

A Comparison of Judicial Review in Indonesian Constitutional Court and French Constitutional Council

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Abstract

One of the advances in contemporary legal and governmental ideas to arise in the 20th century was the notion of establishing a Constitutional Court. A constitutional court is a high court that focuses on constitutional law issues. Its primary authority is to rule on whether laws that are reviewed are in fact in line with constitution or not. The purpose of this study is to compare the judicial review functions and institutional aspect of the Indonesian Constitutional Court with the French Constitutional Council. It explains the distinctions and similarities between the roles of the Indonesian Constitutional Court and the French Constitutional Council as judicial entities allowed to conduct judicial reviews of statutes in accordance with the constitution. The research method employed is library research, while the research approach is a statutory approach and a comparative approach. The study shows that the Constitutional Courts in France and Indonesia have certain similarities and differences that come from the issue of court's authority, nature of decision, complainant party, and qualification and composition of justices.

Keywords: constitution; judicial review; judicial institution; political institution

1. Introduction

The constitution is a set of rules that determine the powers and responsibilities of various state organs (Grimm, 2015). The constitution also defines the boundaries of the various centers of power and outlines the relationships between them. The constitution is not an ordinary law. It is not determined by an ordinary legislature, but by a body that is more specific and has a higher position. If the legal norms contained in it conflict with the legal norms contained in the law, then the provisions of the constitution shall apply, while the law must provide a way for it (it prevails and the ordinary law must give way) (Allan, 2013). The constitution is the highest law and the most fundamental in nature because the constitution is a source of legitimacy or basis for the authorization of legal forms or other statutory regulations (Gunawan and Anggriawan, 2021). In relation to the hierarchy of legal norms, Hans Kelsen put forward a theory regarding the levels of legal norms (*Stufentheorie*). Hans Kelsen argues that legal norms are tiered and layered in a hierarchy (organization) in the sense that a lower norm applies, originates from, and is based on higher norms, higher norms apply, originate, and are based on even higher norms, and so on up to a norm that cannot be traced further and is hypothetical and fictitious, namely *Grundnorm* (Paulson, 2020).

Hans Kelsen (2017) stated that the implementation of constitutional rules regarding legislation can be effectively guaranteed only if an organ other than the legislature is given the

task of examining whether a legal product is constitutional or not, and does not enforce it if according to this organ the legal product is unconstitutional. For this reason, a special organ can be set up, such as a special court called the constitutional court or control over the constitutionality of laws (judicial review) is given to ordinary courts, especially the Supreme Court, as in the United States. The special organ that controls it can completely abolish unconstitutional laws so that they cannot be applied by other organs. At the end of the 19th century in Austria, Georg Jellinek developed the idea for the judicial review authority to be applied in Austria, as had been implemented by John Marshal in America (Carrozza, 2017). In 1867, the Austrian Supreme Court obtained the authority to handle juridical disputes related to the protection of political rights against the government (Giera and Lachmayer, 2016). Hans Kelsen argues that it is necessary to form an institution called the *Verfassungsgerichtshof* or Constitutional Court which stands alone outside the Supreme Court, so this model is often referred to as "The Kelsenian Model" (Gamper, 2021).

The idea of establishing a Constitutional Court is one of the developments in modern legal and state thought that emerged in the 20th century. This paper the author will compare the function of judicial review between the Indonesian Constitutional Court and the French Constitutional Court. The author's reason for comparing the Indonesian Constitutional Court with the French Constitutional Court is because the two constitutional councils both have the authority to conduct a judicial review (Ginsburg and Versteeg, 2014). Thus there is a functional equation that can be compared. This comparison consists of a comprehensive comparison (macro comparison) and a small-scale comparison (micro comparison). In this research on the comparison between the Indonesian Constitutional Court and the French Constitutional Council, the Indonesian Constitutional Court is positioned as a *primum comparationist*. Meanwhile, the French Constitutional Council is a *secundum comparationist*. Furthermore, what is positioned as *tertium comparationist* is the judicial review function.

This research was conducted with the aim of providing a description of the functions of the constitutional council as an institution authorized to carry out a judicial review of laws against the constitution. Furthermore, it provides an explanation of the differences and similarities regarding the functions of the Indonesian Constitutional Court and the French Constitutional Court as judicial institutions authorized to carry out a judicial review of statutes to the constitution. In addition, this provides an understanding of the differences and similarities in the functions of the Indonesian Constitutional Court and the French Constitutional Court as judicial institutions authorized to carry out a judicial review of statutes to the constitution. And then, it also evaluates the function of the Indonesian Constitutional Court as a state institution that has the authority to review laws against the 1945 Constitution of the Republic of Indonesia.

