

Conflict in Supreme Court–Constitutional Court Jurisprudence and Legal Certainty Regarding the Age Limit for Regional Head Candidates

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Abstract: This article analyzes the constitutional and electoral implications of Constitutional Court Decision No. 70/PUU-XXII/2024, which affirms that the minimum age requirement for regional head candidates is calculated from the date the candidate pairs are designated by the General Elections Commission (KPU), not from the date of inauguration. The study is conducted within the context of a prolonged interpretive debate between Supreme Court Decision No. 23/P/HUM/2024—which upheld the “inauguration” interpretation—and the Constitutional Court’s decision, which affirmed the “KPU designation” interpretation. This article examines the regulatory history of age requirements for regional heads, the Constitutional Court’s reasoning in rejecting the petition for a judicial review, the implications for the conduct of regional elections, the government’s response stating its respect for the Constitutional Court’s decision, and the broader dimensions of the jurisprudential conflict between the Supreme Court and the Constitutional Court. The study also formulates recommendations to ensure legal certainty in the conduct of future regional elections.

Keywords: age limit for regional heads; Constitutional Court Decision No. 70/PUU-XXII/2024; regional elections; candidacy requirements; determination of candidate pairs; KPU; inauguration; election law.

1. Introduction

The age requirement for regional head candidates is an administrative provision that appears deceptively simple on the surface but harbors significant interpretive complexities. The seemingly technical question, “Exactly when must the minimum age requirement be met?” turns out to have far-reaching implications for who is eligible to run in regional head elections and how the integrity of the regional leader selection process is managed.

The year 2024 marked a dramatic turning point in the history of the debate over the interpretation of age requirements for regional heads. KPU Regulation (PKPU) No. 9 of 2020, which adopted the interpretation that the age requirement is calculated at the time of registration, was temporarily overturned by the Supreme Court through Supreme Court Decision No. 23/P/HUM/2024, which upheld the argument that age is calculated at the time of inauguration. However, the Constitutional Court, through Decision No. 70/PUU-XXII/2024, provided a final and binding clarification: the minimum age requirement for regional head candidates is calculated from the time the KPU designates the candidate pairs.

The conflict between the Supreme Court’s decision and the Constitutional Court’s decision on this interrelated issue presents a jurisdictional dilemma that has drawn the attention of constitutional law scholars and election law practitioners. In Indonesia’s constitutional system, Constitutional Court decisions are final and binding under Article 24C(1) of the 1945 Constitution, while Supreme Court decisions in cases of Material Judicial Review (HUM) also possess final legal force and are erga omnes in nature. When these two decisions yield conflicting interpretations on a related issue, the question of which authority takes precedence becomes crucial.

The government responded by stating that it respects the Constitutional Court’s decision—a statement reflecting recognition of the supremacy of constitutional rulings. However, a mere statement of respect

is not enough; what is more important is how this decision is consistently implemented in the conduct of regional elections, particularly the 2024 National Simultaneous Regional Elections.

This article aims to: first, examine the history and regulatory context of the age requirement for regional heads; second, to analyze the Constitutional Court's reasoning in Decision No. 70/PUU-XXII/2024; third, to examine the conflict of interpretation between the Supreme Court and the Constitutional Court and its implications; fourth, to analyze the government's response; and fifth, to formulate implications and recommendations for legal certainty in the conduct of future regional elections.

2. Normative Framework for Age Requirements for Regional Head Candidates

A. Applicable Legal Provisions

Age requirements for regional head candidates in the Indonesian legal system are regulated in several normative instruments that form a regulatory hierarchy:

Law No. 10 of 2016 (Regional Election Law)	Article 7, paragraph (2), letter e: the minimum age requirement for candidates for governor/deputy governor is 30 years; for candidates for regent/deputy regent and mayor/deputy mayor, it is 25 years. This law does not explicitly specify the point in time from which age is calculated.
KPU Regulation No. 9 of 2020	The General Elections Commission (KPU) interpreted that the age requirement is calculated at the time of candidate pair registration. This interpretation was later overturned by the Supreme Court, sparking controversy regarding when exactly the age requirement must be met.
Supreme Court Decision No. 23/P/HUM/2024	In a case involving a petition for judicial review, the Supreme Court ruled that the age requirement is calculated at the time of inauguration, not at the time of registration. This ruling overturns the KPU regulation's interpretation and opens the door for candidates who do not meet the age requirement at the time of registration but will meet it by the time of their inauguration.
Constitutional Court Decision No. 70/PUU-XXII/2024	The Constitutional Court affirmed that the minimum age requirement is calculated from the date the candidate pair is designated by the General Elections Commission (KPU), not from the date of inauguration. This decision is final and binding, putting an end to the debate over interpretation and serving as a mandatory reference for all parties.

