indonesia, particularly regarding the relationship between Article 1(2), Article 18(4), Article 22E and Article 24C of the 1945 Constitution of the Republic of Indonesia, thereby enriching scholarship on constitutional democracy and the system of local government.
4. To the government and electoral authorities, Constitutional Court Ruling No. 195/PUU-XXIV/2026 should be used as a guiding principle in the formulation of policies and the conduct of regional head elections, so that their implementation continues to uphold the principles of popular sovereignty and constitutional democracy as mandated by the 1945 Constitution of the Republic of Indonesia

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