2. Method

The type of research used is library research, which is a research method by examining various literature and other sources that have relevance to the topics discussed. The research approach used by the author in this paper is a statutory approach and a comparative approach by examining comparisons of constitutional courts in Indonesia and France. The data processing and analysis technique used by the author is to collect data and then analyze it qualitatively and then present it descriptively by providing an overview of the problems that are closely related to this writing.

3. Discussion and Analysis

3.1. Background on the Establishment of the Constitutional Court in Indonesia and France

Thoughts about the importance of a constitutional court have appeared in the history of Indonesian constitutionalism before independence. During the discussion of the constitution draft at the Investigating Agency for Preparatory Efforts for Indonesian Independence (BPUPKI), BPUPKI member Prof. Muhammad Yamin expressed the opinion that the Supreme Court (MA) needs to be given the authority to appeal laws. But this idea was rejected by Prof. Soepomo based on two reasons, first, the UUD that was being drafted at that time (which later became the 1945 UUD) did not adhere to the trias politica ideology (Butt, 2015). Second, at that time there were not many law graduates in Indonesia and they did not have experience in this matter. When discussing changes to the 1945 Constitution in the reform era, opinions about the importance of a Constitutional Court reappeared (Rimawan et al, 2021). Changes to the 1945 Constitution that occurred in the reform era have caused the People's Consultative Assembly (MPR) to no longer have the position of the highest state institution and supremacy has shifted from MPR supremacy to constitutional supremacy. Because of this fundamental change, it is necessary to provide an institutional and constitutional mechanism as well as the presence of state institutions that deal with possible disputes between state institutions which have now become equal and mutually offset and control each other (checks and balances). Along with this, there is an urge that the tradition of reviewing statutory regulations needs to be improved not only limited to regulations under the law but also to laws against the 1945 Constitution. The authority to review laws against the 1945 Constitution is given to a separate court outside the Supreme Court. Based on that thought, the existence of a Constitutional Court that stands alone beside the Supreme Court is a necessity (Greene, 2014).

The history of the founding of the Constitutional Court Institution began with the adoption of the idea of a Constitutional Court in the constitutional amendments made by the People's Consultative Assembly (MPR) in 2001 (Tinambunan, 2016). As formulated in the provisions of Article 24 Paragraph (2), Article 24C, and Article 7B of the 1945 Constitution, the result of the Third Amendment which was ratified on November 9, 2001. After the Amendment to the 1945 Constitution, namely the third amendment made in 2001, the face of the judiciary (judicial power) in Indonesia underwent many changes. After the amendment of the 1945 Constitution, the judiciary in Indonesia consisted of the Supreme Court and the Constitutional Court (Satriawan and Mokhtar, 2019). Jimly Asshiddiqie believes that in general the existence of a country's Constitutional Court cannot be separated from an authoritarian government system (Asshiddiqie, 2018). In Indonesia, the Constitutional Court is one of the perpetrators of an independent judicial power which has an important role in upholding the constitution and the principles of a rule of law in accordance with its authorities and obligations as stipulated in the 1945 Constitution. In the 1945 Constitution, the judicial power is regulated in a separate chapter, namely Chapter IX concerning Judicial Power. This chapter consists of five articles, namely, Article 24, Article 24A, Article 24B, Article 24C, and Article 25. The Constitutional Court is one of the state institutions that exercise independent judicial power to administer justice to uphold law and justice (Mérieau, 2016). The Constitutional Court is one of the holders of judicial power, in addition to the Supreme Court as referred to in Article 24 paragraph (1) and paragraph (2) of the 1945 Constitution. Article 24 Paragraph (1) of the 1945 Constitution stipulates that "The judicial power is an independent power to administer judiciary to uphold law and justice. Furthermore, Article 24 Paragraph (2) of the 1945 Constitution stipulates that "Judicial power is exercised by a Supreme Court

and judicial bodies under it within the general court environment, the religious court environment, the military court environment, the state administrative court environment, and by a Constitutional Court" (Eddyono, 2016).