B. The Evolution of Regulations and Interpretations Regarding the Age Requirement

The issue of age requirements for regional heads did not suddenly arise in 2024. It is the result of accumulated differences in interpretation stemming from editorial ambiguities in the Regional Election Law, which does not explicitly specify the starting point for calculating age. The following table traces the evolution of these regulations and interpretations:

Period/Regulation	Age Requirement Provisions	Notes
Before Law No. 10/2016	The minimum age requirement is calculated from the date the candidate pair is nominated by a party or coalition of parties	No clear, specific point in time
Law No. 10 of 2016	Governors: at least 30 years old; Regents/Mayors: at least 25 years old, but the law does not specify when the age is calculated	This has led to differing interpretations regarding whether the age requirement is calculated at the time of registration or at the time of inauguration
PKPU No. 9 of 2020	The KPU interprets: the age requirement is calculated at the time of registration (not inauguration)	Applies to the 2020 Regional Elections
Supreme Court Decision No. 23 P/HUM/2024	The Supreme Court ruled that the PKPU contradicts the law; the age requirement is calculated at the time of inauguration	Contradicts the Constitutional Court's subsequent interpretation
Constitutional Court Decision No. 70/PUU-XXII/2024	The Constitutional Court affirmed: the age requirement is calculated from the date the KPU designates the candidate pairs	Final and binding decision; ends the debate over interpretation
Government Response (2024)	The government stated that it respects the Constitutional Court's decision and will implement it	Commitment to implement unconditionally

3. ANALYSIS OF CONSTITUTIONAL COURT DECISION NO. 70/PUU-XXII/2024

A. Case Profile

Constitutional Court Decision No. 70/PUU-XXII/2024	
Case Number	70/PUU-XXII/2024
Type of Case	Judicial Review of the 1945 Constitution
Subject of Review	Provisions regarding the minimum age requirement for regional head candidates in Law No. 10 of 2016 on Regional Head Elections
Ruling	The petition was dismissed. The Constitutional Court affirmed the constitutional interpretation of the age requirement
Key Points	The minimum age requirement is calculated from the date the candidate pair is designated by the General Elections Commission (KPU), not from the date of inauguration
Nature of the Decision	Final and binding (Article 24C(1) of the 1945 Constitution); erga omnes

Direct Impact	Resolves the interpretive controversy; the KPU is required to refer to this decision in its KPU Regulation (PKPU)
Government Response	States that it respects and will implement the Constitutional Court's decision

B. The Constitutional Court's Line of Reasoning

1. The Principle of Legal Certainty in Election Law

One of the foundations of the Constitutional Court's argument in asserting that the age requirement is calculated as of the designation of candidate pairs is the principle of legal certainty. In election law, certainty is a prerequisite for electoral justice: every election participant must know with certainty whether they meet the requirements at the time the administrative process takes place, not at a time that has not yet occurred (the inauguration).

If the age requirement were calculated at the time of the inauguration—which occurs several months after the nomination of candidates and even after the voting—there would be a time period during which a person who does not yet legally meet the age requirement could participate in the entire campaign and voting process. This situation has the potential to create uncertainty: what if the candidate wins but is later found to be ineligible? The principle of certainty requires that a candidate's eligibility be definitively determined before—not after—the electoral process takes place.

2. Consistency with the Principle of Electoral Administration

The Constitutional Court also considered the principle of administrative consistency in the conduct of elections. The KPU's designation of candidate pairs marks the moment when the KPU officially declares that all administrative requirements have been met. It is logical and administratively consistent that all requirements—including the age requirement—be evaluated at the same time.

Unlike other requirements that have clear evaluation timelines (for example, the requirement that a candidate not be currently stripped of their right to vote is evaluated at the time of registration), an age requirement calculated at the time of inauguration would create a category of requirements that are "up in the air": whether or not the requirement is met can only be confirmed months after the main administrative evaluation has taken place.

3. Rejection of the Petition

The Constitutional Court rejected the petition for a judicial review in Case No. 70/PUU-XXII/2024, meaning that the Court found no conflict between the provisions of the applicable Regional Election Law and the 1945 Constitution. This rejection was accompanied by a clarification of the constitutional interpretation regarding the timing of age calculation, which forms part of the *ratio decidendi* of the decision and is also legally binding.

