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Legitimacy and Limits of the Authority of Acting Regional Heads in the Administration of Regional Autonomy: An Analysis Following the 2024 Simultaneous National Regional Elections

Legitimasi dan Batas Kewenangan Penjabat Kepala Daerah dalam Penyelenggaraan Otonomi Daerah: Analisis Pasca-Pilkada Serentak Nasional 2024

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ABSTRACT
This article examines (1) how the appointment mechanism and limits of authority of acting regional heads are regulated under Law Number 10 of 2016 and its implementing instruments in light of Constitutional Court Decisions Number 67/PUU-XIX/2021 and 15/PUU-XX/2022, and (2) the implications of such appointments for regional autonomy and local democracy. Using normative legal research with statutory, conceptual, and case approaches, the study finds that Article 201(9)–(11) of Law 10/2016 regulates only the rank requirement, while procedures were issued belatedly through Minister of Home Affairs Regulation Number 4 of 2023, an instrument of insufficient rank that gives regional legislatures a non-binding role. Statutory limits on authority were relaxed by Circular Letter Number 821/5492/SJ, which lies outside the hierarchy of legislation. These conditions produced a democratic legitimacy deficit, upward accountability resembling deconcentration, risks to bureaucratic neutrality, and weakened horizontal accountability. In view of Decision Number 135/PUU-XXII/2024, the article proposes a statutory framework based on proportionality between democratic legitimacy and the scope of authority.
***Keywords**: Acting Regional Head, Democratic Legitimacy, Limits of Authority, Local Democracy*

ABSTRAK
Artikel ini mengkaji (1) pengaturan mekanisme pengangkatan dan batas kewenangan Pj kepala daerah menurut Undang-Undang Nomor 10 Tahun 2016 beserta peraturan pelaksananya dalam kaitan dengan Putusan Mahkamah Konstitusi Nomor 67/PUU-XIX/2021 dan Nomor 15/PUU-XX/2022, serta (2) implikasi pengisian jabatan tersebut terhadap otonomi daerah dan demokrasi lokal. Dengan metode penelitian hukum normatif melalui pendekatan perundang-undangan, konseptual, dan kasus, penelitian ini menemukan bahwa Pasal 201 ayat (9) sampai dengan ayat (11) UU 10/2016 hanya mengatur syarat jenjang jabatan, sedangkan prosedurnya baru diatur belakangan melalui Permendagri Nomor 4 Tahun 2023, instrumen yang derajatnya tidak memadai dan hanya memberi peran tidak mengikat kepada DPRD. Batas kewenangan menurut peraturan perundang-undangan dilonggarkan oleh Surat Edaran Nomor 821/5492/SJ yang berada di luar hierarki peraturan perundang-undangan. Keadaan ini melahirkan defisit legitimasi demokratis, akuntabilitas ke atas yang menyerupai dekonsentrasi, risiko terhadap netralitas birokrasi, dan melemahnya akuntabilitas horizontal. Mengingat Putusan Nomor 135/PUU-XXII/2024, artikel ini mengusulkan kerangka pengaturan setingkat undang-undang yang berlandaskan proporsionalitas antara legitimasi demokratis dan lingkup kewenangan.
Kata Kunci: Batas Kewenangan, Demokrasi Lokal, Legitimasi Demokratis, Otonomi Daerah

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INTRODUCTION

Article 18(2) of the 1945 Constitution of the Republic of Indonesia (hereinafter the 1945 Constitution) provides that provincial, regency, and municipal governments regulate and manage their own governmental affairs in accordance with the principles of autonomy and co-administration (*tugas pembantuan*), while Article 18(4) requires that governors, regents, and mayors, as heads of regional government, be elected democratically. Read together, these provisions indicate that regional autonomy concerns not only the distribution of governmental affairs but also the right of regional communities to determine their own leaders. Manan (2001) describes autonomy as an instrument for realising democracy because it enables people in the regions to participate in the administration of government. Regional heads who obtain their mandate through democratic mechanisms therefore occupy a pivotal position in linking regional autonomy with popular sovereignty at the local level.