Meanwhile, the French Constitutional Council was established in 1958 which coincided with the enactment of the Constitution of the Fifth Republic (Fleiner and Saunders, 2013). Originally the idea of forming this organ was designed to disarm the powers of Parliament. Therefore, this organ which is called the *Conseil Constitutionnel* is often said to be the most up-to-date form of the constitutional review system. Since its formation, this institution has often been associated with the French 'constitutional court', even though its title is 'council' (*conseil*), not 'court' (*court*). French constitutional law expert, Jhon Bell in his book *French Constitutional Law*, says that "The creation of the *Conseil Constitutionnel* was originally intended as an additional mechanism to ensure executive by keeping Parliament within constitutional role" (Bell, 2005). The French Constitutional Council is an organ independent from the influence of the powers of Parliament. And the decision is final and binding on other organs. The French Constitutional Council is the foremost bastion of the productive potential of an unconstitutional legal system (Gardbaum, 2014).

3.2. The Authority and Functions of the Constitutional Court in Indonesia and France

The Constitutional Court has the authority to implement the principle of checks and balances which places all state institutions in an equal position so that there is a balance in the administration of the state (Castillo-Ortiz, 2019). The existence of the Constitutional Court is an effort to be able to mutually correct the performance of inter-state institutions. In the 1945 Constitution, provisions regarding the Constitutional Court are regulated in Article 24C, this article consists of six paragraphs (Satriawan and Mokhtar, 2015). In Article 24C of the 1945 Constitution, the provisions regarding the authority of the Constitutional Court are contained in Article 24C Paragraph (1) and Paragraph (2). Article 24C Paragraph (1) of the 1945 Constitution stipulates that "The Constitutional Court has the authority to try at the first and final levels whose decisions are final to review laws against the Constitution, decide disputes over the authority of state institutions whose powers are granted by the Constitution, decide on the dissolution of political parties, and decide disputes about the results of general elections. Furthermore, Article 24C Paragraph (2) of the 1945 Constitution stipulates that "The Constitutional Court is obliged to render a decision on the opinion of the House of Representatives regarding alleged violations by the President and/or Vice President according to the Constitution."

Based on these five powers, the Constitutional Court has a function as the guardian of the constitution. This is in accordance with the basis of existence to safeguard the implementation of the constitution. This function has the consequence that the Constitutional Court also has another function, namely as the final interpreter of the constitution. In addition, in accordance with the contents of the 1945 Constitution which includes the basic rules of state life based on democratic principles and guarantees for the protection of human rights, the guardian of democracy by protecting minority rights, the protector of citizen" constitutional rights, and the protector of human rights. By repealing or declaring that an article of the law does not apply, the Constitutional Court has dismantled and rearranged the system or order that is to be built into a single unit of laws and regulations. With such judicial power, it is believed that it can function as a balancing force (Huda et al, 2021). The will of the political elite (government and/or the House of Representatives (DPR)) that appears in policies and

laws and regulations can be tested and questioned by the public through material or constitutional review forums.

On the other hand, the existence of the French Constitutional Council (*Conseil Constitutionnel*) is legally regulated in the 1958 Constitution of the Fifth French Republic. In the French constitution, the *Conseil Constitutionnel* is regulated in Chapter VII concerning the Constitutional Council (Title VII: The Constitutional Council). The chapter consists of eight articles, namely Article 56 to Article 63. In the French constitution, the authority of the *Conseil Constitutionnel* is regulated in Article 61, which essentially stipulates that, before an organic law is declared effective, it must first be submitted to the *Conseil Constitutionnel* (Irklienko, 2020).

The French Constitutional Council oversees the respective scope of *la loi* (laws) and *le règlement* (regulations). This paradigm determines that the Constitutional Council has full responsibility for examining the level of conformity of legal products with the constitution. It includes organic statutes (in general terms) and the permanent bylaws of the National Assembly and Senate (Zoller, 2018). Besides that, testing can also be directed to international agreements (Article 54) made by the government. The authority to ratify or approve international agreements by the council has been in effect since the amendment to the Constitution in 1974 (Robert-Cuendet, 2022). Based on the applicable provisions, organic bills deemed and declared unconstitutional cannot be enforced any longer. The decision of the Constitutional Council itself is final and binding on all public powers, administrative authorities and other public judicial bodies (See Article 62 of the Constitution of the French Fifth Republic 1958). The power and authority of the *Conseil Constitutionnel* are not only limited to declaring a law contrary to the constitution. In addition to these powers and powers, the *Conseil Constitutionnel* is also authorized to (a) guarantee the election of the President of France (Article 58), (b) to guarantee and secure the election of members of the National Assembly and Senate (Article 59), (c) to guarantee and secure referendum procedure (Article 60).

