

Analysis And Challenges Of Unimplemented Constitutional Court Decisions By Legislators

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Article	Abstract
<p>Keywords: Constitutional Court Decisions; Unimplemented; Legislators.</p> <p>Article History Received: Dec 17, 2024; Reviewed: Dec 25, 2024; Accepted: Jan 20, 2025; Published: Feb 26, 2025.</p>	<p><i>This article aims to analyze the Constitutional Court /MK Decision that have not been followed up by the People's Representative Council of the Republic of Indonesia/DPR RI, focusing on the factors that hinder the implementation of these rulings and their impact on the legal system and democracy in Indonesia. As the guardian of the constitution, the MK plays a crucial role in upholding the rule of law and constitutional justice. However, the DPR RI's non-compliance with MK decision often presents serious challenges to the stability of the state's legal system. This research employs a normative legal research method with an approach that includes an analysis of relevant legislation, the application of legal theory, and an in-depth examination of Constitutional Court (MK) decisions that serve as the object of study. The findings of this study reveal that there are two categories of Constitutional Court decisions: first, those that can be implemented directly without requiring new regulations (self-executing), and second, those that require further regulation (self-implementing). Of the 327 judicial review decisions granted by the Constitutional Court (MK) from 2004 to 2024, 63 decisions (19.27%) classified as self-implementing have yet to be followed up by the House of Representatives (DPR RI), creating a legal gap that undermines public trust. Although 80.43% of the decisions have been implemented, the nearly 20% that remain unaddressed highlight ongoing challenges in upholding the rule of law. The DPR RI must take concrete action to ensure legal harmonization and justice for society. The implementation of Constitutional Court rulings often faces obstacles such as the absence of enforcement mechanisms, insufficient implementing regulations, and a lack of political will, which weakens the rule of law. Proposed solutions include regulations with time limits for implementation, the establishment of oversight bodies, the application of sanctions, engagement of civil society and media, and structural reforms such as strengthening lower courts and creating a specialized executive body. These measures are expected to ensure the effective enforcement of Constitutional Court decisions, reinforce the legal system, and restore public trust.</i></p>



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A. INTRODUCTION

The Constitutional Court (MK), as an institution mandated to safeguard the constitution and ensure the implementation of just laws, plays a vital role in maintaining the integrity of Indonesia's legal system. The MK is tasked with interpreting the 1945

Constitution of the Republic of Indonesia and issuing rulings on judicial review petitions challenging laws that conflict with the constitution. Every decision issued by the MK should serve as a basis for policy or regulatory changes to better align with constitutional values and the fundamental rights of citizens.

However, in practice, MK decisions are often not promptly or fully implemented by the House of Representatives of the Republic of Indonesia (DPR RI). As the legislative body responsible for revising laws deemed unconstitutional by the MK, the DPR RI's noncompliance raises serious questions about the effectiveness of Indonesia's legal system and threatens the principle of the rule of law, which forms the foundation of the state. This situation risks undermining the integrity of state institutions, weakening the judiciary, and harming citizens' constitutional rights.

The MK plays a crucial role in enforcing constitutional principles through judicial review mechanisms (Al-Fatih, 2018). Nevertheless, the MK often adopts a more moderate approach in cases involving economic and social rights (Omara, 2017). Additionally, the MK has the authority to oversee checks and balances between state institutions, including the relationship between the DPR RI and the Regional Representative Council (DPD) (Wardani, 2019). While some MK decisions have been controversial, such as *ultra petita* rulings that exceed the scope of the petition, they are viewed by some as efforts to uphold substantive justice. However, debates continue regarding the legality of *ultra petita* rulings, as there is no explicit prohibition against them in legislation or prior MK decisions (Sasmito, 2016).

The impact of MK decisions on Indonesian society cannot be overlooked. These decisions have contributed to social harmony and conflict resolution in the country's diverse society (Ristawati & Salman, 2023). Furthermore, the MK plays a role in aligning regulations with Pancasila values and protecting civil and political rights, such as freedom of assembly, speech, and religion (Faiz, 2016). Despite some inconsistencies, the MK remains a significant institution in strengthening the protection of citizens' rights since its establishment in 2003.

The implementation of MK decisions is crucial for ensuring constitutional justice. Studies indicate that implementing these decisions often encounters challenges, such as the lack of standardized mechanisms or the low prioritization of legislation (Laksono et al., 2016). Noncompliance with MK rulings diminishes the Court's authority, violates the rule of law, and harms citizens' constitutional rights (Suryadinata & Sitaboena, 2019).

Successful implementation of MK rulings, however, has led to tangible results, such as the recognition of religious rights in Banyumas Regency through amendments to official identity documents (Muchimah & Ulum, 2020).

The implementation of Constitutional Court decisions is essential to ensure constitutional justice and uphold the rule of law (Moroşteş & PhD, 2017). Constitutional courts play a critical role in verifying the conformity of laws with the constitution, granting legal validity to their rulings. The relationship between constitutional courts and lawmakers fluctuates between cooperative and confrontational, with cooperation more likely when constitutional mandates are clearly formulated (Laksono et al., 2016). However, the implementation of court rulings through legislation often lacks standardized mechanisms and is not prioritized.