This relationship was disrupted when lawmakers scheduled simultaneous national regional head elections for November 2024. Article 201(9) of Law Number 10 of 2016 (hereinafter Law 10/2016) provides that vacancies in the offices of regional heads whose terms ended in 2022 and 2023 are to be filled by acting governors, acting regents, and acting mayors until definitive regional heads are elected through the 2024 simultaneous national elections (Law Number 10 of 2016). As a result, 272 regions came to be led by acting regional heads (*penjabat*, Pj): 101 regions whose heads' terms ended in 2022 (7 provinces, 76 regencies, and 18 municipalities) and 171 regions whose heads' terms ended in 2023 (17 provinces, 115 regencies, and 39 municipalities) (Risan, 2021).

Some acting heads remained in office for more than two and a half years, until the President simultaneously inaugurated 961 regional heads and deputy regional heads elected in the 2024 elections on 20 February 2025 (ANTARA News, 2025). In the 24 regions where the Constitutional Court subsequently ordered re-voting, interim leadership lasted even longer (Abrar, 2025). For almost half of a five-year term, therefore, nearly half of Indonesia's autonomous regions were governed by officials who had not been elected by their residents.

The appointment of these officials was contested from the outset. In Decision Number 67/PUU-XIX/2021, pronounced on 20 April 2022, the Constitutional Court (hereinafter the Court) rejected the petition for review of Article 201(7) and (8) of Law 10/2016. In paragraph [3.14.3], however, it stated that the filling of vacancies remains within the meaning of "democratically" in Article 18(4) of the 1945 Constitution and that the government should issue implementing regulations providing measurable and clear mechanisms and requirements, so that appointments are open, transparent, and accountable (Constitutional Court of the Republic of Indonesia, 2022a).

On the same day, in Decision Number 15/PUU-XX/2022 concerning Article 201(10) and (11), the Court further required the government to map the actual conditions of each region and to ensure that appointees possess managerial competence and are able to cooperate with regional legislatures (Constitutional Court of the Republic of Indonesia, 2022b; Hakim et al., 2023). Nevertheless, the first wave of acting heads was installed in May 2022 without such regulations. The Ombudsman of the Republic of Indonesia subsequently found three forms of maladministration: undue delay in responding to requests for information and public objections, procedural irregularities in the appointment of an active military officer, and neglect of the legal obligation to follow up on the Court's considerations (Ombudsman of the

Republic of Indonesia, 2022).

Problems also arose in the exercise of authority. On 14 September 2022, the Minister of Home Affairs issued Circular Letter Number 821/5492/SJ, which granted acting, interim, and temporary regional heads a general written approval to impose disciplinary sanctions, including dismissal, on civil servants implicated in corruption or serious disciplinary violations, and to release and accept civil servants transferring between regions or agencies, subject only to a report within seven working days (Suara.com, 2022).

The Ombudsman considered the circular inconsistent with Article 132A of Government Regulation Number 6 of 2005 as amended by Government Regulation Number 49 of 2008, which prohibits acting regional heads from transferring personnel without the Minister's written approval (Detik News, 2022). The episode shows that the authority of acting heads, which ought to be narrower than that of elected heads, was expanded through an instrument that does not form part of the hierarchy of legislation. The problem of acting regional heads therefore concerns both the legitimacy of their appointment and the limits of their authority while in office.

Existing scholarship has approached these problems from several angles. Rahmazani (2023) and Riadhussyah et al. (2022) show that the absence of implementing rules before the 2024 elections left appointments without measurable mechanisms and weakened their democratic character. Kurniawan et al. (2023) identify variations in the grounds for appointment, eligibility criteria, and length of tenure as the main sources of weak accountability, while Rogers et al. (2024) and Hifdillah et al. (2025) propose democratising the process through public or parliamentary participation. Hakim et al. (2023) argue that the Court's considerations on acting heads constitute *ratio decidendi* rather than *obiter dictum*, and Pamungkas and Asmorojati (2023) conclude that Circular Letter 821/5492/SJ exceeded the Minister's authority. More recently, Mukhlis et al. (2025) propose a consultative model of appointment, Thaher and Isnaini (2025) link the governance of acting heads to national resilience, and Hulbayan et al. (2026) examine the legitimacy of regional heads during the transition created by Constitutional Court Decision Number 135/PUU-XXII/2024.

