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## Constitutional Court Decision on The Age Requirement For Presidential And Vice-Presidential Candidates : Legal Implications And Public Response

Nabila Fauziyyah<sup>1</sup>, Ahmad<sup>2</sup>, Melisa Susanti<sup>3</sup>, Gamal Abdul Nasir<sup>4</sup>, Fakhri Aldifha Kurnia<sup>5</sup>

<sup>1234</sup>Universitas Muhammadiyah Tangerang

Jalan Perintis Kemerdekaan I/33 Cikokol Kota Tangerang 15118

\* Correspondence email: ahmad.law17@gmail.com

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**ABSTRACT:** The Constitutional Court Decision Number 90/PUU-XXI/2023, which changed the age limit for presidential and vice-presidential candidates to a minimum of 40 years or having experience in a public office through elections, has sparked controversy in society. This study aims to analyze the role, duties, and position of the Constitutional Court in Indonesia's state administration system, examine judicial independence in this decision, and explore the perspectives of society, politicians, and academics on the legal and social implications of this change. This research employs a qualitative approach with normative juridical analysis based on legal rulings and related literature. The findings indicate that the independence of Constitutional Court judges is in question due to allegations of conflicts of interest that may undermine public trust. Furthermore, this decision affects national political dynamics and public participation in elections. This study provides a critical perspective on the role of the Constitutional Court in upholding democratic principles and the rule of law in Indonesia.

**Keywords:** Constitutional Court, judicial independence, presidential age limit, elections, rule of law.

### INTRODUCTION

The Constitutional Court (Mahkamah Konstitusi/MK) plays an important role in Indonesia's constitutional system, not only as the guardian of the Constitution but also as its principal interpreter. The broad authority of the MK, including the power to review laws against the 1945 Constitution of the Republic of Indonesia (UUD 1945), to adjudicate disputes between state institutions, and to resolve disputes over election results, positions it as a crucial institution in maintaining the balance of power and ensuring the supremacy of law. However, Decision Number 90/PUU-XXI/2023, which

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amended the provisions regarding the age requirements for presidential and vice-presidential candidates, has triggered widespread and profound controversy, once again raising questions about public trust in the independence and integrity of the judiciary (Syahputra & Subaidi, 2021).

The Constitutional Court's decision requiring presidential and vice-presidential candidates to be at least 40 years of age or to have previously held or currently hold an elected public office has been considered controversial, as it is seen to create an opportunity for candidates who do not meet the minimum age requirement. Furthermore, the decision has also given rise to allegations of a conflict of interest involving a Constitutional Court justice, particularly concerning the familial relationship between the Chief Justice of the Constitutional Court and one of the beneficiaries of the ruling. This situation has generated significant doubts regarding the autonomy of constitutional judges, which is a crucial element of a fair and impartial judicial system. Consequently, the reputation of the judiciary has been tarnished and public trust has declined (Ashari & Putra, 2024).

Judicial autonomy, as embodied in the principle of the rule of law, serves as a guarantee that judicial processes are conducted free from external interference, whether in the form of political pressure, personal interests, or other forms of influence. In relation to Decision Number 90/PUU-XXI/2023, the independence of the Constitutional Court justices has been called into question due to indications of ethical violations and potential conflicts of interest. This situation has drawn sharp criticism from various groups, including politicians, academics, and the general public, who have questioned the legitimacy of the decision and its implications for the democratic process in Indonesia. Decisions rendered by the Constitutional Court should uphold a sense of justice for all stakeholders, rather than serving the interests of particular parties (Farhan & Huda, 2024).

The implications of this Constitutional Court decision are not limited to legal aspects, but also extend to the political and social spheres. The amendment to the age requirements for presidential and vice-presidential candidates may affect the political landscape, create opportunities for certain candidates, and alter public perceptions of the democratic process. This decision may influence the quality of national leadership and public participation in elections, as well as weaken public trust in the judiciary as the guardian of the Constitution and a pillar of democracy. The political dynamics that have developed following this decision have also become a central focus and a subject of intense discussion across various segments of society.