Unfortunately, many MK decisions remain unimplemented by the DPR RI due to various factors, including political interests, legislative constraints, and bureaucratic challenges. This noncompliance weakens the credibility of Indonesia's legal system and public trust in state institutions. To address this issue, revisions to the Constitutional Court Law and DPR regulations on legislative procedures are necessary (Suryadinata & Sitaboeana, 2019). By doing so, the implementation of MK decisions can ensure constitutional justice, uphold the rule of law, and protect citizens' rights.

The DPR has faced a media relations crisis following the controversial revision of the MD3 Law, which was seen as strengthening the DPR's power while reducing accountability. This situation highlights the need for better communication management to rebuild public trust in the DPR. MK decisions often contain constitutional mandates that should guide lawmakers, yet their implementation frequently lacks standardized mechanisms and is not prioritized in legislation. The Court sometimes issues unusual rulings, including conditionally (un)constitutional decisions, which reconstruct provisions or provide instructions to lawmakers (Bisariyadi, 2015).

The relationship between the Constitutional Court and legislators fluctuates between cooperative and confrontational (Suroso, 2018), with cooperation being more likely when constitutional mandates are clearly defined (Ramadhan & Rafiqi, 2021). Despite these challenges, the MK remains essential in maintaining the constitutional system and ensuring proper checks and balances among state institutions (Wardani, 2019). Noncompliance with MK decisions violates the rule of law, diminishes the Court's authority, and undermines legal awareness (Suryadinata & Sitaboeana, 2019). Normalization of norms declared

unconstitutional by the Court lacks legal force and must be repealed. While MK decisions in Indonesia are legally binding, some rulings remain unimplemented by legislators, weakening their enforceability (Muwahid, 2017). Addressing this issue requires amendments to the Constitutional Court Law and DPR Standing Orders.

Research reveals that between 2016 and 2019, the MK issued 60 decision granting judicial review petitions. These rulings fall into two categories: self-executing and non-self-executing. Self-executing decisions can be implemented directly, such as through publication in the State Gazette, while non-self-executing decisions require legislative action, such as amending or enacting new laws (Fauziah & Kharisma Arrasuli, 2023). However, compliance with MK rulings remains moderate. A study from 2013–2018 indicates that 54.12% of MK decisions were complied with, 22.01% were not, and 18.34% remained unresolved due to ongoing implementation processes (Sulistiyowati et al., 2020).

The DPR often fails to respond to MK rulings by amending or revising laws as mandated. Approximately 22% of MK decisions are not implemented. This is due to the absence of an executive body tasked with ensuring compliance and the lack of political support from dominant parties in the DPR. Additionally, MK decisions without implementation deadlines tend to be ignored, as highlighted by Handayani et al. (2020), who proposed setting implementation timelines to improve compliance (Gusti Ayu Ketut Rachmi Handayani et al., 2019).

Several MK decisions remain unimplemented by the DPR RI due to factors such as political constraints, legislative hurdles, and bureaucratic inefficiencies. Political factors often play a significant role, with DPR RI's decisions to delay or ignore MK rulings influenced by political interests or pressure from certain political parties. Moreover, the lack of effective oversight mechanisms and weak commitment to the rule of law further hinder the follow-up of MK rulings. The impact of noncompliance is profound, weakening the credibility of Indonesia's legal system, eroding public trust in state institutions, and threatening citizens' constitutional rights. Additionally, noncompliance reduces the judiciary's effectiveness and integrity, which should serve to uphold justice and ensure legal certainty in Indonesia.

Therefore, it is crucial to delve deeper into the factors causing legislative noncompliance with MK rulings. Key factors to examine include the absence of effective enforcement mechanisms, weak political will, and the lack of regulations explicitly mandating legislative responsibility in following up on MK rulings. This study is particularly

important as noncompliance not only creates legal gaps but also undermines public trust in the legal system and state institutions. By understanding the root causes of this issue, concrete solutions can be formulated to ensure that MK rulings are consistently implemented in accordance with the principles of the rule of law.

B. METHOD

This research employs a normative legal research method with an approach that includes an analysis of relevant legislation, the application of legal theory, and an in-depth examination of Constitutional Court (MK) decisions that serve as the object of study. Additionally, the research is supported by a comprehensive literature review (Marzuki, 2016), encompassing various legal literature, academic journals, and previous studies related to the topic, to provide a strong theoretical and empirical foundation for understanding the issue of legislative non-compliance with MK decisions. This approach is expected to produce a holistic and in-depth analysis of the issue under study.

C. RESULTS AND DISCUSSIONS

1. The Role of the Constitutional Court from the Perspective of the Theory of Separation of Powers

The principle of separation of powers in Indonesia's Constitution has been the subject of ongoing discussions and reforms. The Indonesian Constitution formally establishes the separation of executive, legislative, and judicial powers based on a system of checks and balances (Yani, 2018). However, its practical implementation remains far from the ideal concept. This system tends to centralize power within the executive branch, with state institutions not yet fully reflecting the separation of powers in terms of functions and authorities. Although the Constitution provides for the protection of human rights, democratic mechanisms, and an independent judiciary (Zoelva, 2015), achieving a true rule of law remains a challenge.