These studies share three limitations. First, most were written while acting heads were still in office and therefore could not assess the regime across its entire 2022–2025 cycle. Second, they treat the legitimacy of appointment and the limits of authority as separate issues, whereas the two are normatively interdependent: the weaker the democratic basis of an office, the stronger the justification for restricting its discretionary powers. Third, apart from Hulbayan et al. (2026), they do not address the prospect of renewed large-scale vacancies following Decision Number 135/PUU-XXII/2024, which separated national and local elections. The novelty of this article lies in three respects. It evaluates the acting-head regime *ex post*, covering the full cycle from the first appointments in May 2022 to the inauguration of elected heads in 2025. It develops a principle of proportionality between legitimacy and authority as a standard for assessing both the hierarchy and the content of the governing instruments, namely Law 10/2016, Government Regulation 49/2008, Minister of Home Affairs Regulation 4/2023, and Circular Letter 821/5492/SJ. Finally, it translates these findings into a statutory design for the transitional period that Decision Number 135/PUU-XXII/2024 is likely to produce.

Accordingly, this article addresses two research questions: (1) how are the

appointment mechanism and the limits of authority of acting regional heads regulated under Law 10/2016 and its implementing instruments, in light of Constitutional Court Decisions Number 67/PUU-XIX/2021 and Number 15/PUU-XX/2022; and (2) what are the implications of filling regional head offices with centrally appointed acting heads for the principles of regional autonomy and local democracy? The purpose of this study is to analyse both questions and, on that basis, to formulate a regulatory model for filling future large-scale vacancies in regional head offices.

RESEARCH METHODS

This study is normative legal research, which seeks to identify legal rules, principles, and doctrines in order to answer the legal issues under examination (Marzuki, 2017). It employs three approaches. The statutory approach examines the 1945 Constitution; Law 10/2016; Law Number 12 of 2011 on the Formation of Legislation as last amended by Law Number 13 of 2022 (hereinafter Law 12/2011); Law Number 23 of 2014 on Regional Government (hereinafter Law 23/2014); Law Number 30 of 2014 on Government Administration (hereinafter Law 30/2014); Law Number 20 of 2023 on the State Civil Apparatus; Government Regulation 49/2008; and Minister of Home Affairs Regulation Number 4 of 2023. Circular Letter 821/5492/SJ is analysed as a policy rule (*beleidsregel*) rather than as legislation. The conceptual approach draws on the concepts of regional autonomy, democratic legitimacy, sources of governmental authority, and horizontal accountability. The case approach analyses Constitutional Court Decisions Number 67/PUU-XIX/2021, Number 15/PUU-XX/2022, and Number 135/PUU-XXII/2024. Primary legal materials consist of legislation and court decisions; secondary legal materials consist of books and peer-reviewed journal articles; and non-legal materials consist of Ombudsman reports and reputable media reports, used solely to establish facts. The materials were analysed qualitatively through systematic and teleological interpretation, and conclusions were drawn deductively to produce prescriptions.

RESULTS AND DISCUSSION

Regulation of the Appointment Mechanism and Limits of Authority of Acting Regional Heads

1. Statutory Basis in Law 10/2016

The principal provisions on acting regional heads in the context of the 2024 simultaneous elections are Article 201(9), (10), and (11) of Law 10/2016. Paragraph (9) provides the legal basis for filling vacancies with acting heads. Paragraph (10) requires that acting governors be drawn from middle-tier high-level executive positions (*jabatan pimpinan tinggi madya*), and paragraph (11) requires that acting regents and acting mayors be drawn from primary-tier high-level executive positions (*jabatan pimpinan tinggi pratama*), in each case until the inauguration of definitive regional heads (Law Number 10 of 2016). The law is silent on who nominates candidates, how they are assessed, what role the Regional House of Representatives (*Dewan Perwakilan Rakyat Daerah*, DPRD) plays, how long an acting head may serve before being evaluated, and what the limits of his or her authority are. Nor does it expressly delegate these matters to a lower regulation. The only requirement it regulates expressly is the rank of the position. From the standpoint of legal certainty, the norm is therefore incomplete and heavily dependent on implementing instruments.