3.3. The Composition of the Constitutional Court Judges in Indonesia and France

Regarding the composition of the Constitutional Court judges, the 1945 Constitution regulates this in Article 24C Paragraph (3) and Paragraph (4). Article 24C Paragraph (3) of the 1945 Constitution stipulates that "The Constitutional Court has nine members of constitutional judges appointed by the President, three of whom are proposed by the Supreme Court, three by the People's Legislative Assembly, and three by the President" (Elven and Al-Muqorrobin, 2020). Article 24C paragraph (4) of the 1945 Constitution stipulates that "The chairman and deputy chairman of the Constitutional Court are elected from and by constitutional judge". The membership composition of the Constitutional Court of the Republic of Indonesia is determined by three state institutions, namely: (i) three persons by the Supreme Court, (ii) three persons by the House of Representatives, and (iii) three persons by the President (Nuer, and Hasan, 2021).

Constitutional judges are very different from ordinary judges who are judges by profession. While constitutional judges are judges serving five years. Furthermore, the Constitutional Court Law further regulates the composition of the Constitutional Court. Provisions regarding the composition of the Indonesian Constitutional Court are contained in Article 4 of Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court. Article 4 of the Law on the Constitutional Court stipulates that the Constitutional Court has nine member of constitutional judges who are appointed by Presidential Decree. The composition of the Constitutional Court consists of a

chairperson who also serves as a member, a vice chairman who also serves as a member, and seven members of the constitutional justices (Hendrianto, 2018). Article 4 Paragraph (3) of the Constitutional Court Law also stipulates that the Chairperson and Deputy Chairperson of the Constitutional Court are elected from and by members of the constitutional justices for a term of two years and six months from the date of appointment of the Chairperson and Deputy Chairperson of the constitutional Court. The elected chairman and deputy chairman of the Constitutional Court as referred to in paragraph (3) may be re-elected to the same position for 1 (one) term of office. Before the Chief and Deputy Chief Justices of the Constitutional Court as referred to in paragraph (3) are elected, the election meeting for the Chairperson and Deputy Chairpersons of the Constitutional Court shall be presided over by the constitutional judge who is the oldest in age. The requirements to become a judge at the Indonesian Constitutional Court are listed in Article 15 of the Constitutional Court Law. Some of these requirements are: (a) Indonesian citizens, (2) doctoral and master degrees with higher legal education background, (3) aged at least 47 years and maximum 65 years at the time of appointment, and etc (Butt et al, 2016).

Meanwhile, in the French constitutional system, it is clear that provisions regarding the *Cour d' Cassatio* are separate from the *Conseil Constitutionnel*. *Cour d' Cassatio* is the Supreme Court, a judicial institution, while the *Conseil Constitutionnel* is not a court, but a political institution. Because of that, the name is not 'cour' (court) but 'conseil' (council). The difference in the political or legal character of the two institutions is also clearly visible in the pattern of the composition of the membership of the two. If in the Supreme Court, all members are lawyers and work as judges, then in the composition of the membership of the *Conseil Constitutionnel* this is not the case. Its members can come from political parties or bureaucrats and so on, although the majority of them are always legal experts. Indeed, in essence, the functions carried out by the French constitutional guard are not judicial functions in the usual sense. In the French constitutional system, this institution is more semi-judicial in nature (Thornhill, 2020). Maurice Duverger stated that the Constitutional Council is actually a political institution (Carp, 2013). That is, the institution is solely formed to fulfill political interests.

The pertinent constitutional provisions to the recruitment mechanism and composition of the Constitutional Council as set forth in the 1958 French Fifth Republic Constitution are regulated in Article 56, as follows: "The constitutional Council is composed of 9 members who serve 9 years, non-renewable terms. Three of them are named by the President of the Republic, three by the President of the National Assembly, and three by the President of the Senate. In addition to the 9 members of the Constitutional Council" (Imbert, 2021).