The involvement of economic interests in state administration triggers conflicts of interest in the legislative process and decision-making (Chandranegara & Cahyawati, 2023). Experts suggest the need for further refinement of the separation of powers (Yani, 2018) and the inclusion of conflict-of-interest prevention clauses in the Constitution (Chandranegara & Cahyawati, 2023). The presidential system resulting from constitutional amendments still struggles with consistency, as the president often dominates the House of Representatives (Kuswanto, 2018). This imbalance contradicts the ideal principle of checks and balances.

For comparison, countries like Palestine face similar issues, including incomplete separation of powers and insufficient constitutional oversight (Hamad et al., 2022).

The principle of separation of powers is a fundamental aspect of Indonesia's constitutional system. The 1945 Constitution (UUD 1945) establishes a checks-and-balances system among the three branches of government: the legislative, executive, and judicial branches (Bustamin & Jaya, 2019). After the amendments to the 1945 Constitution, legislative bodies such as the House of Representatives/DPR and the Regional Representatives Council/DPD play a more significant role in overseeing the executive branch. Meanwhile, judicial bodies such as the Supreme Court and the Constitutional Court can monitor each other (Pirmansyah, 2014). The purpose of this system is to prevent the abuse of power and ensure that no branch of government becomes overly dominant (Faharudin, 2019).

In addition to the three main branches, the Indonesian Constitution also establishes independent state commissions that operate autonomously and are separate from the primary branches of power to strengthen the principle of separation of powers (Ramadani, 2023). These commissions play a vital role in providing oversight and accountability within the governance system. The 1945 Constitution also mandates that government actions must be based on applicable laws and regulations, reflecting the principle of the rule of law (Refisyanti, 2022).

Although the principle of separation of powers is embedded in Indonesia's constitutional system, some scholars note that, in practice, there are overlaps and cooperation between branches of power rather than strict separation (Pardamean Sinaga & Santoso, 2023). This reflects the unique nature of Indonesia's political system, which seeks to balance the separation of powers with the need for coordination among state institutions.

The Constitutional Court plays a crucial role in upholding the principle of checks and balances within Indonesia's governance system. With its authority to conduct judicial reviews, the Court serves as the interpreter of the 1945 Constitution, ensuring the structured application of constitutional principles (Wardani, 2019). One of the Court's primary functions is to review the constitutionality of laws, ensuring that they align with the 1945 Constitution (Hasani et al., 2022). The Court's decisions regarding the constitutionality of laws are final and binding, solidifying its role as the guardian of the Constitution (Hong, 2023; Abustan et al., 2019; Yulianto, 2023).

The Constitutional Court also has the authority to resolve disputes over authority between state institutions, such as conflicts between the legislative and executive branches (Heryansyah & Nugraha, 2020; Warjiyati et al., 2022). This function is vital for maintaining the balance of power and preventing the concentration of power in a single branch of government (Shakti et al., 2023; Nining, 2023; Hermanto et al., 2020). Additionally, the Court has the ability to interpret the Constitution and set legal precedents, enabling the development of a better legal system (Marwiyah, 2023; Nurhidayatuloh, 2016).

However, the Constitutional Court also faces challenges, including tensions with the Supreme Court over jurisdiction and overlapping authorities (Satriawan et al., 2022; Wicaksono & Rahman, 2022). Furthermore, the Court's decisions containing *ultra petita* often spark debates. Some argue that such decisions exceed the Court's authority, while others view them as necessary steps to protect democracy and substantive justice (Sasmito, 2016).

2. Legislative Obligations in Implementing Constitutional Court Decisions

The House of Representatives of the Republic of Indonesia /DPR RI plays a crucial role in the system of checks and balances within Indonesia's constitutional framework. As the legislative body, the DPR RI holds the primary responsibility of ensuring that the laws it enacts align with the 1945 Constitution (Pirmansyah, 2014). This responsibility includes the obligation to follow up on Constitutional Court decisions that declare a law to be unconstitutional. In such cases, the DPR must amend or repeal the relevant law (Faharudin, 2019).

The role of the DPR RI in this regard is not passive. As the guardian of the rule of law, the DPR is expected to actively monitor Constitutional Court decisions and proactively work to align the legal framework with the Court's interpretation of the Constitution. This includes revising existing laws or drafting new legislation to address issues identified by the Court (Hasani et al., 2022). Furthermore, the DPR also has an oversight function to ensure the effective implementation of the Court's decisions by the executive branch. This oversight aims to guarantee that the government complies with and enforces the Court's rulings effectively (Heryansyah & Nugraha, 2020).

However, the relationship between the DPR RI and the Constitutional Court is not always harmonious. Instances of tension have arisen, particularly when the DPR attempts to limit the Court's power or influence its decision-making processes (Marwiyah, 2023). Such conflicts often stem from legislative efforts to maintain political dominance, which

contradicts the principle of separation of powers. These tensions underscore the importance of maintaining balance among the branches of government through a fair system of checks and balances (Kelliher Camden et al., 2019; Puspitasari, 2016).

The bicameral system introduced through the amendments to the 1945 Constitution, with the establishment of the Regional Representatives Council/DPD as a complement to the DPR, represents a step toward legislative reform. However, the DPD's authority remains limited compared to that of the DPR, particularly in legislative functions (Andriyan, 2018). The procedures and practices of the DPR, which often resemble those of the authoritarian era, also pose challenges to its effectiveness as a democratic institution. The DPR tends to prioritize executive dominance in decision-making rather than utilizing plenary sessions for open discussion.