This incompleteness is more serious because Article 201(9) addresses a situation that differs qualitatively from an ordinary vacancy. Under the general regime of regional government law, an acting official fills an incidental vacancy for a limited period, for instance when a regional head is temporarily dismissed. Article 201(9), by contrast, creates a planned, nationwide, and long-term vacancy. This difference explains why, in Decision Number 15/PUU-XX/2022, the Court required the government first to map the actual conditions of each region and its need for an acting head, and stated that appointees should understand the state ideology, possess managerial competence, be able to work with the DPRD, and be subject to periodic evaluation (Constitutional Court of the Republic of Indonesia, 2022b; Hakim et al., 2023). These conditions supplement the statutory norm and indicate that the Court did not regard the rank requirement alone as sufficient.

2. The Constitutional Court's Considerations and Their Binding Force

Paragraph [3.14.3] of Decision Number 67/PUU-XIX/2021 contains four messages. First, the filling of vacancies by acting heads remains within the meaning of "democratically" in Article 18(4) of the 1945 Constitution and must therefore observe democratic principles. Second, the government should issue implementing regulations for Article 201 of Law 10/2016. Third, those regulations must provide measurable and clear mechanisms and requirements so that appointments are open, transparent, and accountable. Fourth, given the length of the transition, consideration should be given to granting acting heads authority equivalent to that of definitive regional heads (Constitutional Court of the Republic of Indonesia, 2022a). Although the petition was rejected, these considerations form part of the reasons why the Court held the norm to be constitutional. The constitutionality of Article 201 thus presupposes a democratic, transparent, and accountable appointment mechanism. Hakim et al. (2023) characterise such considerations as *ratio decidendi*, which share the final and binding force that Article 24C(1) of the 1945 Constitution attaches to the Court's decisions. Disregarding them means implementing the norm outside the conditions of constitutionality set by the Court.

The fourth message requires careful reading. It does not authorise acting heads to exercise unlimited discretion; rather, it responds to the practical need for effective government during a long transition. Equivalent authority was envisaged together with, not in place of, a democratic and accountable appointment mechanism. Where that mechanism is absent or deficient, the case for equivalent authority loses its premise, and the statutory limitations discussed in subsection 4 below retain their justification.

In practice, the government did not promptly issue implementing regulations, taking the position that existing provisions were sufficient. The Ombudsman regarded this as a neglect of legal obligations and, in its final examination report, asked the Minister of Home Affairs to prepare, within 30 days, a draft government regulation on the appointment process, scope of authority, performance evaluation, and dismissal of acting heads (Ombudsman of the Republic of Indonesia, 2022). No such government regulation was enacted. Instead, the Minister issued Minister of Home Affairs Regulation Number 4 of 2023 on Acting Governors, Acting Regents, and Acting Mayors (hereinafter MoHA Regulation 4/2023), enacted on 4 April 2023, after more than one hundred acting heads had already been installed (Rahmazani, 2023).

3. The Appointment Mechanism under MoHA Regulation 4/2023

MoHA Regulation 4/2023 addresses several matters that had previously been left unregulated. For acting governors, the Minister and the provincial DPRD, through its chair, may each propose three eligible candidates, and the President makes the appointment by Presidential Decree (Article 4). For acting regents and mayors, the Minister, the governor, and the regency or municipal DPRD may each propose three candidates, and the Minister makes the appointment (Article 9). The term of office is one year and may be extended for one further year, either with the same person or with a different person (Articles 8(1) and 14(1)). Acting heads must submit accountability reports at least once every three months (Article 18), and their performance is evaluated by the Minister (Articles 19 and 20) (Minister of Home Affairs Regulation Number 4 of 2023).