The membership composition of the French Constitutional Council is determined by three state institutions, namely: (i) three people are appointed by the President, (ii) three people are appointed by the Chair of the National Assembly, and (iii) three people are appointed by the Chair of the Senate. Membership of the former President in the Constitutional Council is for life, while the tenure of nine members of the Constitutional Council may not be more than nine years (Brouard and Hönnige, 2017). This means that board members cannot be reappointed. So, only for one term of office. However, the dismissal or expiration of the term of office of nine board members is not carried out simultaneously at the same time. But a third of the members quit every three years. This means that every three years there will be three new members to replace the three members who quit. According to the provisions in force in France, membership of the Constitutional Council is only required for those who are over 18 years of age and no other formal criteria are required to fill council

membership. In other words, the appointment mechanism in force in France does not at all describe conditions that can be used as a preventive instrument to reject a candidate from becoming a member of the Constitutional Council. In current practice, the general criteria for filling the composition of the Constitutional Council is through political affiliation. As a result, board membership is dominated by professional politicians. Statistical data compiled by Stone from 1958 to 1988, shows 41 members who have been appointed as council members, 59% of whom or the equivalent of 24 people, were appointed from alumni of the French parliament and government cabinet. These criteria show that in France there are no special requirements to become a Constitutional Council (Stone, 2014). Even though some of them have a legal education, formal legal education is not a requirement.

3. 4. Constitutional Review Authority in Indonesia and France

One of the authorities of the Constitutional Court is to try at the first and last levels whose decision is final to review laws against the 1945 Constitution (Satriawan and Mokhtar, 2020). Juridically, the authority of the Constitutional Court is contained in the provisions of Article 24C Paragraph (1) of the 1945 Constitution; Article 10 Paragraph (1) letter a Law Number 24 of 2003 concerning the Constitutional Court as amended by Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court; Article 29 Paragraph (1) letter a Law Number 48 of 2009 concerning Judicial Power (State Gazette Number 157 of 2009, Supplement to State Gazette Number 5076); and Article 9 Paragraph (1) of Law Number 12 of 2011 concerning Formation of Legislation.

Article 24C Paragraph (1) of the 1945 Constitution stipulates that “The Constitutional Court has the authority to try at the first and final levels whose decisions are final to review laws against the Constitution, decide disputes over the authority of state institutions whose powers are granted by the Constitution, decide on the dissolution of political parties, and decide disputes about the results of general elections. Among the several powers of the Constitutional Court contained in the provisions of Article 24C Paragraph (1), in this paper, the author will focus on one of the powers of the Constitutional Court, namely examining laws against the Constitution. The Constitutional Court has the authority to decide whether or not a law contradicts the 1945 Constitution (Butt, 2014). The first authority of the Constitutional Court is often referred to as a judicial review. However, this term must be straightened out and replaced with the term ‘constitutional review’ bearing in mind that the authority of the Constitutional Court is to review laws against the 1945 Constitution. By definition, the concept of ‘constitutional review’ is a development of modern ideas about a democratic government system based on the idea of the rule of law, separation of power, and the protection of fundamental rights. The constitutional review system includes two main tasks, namely ensuring the functioning of the democratic system in the role relationship or interplay between the executive, legislative and judicial branches of power. Constitutional review is intended to prevent domination of power and/or abuse of power by one branch of power. In addition, it is also intended to protect each individual citizen from the abuse of power by state institutions which harms their fundamental rights guaranteed in the constitution (Jakab and Bodnár, 2020).

Law Number 24 of 2003 concerning the Constitutional Court as amended by Law Number 8 of 2011, regulates the procedure for reviewing laws against the Constitution. Laws that can be petitioned for review are laws that were promulgated after the amendment to the 1945 Constitution of the Republic of Indonesia (Plaituka, 2016). Laws that are being reviewed by the Constitutional Court remain valid before there is a decision stating that the law is contrary to the Constitution. The decision of the Constitutional Court regarding the review of

laws against the 1945 Constitution of the Republic of Indonesia was submitted to the DPR, the Regional Representatives Council, the President and the Supreme Court. If changes are needed to a law that has been reviewed, the DPR or the President will immediately follow up on the decision of the Constitutional Court in accordance with statutory regulations. Regarding the contents of paragraphs, articles, and/or parts of the law that have been reviewed, it cannot be requested for retesting (Hosen, 2015).

A party that can submit a request for Judicial Review to the Constitutional Court of the Republic of Indonesia is a party that considers that its constitutional rights and/or authorities have been harmed by the enactment of a law. The party is an individual Indonesian citizen; customary law community units as long as they are still alive and in accordance with community developments and the principles of the Unitary State of the Republic of Indonesia regulated in law; public or private legal entity; or state agencies (Wantu and Ismail, 2022).