To strengthen its role within Indonesia's constitutional system, reforms within the DPR RI are essential. These reforms include revising parliamentary procedures, empowering the DPD through constitutional amendments, and enhancing transparent legislative mechanisms. By doing so, the DPR can more effectively fulfill its responsibilities in following up on Constitutional Court decisions while upholding the rule of law and democracy in Indonesia.

The DPR RI's role in the system of checks and balances is vital for safeguarding the rule of law and the Constitution. By actively aligning legislation with Constitutional Court decisions, overseeing their implementation, and fostering constructive relationships with judicial institutions, the DPR RI can make significant contributions to strengthening the foundations of democracy and political stability in Indonesia (Ardhanariswari & Nursetiawan, 2023; Rezah & Sapada, 2023; Khair, 2023).

According to Muchamad Ali Safa'at, the implementation of Constitutional Court (MK) decisions can be categorized into two main types based on the need for further regulation. First, decisions that can be executed immediately without requiring new regulations or amendments to existing laws, known as *self-executing*. An example of this type is Constitutional Court Decision No. 013-022/PUU-IV/2006, which declared the articles on insulting the president or vice president in the Indonesian Criminal Code (KUHP) unconstitutional and without binding legal force. This means that although the provisions remain in the statute, their application can be ignored without the need for additional legislative changes. Second, decisions that require further regulation before they can be implemented, referred to as *self-implementing* (Hidayatulloh, 2023). An example of this is

Constitutional Court Decision No. 91/PUU-XVIII/2020, which ruled that Law No. 11 of 2020 on Job Creation was conditionally unconstitutional, necessitating legislative actions to meet constitutional requirements.

Article 10, paragraph (1), point (d) of Law No. 12 of 2011 explicitly states that one of the matters that must be regulated by law is the follow-up to Constitutional Court decisions. The responsibility for this lies with the House of Representatives (DPR) and the President, as the institutions authorized to formulate laws. Therefore, to ensure legal certainty and protect citizens' constitutional rights, the DPR or President is obliged to accommodate the substance of Constitutional Court decisions by amending or enacting new legislation. Aligning affected regulations with Constitutional Court rulings is a crucial step to maintain harmony between existing laws and the constitutional principles upheld in Indonesia's legal system.

The absence of a dedicated body to enforce Constitutional Court decisions has been identified as a significant barrier to their implementation. Research indicates that the lack of a specific agency to oversee the enforcement of these rulings, combined with the absence of clear deadlines for implementation and the lack of sanctions for non-compliance, contributes to the failure to effectively execute these decisions (Hasani et al., 2022). This situation undermines the authority of the Constitutional Court, recognized as the sole institution empowered to interpret the 1945 Constitution (Saputra, 2023). The implications of this enforcement gap are profound, affecting not only the integrity of the judiciary but also eroding public trust in the rule of law.

Furthermore, the legislative process itself is influenced by the need to comply with Constitutional Court rulings. The House of Representatives (DPR) and the President must ensure that every law enacted aligns with these decisions to uphold constitutional integrity. Constitutional Court decisions are final and binding (*erga omnes*), meaning they must be respected by all state institutions and cannot be ignored (Maulidi, 2017). This principle underscores the need for the DPR and the President to act swiftly and decisively in undertaking legislative follow-ups to preserve the authority of the Constitutional Court and ensure compliance with its rulings.

Ensuring legislative compliance with Constitutional Court (CC) decisions is a complex challenge that requires a deep understanding of the mechanisms and dynamics within a country's legal and political framework. In Indonesia, the Constitutional Court plays a pivotal role as the guardian of the Constitution and is responsible for reviewing the

constitutionality of laws. However, the effectiveness of Constitutional Court decisions is often weakened by the lack of enforcement mechanisms and non-compliance from legislative bodies.

One major issue highlighted in the literature is the absence of an enforcement body to ensure compliance with CC decisions. Hasani et al. assert that ignoring these decisions amounts to a betrayal of the constitutional framework, ultimately eroding citizens' rights and weakening the democratic state (Hasani et al., 2022). This view is echoed by Widayati, who notes that the absence of sanctions for non-compliance and the lack of an executive mechanism to enforce decisions contribute to a culture of indifference toward judicial authority (Widayati, 2017). Additionally, Soemarwi et al. argue that the CC's reliance on other parties for the execution of its rulings creates a precarious situation where compliance is not guaranteed, thereby diminishing the Court's effectiveness (S. Soemarwi et al., 2022).

Beyond enforcement challenges, Indonesia's legislative landscape has evolved significantly since the reform era, with the CC playing a key role in shaping a more democratic legal system that respects human rights. Nining highlights that the CC has become an essential instrument for ensuring that legislation aligns with the 1945 Constitution, thereby reinforcing the rule of law (Nining, 2023). Rachman supports this by emphasizing that CC rulings must be integrated into national legal planning to promote legal development in accordance with constitutional mandates (Rachman, 2021). This integration is crucial to creating a legal environment where legislative compliance is not only expected but also institutionalized.

Moreover, the dynamics of legislative compliance are influenced by the broader political context. The relationship between public support for judicial institutions and legislative compliance is critical. Nelson and Uribe-McGuire suggest that legislative bodies are more likely to comply with court decisions when there is strong public support for the judiciary (Nelson & Uribe-McGuire, 2017). This indicates that building public trust and support for the CC could enhance compliance rates among legislators.