The regulation represents progress but leaves three weaknesses. First, DPRD nominations are optional and non-binding. The phrase "may propose" imposes no obligation on the central government to choose from the DPRD's candidates, so the final decision rests entirely with the centre. Second, the regulation sets no criteria for an open assessment of candidates, does not require publication of the reasons for selection, and provides no channel for public participation, leaving untouched the deficits identified by Kurniawan et al. (2023) and Rogers et al. (2024). Third, the instrument is ill-suited to its subject matter from the perspective of hierarchy. Ministerial regulations are not part of the hierarchy in Article 7(1) of Law 12/2011; under Article 8(2), they are recognised and legally binding only if ordered by higher legislation or issued on the basis of authority (Law Number 12 of 2011). Article 201 of Law 10/2016 contains no express delegation, while the filling of the office of head of an autonomous region implicates Article 18(4) of the 1945 Constitution. Because the further elaboration of constitutional provisions is, under Article 10(1)(a) of Law 12/2011, matter reserved for statute, the core of the appointment mechanism should be regulated by statute or, at minimum, by a government regulation (Indrati S., 2007), as the Ombudsman also recommended.

4. Limits of the Authority of Acting Regional Heads

The limits of an acting head's authority depend first on how that authority is acquired. Unlike a definitive regional head, whose office is conferred by popular election, an acting head holds office by virtue of an administrative appointment by the central government and remains accountable to the appointing authority. Although MoHA Regulation 4/2023 vests the acting head with the duties and powers of the office, the relationship is functionally close to a mandate, in which the official acts on behalf of, and remains answerable to, the mandator (Ridwan HR, 2018). Law 30/2014 codifies the consequence of such a relationship: under Article 14(7), an official who acquires authority by mandate may not take strategic decisions or actions that alter legal status in matters of organisation, personnel, and budget allocation (Law Number 30 of 2014). The same logic underlies Article 132A(1) of Government Regulation Number 6 of 2005, inserted by Government Regulation Number 49 of 2008, which prohibits acting regional heads from transferring personnel, revoking permits issued by their predecessors or issuing permits that contradict them, adopting policies on the division of regions, and adopting policies that contradict the administrative policies and development programmes of their predecessors. Paragraph (2) permits exceptions only with the prior written approval of the Minister of Home Affairs (Government Regulation Number 49 of 2008).

Two points of hierarchy deserve attention. First, Government Regulation 6/2005 was originally issued to implement Law Number 32 of 2004, which has since been replaced by Law 23/2014; its continued application therefore rests on its consistency with the new legislative framework. Second, MoHA Regulation 4/2023 resolves this uncertainty only in part. Article 15(1) grants acting heads the same duties, powers, obligations, and prohibitions as definitive heads, in line with the Court's suggestion in Decision Number 67/PUU-XIX/2021, but Article 15(2) restates the four prohibitions of Article 132A, and Article 15(3) permits exceptions only with the Minister's written approval (Minister of Home Affairs Regulation Number 4 of 2023). The substantive limitation thus survives, but it now rests on a ministerial regulation and on an exception clause that contains neither criteria nor any requirement of publicity.

The weakness of this design had already become evident with Circular Letter 821/5492/SJ, issued seven months before MoHA Regulation 4/2023. Instead of granting approval case by case, the circular extended advance approval to all acting heads for certain personnel actions (Suara.com, 2022). What should have been a case-specific exception, granted for a particular action on particular grounds, was converted into a general authorisation. A circular letter is a policy rule (*beleidsregel*), not legislation within the meaning of Articles 7 and 8 of Law 12/2011, and it cannot set aside a government regulation (Pamungkas & Asmorojati, 2023). The relaxation of these limits through such an instrument shows that restrictions which are the logical corollary of weak democratic legitimacy were loosened administratively by the very authority to which acting heads are accountable.

In answer to the first research question, the appointment of acting heads rested on a statutory norm that sets only a rank requirement, on Constitutional Court considerations that demand a democratic, transparent, and accountable mechanism, and on a ministerial regulation that arrived late and gives the DPRD only a non-binding role. The limits of authority are anchored in Article 14(7) of Law 30/2014 and Article 132A of Government Regulation 49/2008 and are restated in Article 15 of MoHA Regulation 4/2023, but their open-ended exception clause allowed them to be relaxed by a circular letter that lies outside the hierarchy of legislation.