The Constitutional Court's affirmation that the age requirement is calculated from the date the KPU designates the candidate pairs precludes any other interpretations that might arise. All parties—the KPU, Bawaslu, election participants, and the government—are bound by this interpretation due to the final and binding nature of the Constitutional Court's decision.

4. Jurisprudential Conflict: Supreme Court vs. Constitutional Court

A. Supreme Court Decision No. 23/P/HUM/2024: Conflicting Interpretations

Before the Constitutional Court issued Decision No. 70/PUU-XXII/2024, the Supreme Court had already ruled on Case No. 23/P/HUM/2024, which challenged KPU Regulation No. 9 of 2020. In its decision, the Supreme Court stated that the KPU Regulation was inconsistent with the Regional Election Law because it stipulated that age is calculated at the time of registration, whereas, according to the Supreme Court, the Regional Election Law requires age to be calculated at the time of inauguration.

This Supreme Court ruling has the force of law and is binding on all parties (*erga omnes*) in the context of judicial review of regulations under the law. The implication of this ruling is that KPU regulations referring to the registration deadline are deemed invalid, opening the door for candidates who will only meet the age requirement at the time of inauguration to run in regional elections.

Supreme Court Decision No. 23/P/HUM/2024 upheld the interpretation of “at the time of inauguration” and invalidated the PKPU that applied the registration deadline. Several months later, Constitutional Court Decision No. 70/PUU-XXII/2024 affirmed the interpretation of “at the time of the KPU’s decision,” which is substantially closer to registration than to inauguration. This conflict highlights the urgency of establishing a more formal coordination mechanism between the Supreme Court and the Constitutional Court to ensure legal certainty in the conduct of elections.

B. Hierarchy and Supremacy: The Constitutional Court as Guardian of the Constitution

This conflict between the decisions of the Supreme Court and the Constitutional Court raises a fundamental constitutional question: if two decisions from the two highest judicial institutions yield different interpretations of a related issue, which one should be followed?

In Indonesia’s constitutional system, the answer to this question is quite clear from the perspective of the hierarchy of norms and institutional design. First, the Constitutional Court is the institution constitutionally entrusted to serve as the guardian of the Constitution, with rulings that are final and binding. Second, the Constitutional Court’s rulings on constitutional interpretation are binding on all parties, including the Supreme Court. Third, in the context of reviewing laws against the 1945 Constitution, the Constitutional Court is the forum with exclusive jurisdiction.

However, it should be noted that Supreme Court Decision No. 23/P/HUM/2024 operates in a different sphere: it reviews regulations under a law (PKPU) against a law (the Regional Election Law). Meanwhile, Constitutional Court Decision No. 70/PUU-XXII/2024 reviews a law against the 1945 Constitution. Although the subjects of review differ, both decisions address substantively the same issue—when age is calculated—so their outcomes interact with one another in practice.

C. Comparative Table of the Two Interpretations

The following is a systematic comparison of the two interpretations at the center of this jurisprudential conflict:

Dimension			Interpretation A: At the Time of Inauguration	Interpretation B: At the Time of KPU Designation (Constitutional Court Ruling)
Time Calculation	Point	for	At the time of the regional head’s inauguration	At the time of the KPU’s designation of candidate pairs
Implications for Young Candidates			Candidates who are underage at the time of registration may run if they	Candidates must have reached the minimum age by the time the KPU

		will be of legal age by the time of their inauguration	officially designates them as a candidate pair
Legal certainty		More flexible; allows for candidates who will reach the required age by the time of their inauguration	Clearer and more certain; criteria are assessed at an earlier point in time
Impact on the 2024 Regional Elections		Potentially allows candidates who have not yet met the age requirement at the time of registration to qualify	Stricter; candidates must meet the requirements early in the election process
KPU's Position (PKPU 9/2020)		Not adopted by the KPU in the PKPU	Adopted by the KPU in PKPU No. 9/2020 before the Supreme Court's ruling
Supreme Court Decision No. 23/P/HUM/2024		This interpretation prevailed; the KPU regulation was declared contrary to the law	Overturned by the Supreme Court's ruling; however, reinstated by the Constitutional Court
Constitutional Court Decision No. 70/PUU-XXII/2024		REJECTED by the Constitutional Court—not a constitutional point in time	UPHELD by the Constitutional Court—it is a constitutional time point

5. Government Response and Implications for Implementation

A. Statement Respecting the Constitutional Court's Ruling

The government has stated that it respects Constitutional Court Decision No. 70/PUU-XXII/2024. This statement, although seemingly formal, carries significant constitutional weight. In a system of government that upholds the supremacy of the constitution, the executive branch is obligated to unconditionally comply with and implement the decisions of the constitutional court; the statement "respects" is an expression of that commitment.