To address the challenges of non-compliance, several strategies can be proposed. First, establishing an independent enforcement mechanism or agency to oversee the implementation of CC decisions could significantly improve compliance. This body would monitor adherence to court rulings and impose sanctions for non-compliance, thereby reinforcing judicial authority. Second, increasing public awareness and understanding of the CC's role and decisions can foster a culture of respect for judicial authority, which, as noted

by Kopeček and Petrov, is vital to the health of a democratic system (Kopeček & Petrov, 2015). Lastly, legislative reforms that include explicit provisions on compliance obligations and penalties for non-compliance within the legal framework could further strengthen the relationship between the Constitutional Court and legislative bodies.

3. Challenges in Implementing Constitutional Court Decisions by the DPR RI

Several Constitutional Court/MK decisions in Indonesia have not been fully implemented by the House of Representatives/DPR. Although MK rulings are final and binding, their implementation often faces various obstacles. One of the primary factors is the controversy surrounding the decisions and the necessity of drafting new legal instruments to execute them (Maulidi, 2019). The Supreme Court /MA also plays a role in following up on MK decisions, particularly in criminal cases. However, MA's responses vary, ranging from issuing circulars to creating new regulations, and in some cases, MK decisions are outright ignored (Huda, 2020).

To address these challenges, proposed recommendations include establishing an executor institution, setting deadlines for decision implementation, and revising the Penal Code/KUHP and the Criminal Procedure Code/KUHAP to make them more responsive to MK rulings (Huda, 2020).

The challenges in implementing MK decisions by the DPR are inseparable from political and legislative obstacles. These include a lack of political will, legislative barriers, and the influence of political oligarchies within governing coalitions. Additionally, the declarative and non-executorial nature of MK decisions poses a fundamental weakness due to the absence of strong enforcement mechanisms. Some scholars have proposed legal reconstruction to strengthen the binding nature of MK rulings. One suggestion is to make MK decisions automatically applicable as legal norms if the DPR fails to act on them within a specified timeframe (Tohadi & Prastiwi, 2022).

The DPR's performance in responding to MK decisions is also affected by internal challenges, such as the influence of political oligarchies that prioritize party interests over public welfare (Asrinaldi et al., 2022). The DPR's right of inquiry, intended as a checks-and-balances mechanism, has often been controversial, particularly in cases involving the Corruption Eradication Commission/KPK (Firdaus & Anggono, 2019). Internal oversight efforts through the DPR's Ethics Council/MKD have not been entirely effective in maintaining the institution's integrity, while the prevalence of money politics in elections

undermines the quality of democratic representation in parliament (Nasrullah Arsyad et al., 2023; Chandra & Ghafur, 2020).

Overall, the DPR's challenges in fulfilling its constitutional duties and responding to MK decisions reflect the complexity of the interplay between political, legal, and systemic factors within Indonesia's legislative landscape. Deeper reforms are necessary, including strengthening the legal framework, establishing a dedicated implementation body, and enhancing political integrity, to ensure that the rule of law is consistently upheld.

Below is a graph of Constitutional Court decisions on judicial reviews granted from 2004 to 2024.

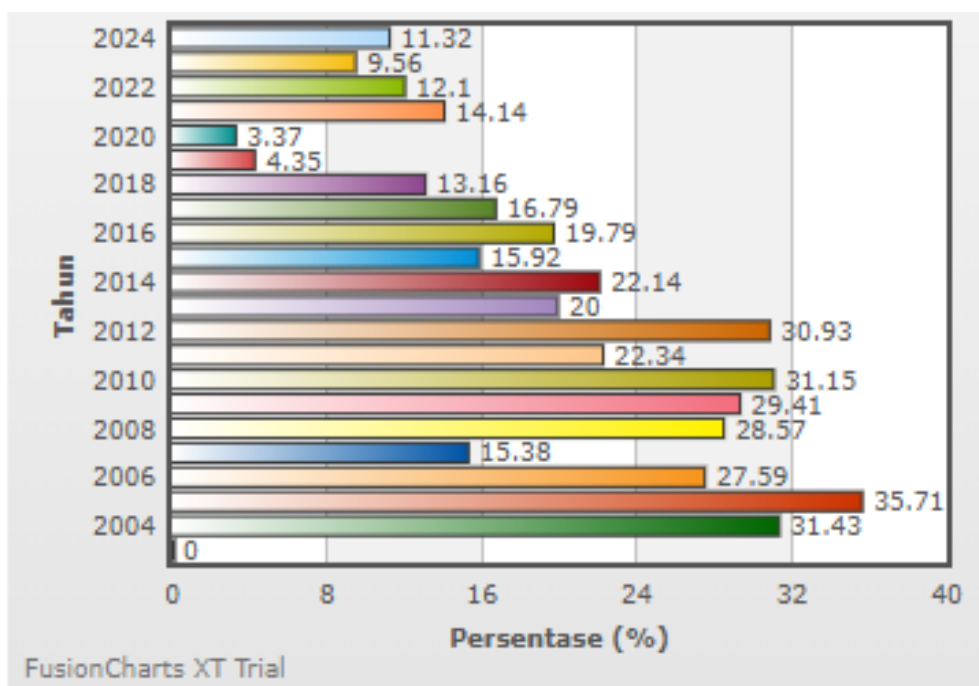


Figure 1. Chart of Judicial Review Decisions Granted (327) Average (17.23%)

Of the total 327 Constitutional Court /PUU decision received, the majority occurred in specific years, with the following breakdown: the year 2005 recorded the highest percentage at 35.71%, followed by 2004 with 31.43%, and then 2010, contributing 31.14% of the total rulings.