Implications of Filling Regional Head Offices with Acting Heads for Regional Autonomy and Local Democracy

1. Democratic Legitimacy Deficit

The first implication is a legitimacy deficit. In a democracy, the legitimacy of power derives from the consent of the governed, and Dahl (1998) counts the election of officials in free, fair, and frequent elections among the minimum institutional requirements of democracy. Definitive regional heads derive legitimacy directly from local voters, whereas acting heads derive it from an administrative decision of the central government. Such administrative legitimacy may suffice for a brief, incidental vacancy, but it becomes problematic when an acting head governs a region for more than two years and exercises the full range of regional government functions, including the preparation and execution of the regional budget (Abustan, 2022; Riadhussyah et al., 2022).

The phrase "elected democratically" in Article 18(4) of the 1945 Constitution leaves lawmakers room to choose the electoral model, but it cannot be read as

justifying long-term regional leadership without any electoral element. This is why the Court insisted that the filling of vacancies must observe democratic principles (Constitutional Court of the Republic of Indonesia, 2022a). When the DPRD, the only regional institution that still possesses electoral legitimacy, is given merely a non-binding power of nomination, the democratic element in the appointment of acting heads is practically absent. Hifdillah et al. (2025) reach a similar conclusion from the perspective of popular sovereignty, while Mukhlis et al. (2025) propose consultative mechanisms to restore it.

2. Shift from Decentralisation toward Deconcentration

The second implication goes to the core of regional autonomy. Under decentralisation, the regional head is accountable to local residents and the DPRD for the governmental affairs devolved to the region; under deconcentration, an official acts as a representative of the central government and is accountable to the centre (Huda, 2009). Acting heads are nominated, appointed, evaluated, extended, and dismissed by the central government, and they report to the Minister at least once every three months. Their line of accountability therefore runs upward rather than to the local community. Between 2022 and early 2025, a large proportion of autonomous regions were thus led by officials who structurally resembled instruments of deconcentration rather than organs of autonomous regions.

This shift reflects a broader recentralising tendency in central–regional relations. Article 18(5) of the 1945 Constitution affirms that regional governments exercise the widest possible autonomy, except for governmental affairs that statute designates as affairs of the central government. The widest possible autonomy loses much of its meaning when the head of the regional executive is entirely determined and controlled by the centre. Kurniawan et al. (2023) caution that acting heads unfamiliar with the region risk discontinuing their predecessors' programmes and undermining development continuity, while Thaher and Isnaini (2025) show that the absence of clear limits on authority and of legislative oversight weakens local legitimacy.

3. Risk of Bureaucratic Politicisation and Loss of Neutrality

The third implication concerns neutrality. Because acting heads are drawn from high-level executive positions in the civil service, they are bound by the duty of political neutrality under Article 24(1)(d) of Law Number 20 of 2023 on the State Civil Apparatus (Law Number 20 of 2023). Yet acting heads led their regions in the run-up to and during the 2024 general and regional elections while controlling the regional bureaucracy and budget. Concerns that long tenures could be exploited for political ends through budget allocation and policy choices were raised from the outset (Risan, 2021). The general approval under Circular Letter 821/5492/SJ heightened this risk, since personnel actions are among the most readily available instruments for pressuring or rewarding civil servants. The appointment of an active military officer as Acting Regent of West Seram in 2022 drew further criticism for being inconsistent with the principle of civilian supremacy and with the rules governing civilian positions (Ombudsman of the Republic of Indonesia, 2022; Reniwuryaan et al., 2023).

4. Weakening of the DPRD's Horizontal Accountability

The fourth implication is the weakening of horizontal accountability. In the ordinary relationship, the DPRD oversees the regional head through its legislative, budgetary, and oversight functions and through the regional head's accountability

reports. In the case of acting heads, these functions formally remain, but the DPRD has no decisive influence over appointment, extension, or dismissal. Evaluations are conducted by the Minister, and MoHA Regulation 4/2023 does not require their results to be published. The DPRD and the public are therefore left without an effective instrument to correct an underperforming acting head. Consequently, the principles of accountability and openness, which govern the administration of regional government under Article 58 of Law 23/2014 and form part of the general principles of good governance under Article 10(1) of Law 30/2014, are not adequately fulfilled (Law Number 23 of 2014; Law Number 30 of 2014; Rogers et al., 2024).