However, this statement of respect must be followed by concrete actions. In the context of regional elections, the most immediate steps required include: instructing the General Election Commission (KPU) to align its regulations (PKPU) with the Constitutional Court's interpretation, conducting outreach to all levels of election administrators at the provincial and regency/city levels, and providing certainty to potential candidates affected by this change in interpretation.

B. The KPU's Obligation to Amend the PKPU

The Constitutional Court's ruling, which is final and binding, requires the General Elections Commission (KPU)—as the technical organizer of the elections—to immediately amend its regulations in accordance with the Constitutional Court's interpretation. Pursuant to Article 57 of the Constitutional Court Law, a Constitutional Court decision granting a petition must be published in the State Gazette; in the context of a decision that denies a petition but provides a binding constitutional interpretation, the KPU is still required to adhere to that interpretation.

Any KPU Regulation (PKPU) that substantively contradicts the Constitutional Court's interpretation—for example, by continuing to use the date of inauguration as the basis for calculating age—risks being challenged again in the Supreme Court (in the context of a judicial review of the PKPU against the law) or contested by regional election candidates who feel they have been wronged. To avoid further jurisdictional confusion, the KPU must promptly revise the relevant PKPUs.

6. Constitutional and Electoral Implications

A. Comprehensive Implications of the Ruling

Constitutional Court Decision No. 70/PUU-XXII/2024 has implications that go beyond merely resolving a technical debate regarding the point in time for calculating age. It touches on broader dimensions of the conduct of electoral democracy:

Dimension of Implications	Description	Assessment
Legal Certainty in Elections	Administrative requirements for regional head candidacy now have a clear and definite point in time	This positively reduces future disputes over interpretation
Integrity of the Selection Process	Age requirements are evaluated earlier (at the time of the KPU's decision), promoting a more comprehensive candidate selection process	Positive: the administrative process is more structured
Impact on Young Candidates	Candidates who will only meet the age requirement at the time of inauguration cannot run in regional elections	Normative: Consistent with the principle of legal certainty
KPU's Position	As the election organizer, the KPU is required to align its regulations (PKPU) with the Constitutional Court's ruling; it can no longer adopt alternative interpretations	Mandatory: The KPU is bound by the Constitutional Court's final and binding decision
Interpretations of the Supreme Court vs. the Constitutional Court	Supreme Court Decision No. 23/P/HUM/2024, which contradicts the Constitutional Court's ruling, raises questions about judicial coordination	A better coordination mechanism between the Supreme Court and the Constitutional Court is needed
Jurisprudential Precedent	This ruling sets a binding precedent for future regional elections	Long-term stabilization of election jurisprudence
Government Accountability	A statement respecting the Constitutional Court's ruling is a positive step; the key is consistent implementation	Oversight is needed; commitment must be demonstrated in implementation

B. Impact on the 2024 Simultaneous Regional Elections

Constitutional Court Decision No. 70/PUU-XXII/2024 was issued in the context of preparations for the 2024 Simultaneous Regional Elections—a nationwide election for regional heads covering all provinces, regencies, and cities in Indonesia. In this context, the ruling's impact is very concrete and immediate: regional head candidates whose readiness calculations depended on the interpretation of "inauguration" must adjust their plans to the reality that age is calculated at the time of designation by the General Elections Commission (KPU).

This ruling also has implications for young candidates who are in the public spotlight for the 2024 Regional Elections. Figures who have not yet met the minimum age requirement at the time the KPU designates candidate pairs cannot run in the elections, even though they would meet the age requirement at the time of inauguration if elected.

C. The Perspective of Electoral Justice

From the perspective of electoral justice, the Constitutional Court's ruling has two sides that can be analyzed in a balanced manner. On the one hand, stipulating that age is calculated at the time of the KPU's nomination creates earlier certainty and prevents situations where someone who is not yet legally "eligible" is still allowed to compete in the democratic process up to a certain stage. On the other hand, there is an argument that a more flexible age requirement (calculated at the time of inauguration) opens up broader opportunities for the younger generation to participate in local leadership.