The number of rulings that have not been followed up, categorized by year, can be seen in the following diagram.

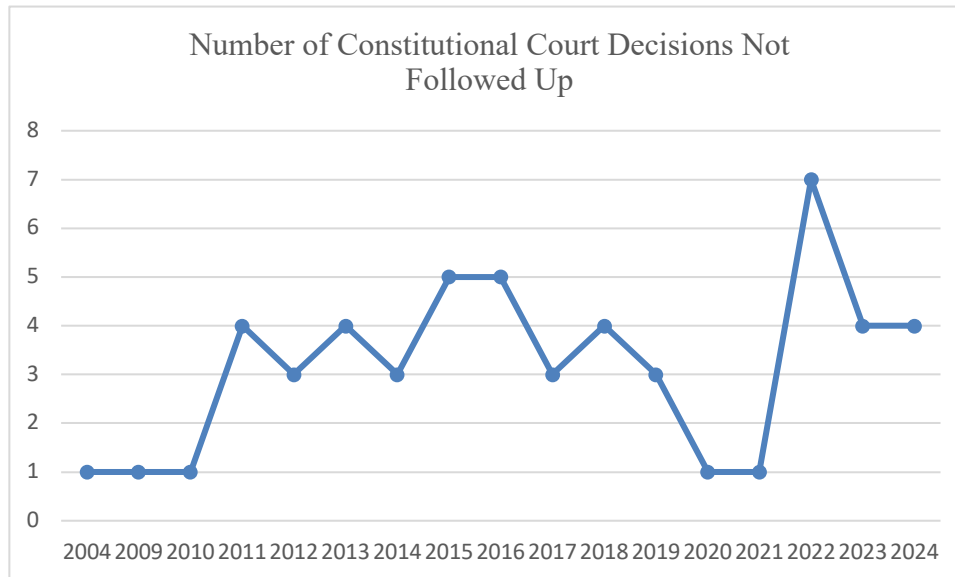


Figure 2. The number of Constitutional Court decisions not yet implemented by year

Since the establishment of the Constitutional Court (MK) in 2004 until 2024, a total of 327 judicial review applications (PUU) have been granted, either in whole or in part. These rulings are final and binding, meaning they must be implemented by all parties, including the House of Representatives (DPR RI) as the legislative body. However, the facts show that to this day, there are still 63 MK rulings that require further regulation (self-implementing) that have not been followed up by the DPR RI in the form of law revisions or the enactment of new laws.

The number of decisions that have not been followed up accounts for approximately 19.27% of the total 327 decisions granted by the MK. This figure indicates a serious challenge in the implementation of court decisions, which should be the foundation of the rule of law in Indonesia. Failure to follow up on MK decisions not only creates legal gaps but also has the potential to undermine public trust in the legal system.

In comparison, 80.43% of the decisions granted by MK have been followed up, either through law revisions, the issuance of implementing regulations, or other administrative policies. While this figure indicates that most decisions have been implemented, the existence of nearly 20% of decisions that have not been followed up remains a homework that needs to be addressed, especially given the importance of harmonizing legislation to create legal certainty and justice for society.

Decisions requiring further regulation (self-implementing). At least 63 decisions have not been followed up, raising fundamental questions about the commitment of lawmakers in fulfilling the constitutional mandate. The House of Representatives (DPR RI),

as the institution responsible for lawmaking, must take concrete steps to address the legal gaps resulting from non-compliance with Constitutional Court rulings. This is crucial because every Constitutional Court decision represents a correction to regulations deemed inconsistent with the 1945 Constitution.

Non-compliance with MK decisions also highlights the need for reform in the mechanism for enforcing court rulings. Measures such as establishing stricter oversight mechanisms, applying sanctions for negligent parties, and raising public awareness about the importance of implementing MK decisions could be solutions to address this issue. With a non-compliance rate approaching 20%, more systematic efforts are needed to ensure that all MK decisions are fully implemented, in accordance with the principles of the rule of law and the constitution.

The list of Constitutional Court decisions related to judicial review, consisting of 63 decisions that require further regulation (self-implementing) and have not yet been followed up by legislative legal products, can be seen in the table below:

Table 1. List of Constitutional Court Decisions Self-Implementing and Not Yet Implemented