On the other hand, constitutionally the council is not the only constitutional guarantee organ in France. Because if one examines carefully the dictum of Article 5 of the Constitution of the Fifth Republic (1958). The President of the French Republic also has a duty to uphold and respect the constitution. Article 5, among other things, emphasizes: "The President of the Republic shall ensure the respect of the Constitution." Based on the provisions of this article, at any time the president can secure his own discretion through constitutional justification of a responsibility to respect the constitution other than that of the Constitutional Council. Through these provisions, the President of the French Republic is also assumed to be the protector of the constitution (Skach, 2007). Even under certain circumstances the government, through its power in parliament, has the power to make a definitive assessment of the constitutionality of a bill before it is promulgated. It can be exercised by the government and the president of each commission in the two chambers.

The right of judicial review in France has a unique character and is carried out by a special institution. In relation to this issue, Herman Finer said: "Even the Fifth Republic does not institute the judicial guarantee of constitutionality; decisions of constitutionality are reserved for the Constitutional Council." Constitutional Council (*Conseil Constitutionnel*) to carry out the function of examining constitutionality. At first, France, along with England and the Netherlands, were known as staunch opponents of the idea of giving judges or courts authority to review the constitutionality of laws. However, in later developments, the idea of reviewing the constitutionality itself was accepted, but as an alternative, the review system was not carried out by judges or judicial institutions, but by non-judicial institutions. Because of this, what has formulated in the French Constitution was not a '*cour*' (court), but a '*conseil*' (council), so that the institution *Conseil Constitutionnel* was formed, not *Cour Constitutionnel* (Kustra-Rogatka, 2013).

As for the parties that can apply for a judicial review of the French Constitutional Council, then as explained in the previous discussion that the *Conseil Constitutionnel* consists of all former Presidents of France and nine additional members. The French Constitutional Council can declare that a proposed law is contrary to the Constitution, but it may only consider the case at the request of the President of the Republic, the Prime Minister, the chairman of one of the two houses of the French parliament (National Assembly and the Senate), or a group consisting of at least 60 members from each of these assemblies (Brouard and Hönnige, 2017).

4. Conclusion

To sum up the discussions above, it can be concluded that there are similarities as well as differences between the Constitutional Courts in Indonesia and Constitutional Council in France. Regarding similarities, both the Indonesian Constitutional Court and the French Constitutional Council (*Conseil Constitutionnel*) have the authority to review laws against the Constitution. Furthermore, the decisions of the Constitutional Court of the Republic of Indonesia and the *Conseil Constitutionnel* are final and binding, and the authority to review laws against the Constitution which is carried out by the Constitutional Court of the Republic of Indonesia and the *Conseil Constitutionnel* is an authority that has been regulated in the constitutions of each country.

Besides similarities, there are also differences between the Indonesian Constitutional Court and the French *Conseil Constitutionnel*. These differences include that the Constitutional Court of the Republic of Indonesia is a judicial institution, while the *Conseil Constitutionnel* is a political institution. Furthermore, the Constitutional Justices at the Constitutional Court of the Republic of Indonesia must be people who have a background in legal education, while members of the *Conseil Constitutionnel* do not have to come from people who have a background in legal education. As for the composition, the Constitutional Court of the Republic of Indonesia consists of nine Constitutional Justices (including the Chairman and Deputy Chairperson concurrently as members), while the composition of the *Conseil Constitutionnel* is nine members of the council plus the former President of France as ex-officio members. In addition, the Constitutional Court of the Republic of Indonesia has the authority to review laws against the Constitution, while the *Conseil Constitutionnel* has the authority to review the bill against the Constitution. Besides having the authority to review bills against the Constitution, the *Conseil Constitutionnel* also has the authority to review international agreements that the Government intends to ratify. And finally, in Indonesia, parties who can submit requests for judicial review against the Constitution are parties who consider their constitutional rights and/or authorities harmed by the enactment of laws, namely individual Indonesian citizens, customary law community units, public or private legal entity, or state institutions. Meanwhile, in France, parties who can apply for a review of a bill against the Constitution are the President of the Republic, the Prime Minister, the chairman of one of the two assemblies of the French parliament (National Assembly and the Senate), or a group consisting of at least 60 members of each of these assemblies.

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