The Constitutional Court has made a clear constitutional choice by emphasizing administrative certainty and consistency. This choice does not preclude the participation of the younger generation as a whole, but affirms that formal eligibility must be confirmed at the outset of the selection process, not at its conclusion.

7. Preventing Future Jurisprudential Conflicts

A. The Urgency of a Coordination Mechanism Between the Supreme Court and the Constitutional Court

The conflict between Supreme Court Decision No. 23/P/HUM/2024 and Constitutional Court Decision No. 70/PUU-XXII/2024—although ultimately resolved by invoking the supremacy of the Constitutional Court's constitutional interpretation—highlights structural weaknesses in Indonesia's system of judicial review. When the two highest judicial institutions issue conflicting rulings on related issues, the impact is highly destructive to legal certainty and public trust in the legal system.

To prevent a recurrence of such situations, a more formal coordination mechanism between the Supreme Court and the Constitutional Court is needed. Supreme Court Circular Letter (SEMA) No. 7 of 2014 has sought to address this issue, but it has not been sufficient to prevent the conflict that arose in the context of the 2024 regional elections. A formal Memorandum of Understanding (MoU), a coordination protocol, or even a legislative amendment is needed to explicitly establish a resolution mechanism for instances where the Supreme Court and the Constitutional Court issue conflicting rulings.

B. Amending the Regional Election Law to Eliminate Ambiguity

The root of this controversy lies in the ambiguity of the wording of Law No. 10 of 2016, which does not explicitly specify when the age requirement is calculated. The House of Representatives and the Government need to immediately capitalize on the momentum of the Constitutional Court's ruling to revise the Regional Election Law and include a provision that explicitly states that the age requirement is calculated at the time the KPU designates the candidate pairs.

By including this clarification in the law, the interpretation—which currently exists only in the Constitutional Court's ruling—will gain a stronger normative basis and be more easily understood by all parties, including local election organizers who may not be fully familiar with developments in the Constitutional Court's jurisprudence.

C. Strengthening Transparency in the Regional Election Process

This controversy over the age requirement also underscores the importance of transparency in the administrative process of regional elections. The KPU must ensure that all candidacy requirements—including the age requirement with the specific cutoff date confirmed by the Constitutional Court—are communicated clearly and in a timely manner to potential candidates, political parties, and the general

public. A lack of clarity from the outset is what allowed for a prolonged controversy such as the one that occurred in the 2024 regional elections.

8. Conclusion

Based on the analysis conducted, this article draws the following conclusions:

1. Constitutional Court Decision No. 70/PUU-XXII/2024 provides much-needed legal certainty regarding the cutoff date for calculating the age requirement for regional head candidates: the minimum age requirement is calculated from the date the candidate pairs are designated by the General Elections Commission (KPU), not from the date of inauguration. This decision is final and binding and resolves the long-standing interpretive controversy.
2. The conflict between Supreme Court Decision No. 23/P/HUM/2024—which upheld the “inauguration” interpretation—and Constitutional Court Decision No. 70/PUU-XXII/2024—which affirmed the “KPU designation” interpretation—highlights structural weaknesses in the coordination system between the two highest judicial institutions. The supremacy of the Constitutional Court’s constitutional ruling resolves this controversy, but mechanisms to prevent similar conflicts in the future need to be strengthened.
3. The government’s response, stating that it respects the Constitutional Court’s decision, is a constitutionally appropriate step. However, consistent implementation—through revisions to the KPU Regulation (PKPU) by the KPU and revisions to the Regional Election Law by the House of Representatives (DPR) and the government—will be the true test of that commitment.
4. The implications of the ruling extend beyond a mere technical resolution: it touches on legal certainty in elections, the integrity of the regional head selection process, the position of young candidates within the electoral democratic system, and the quality of synergy among judicial institutions within Indonesia’s constitutional system.
5. The key recommendations are: (i) to revise the Regional Election Law to include explicit provisions regarding the cutoff date for age calculation in accordance with the Constitutional Court’s interpretation; (ii) to establish a more formal coordination mechanism between the Supreme Court and the Constitutional Court to prevent conflicts in jurisprudence; (iii) for the KPU to immediately revise the relevant PKPU; and (iv) to enhance the transparency of communication regarding candidacy requirements to potential candidates and political parties.

Ultimately, the Constitutional Court’s ruling on the age requirement for regional heads reflects its role as the guardian of the Constitution, providing the final interpretation of legal norms. The legal certainty it provides is a tangible contribution to the quality of Indonesia’s electoral democracy—a well-functioning democracy requires clear, certain, and consistent rules of the game for all participating parties.

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