No	Decision Number	No	Decision Number
1	18/PUU-XVII/2019	33	68/PUU-XX/2022
2	32/PUU-XVIII/2020	34	80/PUU-XX/2022
3	64/PUU-XVIII/2020	35	87/PUU-XX/2022
4	102/PUU-XVIII/2020	36	12/PUU-XXI/2023
5	23/PUU-XIX/2021	37	65/PUU-XXI/2023
6	71/PUU-XIX/2021	38	90/PUU-XXI/2023
7	94/PUU-XXI/2023	39	116/PUU-XXI/2013
8	6/PUU-XVIII/2020	40	17/PUU-IX/2011
9	72/PUU-XVII/2019	41	37/PUU-X/2012
10	71/PUU-XIV/2016	42	43/PUU-XIII/2015
11	54/PUU-XIV/2016	43	24/PUU-XXII/2024
12	48/PUU-XVII/2019	44	006/PUU-II/2004
13	85/PUU-XX/2022	45	101/PUU-VII/2009
14	60/PUU-XXII/2024	46	26/PUU-XI/2013
15	69/PUU-XXII/2024	47	112/PUU-XII/2014
16	136/PUU-XXII/2024	48	36/PUU-XIII/2015
17	35/PUU-IX/2011	49	95/PUU-XIV/2016
18	82/PUU-XII/2014	50	91/PUU-XX/2022
19	16/PUU-XVI/2018	51	103/PUU-XIV/2016

20	7/PUU-XIII/2015	52	130/PUU-XIII/2015
21	31/PUU-XX/2022	53	102/PUU-XIII/2015
22	88/PUU-XXI/2023	54	33/PUU-XIV/2016
23	53/PUU-XV/2017	55	21/PUU-XII/2014
24	61/PUU-XV/2017	56	34/PUU-XI/2013
25	66/PUU-XV/2017	57	3/PUU-XI/2013
26	30/PUU-XVI/2018	58	98/PUU-X/2012
27	31/PUU-XVI/2018	59	114/PUU-X/2012
28	38/PUU-XVI/2018	60	65/PUU-IX/2011
29	20/PUU-XVII/2019	61	17/PUU-IX/2011
30	39/PUU-XVII/2019	62	65/PUU-VIII/2010
31	55/PUU-XVIII/2020	63	28/PUU-XX/2022
32	32/PUU-XIX/2021		

One example of a Constitutional Court (MK) decision that has not been followed up until now is Decision Number 20/PUU-XVII/2019, regarding the judicial review of Articles 210 paragraph (1), Article 348 paragraphs (4) and (9), Article 350 paragraph (2), and Article 383 paragraph (2) of Law Number 7 of 2017 on General Elections. This decision includes the following:

1. Partially granting the petitioners' request, specifically Petitioners I, IV, V, VI, and VII.
2. Emphasizing that certain phrases in the law contradict the 1945 Constitution, such as:
 - a. The phrase "electronic identity card" in Article 348 paragraph (9), which is declared to have no binding legal force unless it is interpreted to include the "electronic identity card recording certificate" issued by the relevant authorities.
 - b. The phrase "no later than 30 (thirty) days" in Article 210 paragraph (1), which is declared not applicable unless interpreted as "except for voters with unforeseen conditions," such as illness or disasters, who are given up to seven days before the election day.
 - c. The phrase "only carried out and completed at the relevant polling station or overseas polling station on the election day" in Article 383 paragraph (2), which is declared not applicable unless interpreted to allow for an extension

of the vote counting time for up to 12 hours without a break if not yet completed.

Like all other MK decisions, this ruling is final, binding, and applies universally (*erga omnes*). However, up until now, the legal adjustments to the reviewed law have not been made, reflecting a broader issue in the implementation of MK rulings.

Notably, there are 53 MK decisions in the fields of politics, law, and human rights that have not been followed up with legislative legal products. This is not a small number, considering that MK decisions are final and binding and aim to create legal certainty, justice, and protection of citizens' rights. The delay in adjusting the laws has the potential to create legal uncertainty and erode public trust in the legal system. Therefore, the government and DPR must take immediate concrete steps to follow up on these decisions to ensure legal certainty based on justice and public benefit.

Harmonizing regulations plays a critical role in maintaining the continuity of the national legal system. Adjusting laws to MK decisions is not only a legal obligation but also an effort to maintain the consistency of the legal system, ensuring that it remains effective and relevant to the needs of society. Delays in this harmonization process can lead to various negative impacts, such as legal gaps, overlapping regulations, and inconsistencies between the applicable legal norms and social realities.

This harmonization process should not be seen as a separate task but as an integral part of the duties of lawmakers. With proper adjustments, every MK decision can be optimally implemented, creating legal certainty that not only provides a sense of justice but also maintains the legitimacy of the legal system in the eyes of the public. The government and DPR have a significant responsibility to ensure that MK decisions are not merely legal documents but are translated into concrete actions that bring direct benefits to the wider community.

4. Efforts to Improve the Implementation of Constitutional Court Decisions by the Indonesian House of Representatives (DPR RI)

The implementation of Constitutional Court (MK) decisions is a crucial aspect in upholding the rule of law and the accountability of a country's legal system. However, various challenges often hinder the execution of these decisions. One of the main issues is the lack of enforcement mechanisms within the Constitutional Court. Unlike other judicial bodies, the MK does not have an executive unit responsible for ensuring compliance with its decisions. This situation often leads to non-compliance by government institutions or

legislative bodies. The absence of such a mechanism also means that the implementation of the decision is entirely dependent on other entities, which can cause delays or even rejections of the MK's rulings (S. Soemarwi et al., 2022; Widayati, 2017).

This problem is further exacerbated by the lack of implementing regulations or laws that support the execution of MK decisions. The absence of a clear legal framework creates legal gaps that are often exploited by those who are reluctant to comply with court decisions (S. Soemarwi et al., 2022). Therefore, a strong accountability framework is needed to ensure that MK decisions are not only symbolic but are effectively implemented.