5. Future Regulatory Direction

Although most acting heads were replaced by elected heads in February 2025, the problem is far from closed. In Decision Number 135/PUU-XXII/2024, pronounced on 26 June 2025, the Court held that simultaneous elections for DPRD members and regional heads must be held no earlier than two years and no later than two years and six months after the inauguration of the national legislature or of the President and Vice-President, and it left the design of the transitional period for regional heads and DPRD members to lawmakers through "constitutional engineering" (Constitutional Court of the Republic of Indonesia, 2025). Since regional heads elected in 2024 will complete their terms before the first separate local elections, lawmakers will again have to choose between extending incumbents' terms and appointing acting heads, a choice that Hulbayan et al. (2026) show bears directly on democratic legitimacy. The 2022–2025 experience should therefore inform the legislation that this decision now requires.

This article proposes five elements. First, the mechanism for filling acting head positions should be regulated in the Election Law or the Regional Government Law, or at minimum in a government regulation, rather than in a ministerial regulation. Second, the role of the DPRD should be made binding, for instance by requiring the central government to select from DPRD-nominated candidates or to obtain the DPRD's consideration before appointment. Third, selection criteria, including knowledge of regional characteristics, track record, and political neutrality, should be published together with the reasons for selecting a particular candidate, consistent with the conditions laid down in Decision Number 15/PUU-XX/2022. Fourth, the results of periodic evaluations should be published and should serve as a basis on which the DPRD may propose dismissal. Fifth, the prohibitions in Article 132A of Government Regulation 49/2008 and Article 15(2) of MoHA Regulation 4/2023 should be elevated to statute, with exceptions granted only case by case, on written grounds, and with public access to the approval.

These proposals rest on a principle of proportionality between legitimacy and authority: the weaker an official's democratic legitimacy, the narrower the space for strategic and irreversible policy choices. The principle reconciles the Court's concern for effective government during long transitions, expressed in Decision Number 67/PUU-XIX/2021, with the restrictions codified in Article 14(7) of Law 30/2014. Acting heads may exercise the full range of routine governmental functions, but decisions that durably alter organisational structures, personnel status, or budget allocation require stronger democratic involvement. The principle also ensures that temporary vacancies do not become a vehicle for recentralisation contrary to the spirit of Article 18 of the 1945 Constitution (Asshiddiqie, 2010).

CONCLUSION

First, Article 201(9)–(11) of Law 10/2016 regulates only the rank requirement for acting regional heads, without procedures, selection criteria, a role for the DPRD, or an evaluation mechanism. Constitutional Court Decisions Number 67/PUU-XIX/2021 and Number 15/PUU-XX/2022 conditioned the constitutionality of this arrangement on an open, transparent, and accountable mechanism, yet the government issued MoHA Regulation 4/2023 only after more than one hundred acting heads had been installed, gave the DPRD a merely optional role, and chose an instrument of insufficient rank for a matter that elaborates Article 18(4) of the 1945 Constitution. The limits of authority set by Article 14(7) of Law 30/2014 and Article 132A of Government Regulation 49/2008, and restated in Article 15 of MoHA Regulation 4/2023, were relaxed by Circular Letter 821/5492/SJ, a policy rule that lies outside the hierarchy of legislation.

Second, filling regional head offices with centrally appointed acting heads produced a democratic legitimacy deficit, shifted central–regional relations from decentralisation toward deconcentration, increased the risk of bureaucratic politicisation ahead of the 2024 elections, and weakened the horizontal accountability of the DPRD. Across 272 regions and over a period exceeding two years, this situation diminished the meaning of the widest possible autonomy guaranteed by Article 18 of the 1945 Constitution. Because Decision Number 135/PUU-XXII/2024 is likely to produce another transitional period, these findings remain directly relevant.

Recommendation

Lawmakers should comprehensively regulate the filling of acting regional head positions when revising the Election Law and the Regional Government Law in response to Decision Number 135/PUU-XXII/2024. The statutory framework should provide for binding DPRD involvement, published selection criteria and reasons, publicly accessible periodic evaluations, and limits on strategic authority that cannot be relaxed through circular letters, in accordance with the principle of proportionality between legitimacy and authority. The government should also publish a comprehensive evaluation of the performance of acting heads during 2022–2025 as an evidentiary basis for that revision. Further empirical research is needed to measure the effects of long acting-head tenures on regional budgeting and personnel management.

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