One solution is to create a specific regulatory mechanism that outlines the responsibilities of stakeholders in implementing MK decisions. For example, the government could be required to issue implementing regulations within a certain period after the MK decision is issued. Additionally, the establishment of a special monitoring body tasked with overseeing the implementation of decisions can improve accountability and prevent non-compliance among public officials (Laksono et al., 2016; Iristian, 2024).

The role of civil society and the media is also crucial in encouraging the implementation of MK decisions. Involving these elements can raise public awareness about the importance of complying with MK decisions and promote a culture of accountability. Public pressure generated through civil society and media engagement can be a powerful motivator for government institutions to comply with court decisions (Navarrete & Castillo-Ortiz, 2019). The higher the public's awareness of court rulings, the more likely the government is to comply with those decisions (Carrubba & Gabel, 2017).

In addition to building public awareness, a stronger accountability mechanism is needed to support the implementation of MK decisions. One option is to implement a reporting model that requires relevant institutions to provide periodic updates on the status of implementation. This approach can increase transparency and accountability, ensuring that the execution of decisions becomes a priority among government bodies (Banasik et al., 2021). The application of sanctions for non-compliance can also be an effective tool to encourage adherence. Comparative analysis with models in Europe shows that Indonesia's Constitutional Court can improve its judicial review process by adopting a constitutional complaint mechanism (Lailam & Andrianti, 2023).

Structural reforms within the legal system are also needed to strengthen the authority of the MK. For example, ensuring that lower courts have the capacity to interpret and enforce MK decisions can help create a more integrated legal framework (Giri, 2023). Additionally,

establishing a special executive body responsible for overseeing the implementation of decisions could expedite law enforcement and reduce bureaucratic obstacles (Harjiyatni & Suswoto, 2017).

In the context of other jurisdictions, there are lessons to be learned to improve the implementation of MK decisions. In Italy, research by Santoni and Zucchini showed that the Constitutional Court can influence legislative output by creating a more complex decision-making framework for legislators. Legislators must consider the potential impact of MK decisions when drafting laws, even though this may sometimes lead to legislative inertia (Santoni & Zucchini, 2006).

Soemarwi et al. noted that the lack of adequate enforcement mechanisms results in a significant gap between MK rulings and legislative follow-up. This is compounded by the lack of political will to follow up on decisions, which hinders effective interaction between the judiciary and the legislature (S. Soemarwi et al., 2022). The implications of this issue are considerable. As noted by Blackstone, legislative bodies often attempt to reduce the impact of court rulings through regular legislation rather than constitutional amendments, which are considered more complicated and politically risky. This trend can weaken the authority of the MK and the rule of law. As a solution, involving civil society and the media in monitoring and advocating for the implementation of MK decisions can strengthen public accountability. By raising public awareness and creating public pressure, government bodies will be more motivated to comply with court decisions, thus fostering a culture of respect for the rule of law (Mavedzenge, 2023).

Public participation in the legislative process is also crucial and cannot be overlooked in a healthy and well-functioning democratic system. The Constitutional Court firmly emphasizes the importance of public involvement at every stage of lawmaking, as it is not only a prerequisite for realizing substantial democratic values but also a guarantee that the legal products produced truly reflect the will and aspirations of the people subject to those laws (Kurniansyah, 2023). When public participation is diminished or ignored, the legislative process becomes prone to deviations and lacks transparency, ultimately creating a gap between the government as policymakers and citizens as those affected by these policies. This situation can exacerbate the public trust gap in the government and complicate the implementation of Constitutional Court rulings aimed at addressing injustices or inconsistencies in existing laws. Therefore, it is imperative for the House of Representatives (DPR) and the President to not only comply with and respect Constitutional Court rulings as

part of the rule of law but also to actively involve the public in every legislative process to ensure stronger legitimacy, transparency, and accountability, thereby reinforcing the foundations of democracy and social justice (F. Firdaus, 2022).

D. CONCLUSION

Since the establishment of the Constitutional Court (MK) in 2004 until 2024, a total of 327 constitutional law review decisions (PUU) have been granted, with final and binding status. However, 63 decisions (19.27%) have not been followed up by the Indonesian House of Representatives (DPR RI) through revisions or the creation of new laws, creating legal gaps that could potentially undermine public trust in the legal system. Although 80.43% of the decisions have been followed up, the existence of nearly 20% of decisions that have not been implemented highlights a serious challenge in enforcing the rule of law. As the lawmaker, the DPR RI must take concrete steps to ensure the harmonization of regulations in order to establish legal certainty and justice for society. The implementation of Constitutional Court decisions is often hindered by the absence of internal enforcement mechanisms, a lack of implementing regulations, and low political will, leading to non-compliance and weakening the rule of law. To address this, concrete measures are needed, such as regulations requiring the issuance of implementing regulations within a certain timeframe, the formation of supervisory bodies, the application of sanctions, and the involvement of civil society and the media to increase public awareness and accountability. Structural reforms, such as strengthening the capacity of lower courts and the establishment of a special executive body, could also expedite implementation. With this approach, it is hoped that MK decisions can be effectively implemented, strengthening the rule of law and maintaining public trust in the legal system.

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