This study is oriented toward analyzing several core issues related to the institutional role and authority of the Mahkamah Konstitusi within Indonesia's constitutional framework, particularly in connection with its

ruling on the age requirements for presidential and vice-presidential candidates. The research encompasses three principal dimensions. First, it addresses the conceptual and normative understanding of the Constitutional Court, including its definition, functions, and constitutional standing as the guardian and interpreter of the Constitution. Second, it investigates the extent to which the principle of judicial independence is reflected in the reasoning and conduct of constitutional justices when deciding cases concerning age eligibility. Third, it explores the range of responses and assessments from political actors, the general public, and the academic community regarding the Court's decision, especially in relation to its implications for constitutional rights, democratic values, and public confidence in judicial institutions.

Based on these focal points, the research seeks to develop a comprehensive analysis of the Constitutional Court's position and significance within the Indonesian constitutional order, to critically evaluate the manifestation of judicial independence in the relevant adjudicative process, and to examine societal, political, and scholarly perceptions of the ruling on age requirements. Through this approach, the study is expected to contribute to a more nuanced understanding of the legal and constitutional consequences of the decision, while also providing insights into the interplay between constitutional adjudication, judicial ethics, and the consolidation of democratic governance in Indonesia.

## **RESEARCH METHODS**

This study employs a qualitative method with a normative juridical approach, which focuses on the analysis of judicial decisions, statutory regulations, and relevant academic literature. The statutory approach is conducted by examining relevant laws and regulations, such as the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), the Election Law, the Constitutional Court Law, and other related legislation. This approach is used to analyze the legal principles underlying the considerations in Constitutional Court Decision Number 90/PUU-XXI/2023, as well as to examine the legal and social implications arising from the decision. Through this method, the research seeks to provide a comprehensive understanding of judicial independence, political dynamics, and their impact on the constitutional system and democracy in Indonesia.

## **RESULTS AND DISCUSSION**

The findings of this study indicate that Constitutional Court Decision Number 90/PUU-XXI/2023, which amended the age requirements for presidential and vice-presidential candidates, has generated various responses from the public, academics, and legal practitioners. The decision has

sparked debate regarding the independence of judges in carrying out their duties, as well as the possibility of political intervention in the decision-making process.

From a normative juridical perspective, this research finds that the Constitutional Court's decision has a constitutional basis; however, it has still drawn criticism for being perceived as creating opportunities for certain parties to gain political advantage. Several legal experts have pointed out that this change may undermine the principles of democracy and electoral fairness, as it is considered to provide preferential treatment to individuals who currently hold or have previously held elected public office, while other candidates are still required to meet the minimum age requirement of 40 years.

In addition, this study finds that judicial independence has become a central issue in this controversy. Allegations of a conflict of interest in this decision have strengthened public skepticism regarding the neutrality of the Constitutional Court as the guardian of the Constitution. Several analyses emphasize that the ruling has the potential to reduce public trust in the judiciary, particularly in handling cases that have significant implications for the national political system.

From a social and political perspective, this decision has created new dynamics in political contestation ahead of the upcoming elections. Some political actors view the ruling as a strategic move that could benefit certain candidates, while civil society groups and academics emphasize the importance of maintaining electoral integrity to ensure that the process remains fair and democratic.

This study also reveals that the legal implications of this Constitutional Court decision extend beyond the regulation of presidential and vice-presidential candidacy, as it may serve as a precedent for future changes to other legal provisions. Therefore, strict oversight of the legislative process and political policymaking is necessary to ensure that any legal reforms remain grounded in the principles of democracy and the rule of law. Overall, the findings of this research affirm that Constitutional Court Decision Number 90/PUU-XXI/2023 has far-reaching impacts across the legal, political, and social spheres. The decision adds complexity to Indonesia's constitutional dynamics, making it essential for all stakeholders to continuously safeguard the independence of the judiciary and maintain a balance between political interests and democratic principles.

## **DISCUSSION**

### **Definition, Functions, and Position of the Constitutional Court**

The Constitutional Court (Mahkamah Konstitusi/MK) is a judicial body that does not fall within the category of a supreme court under the general court system and holds a special role in addressing matters of constitutional and political law. This institution is authorized to review laws deemed inconsistent with the Constitution, resolve disputes between state institutions whose powers are granted by the Constitution, adjudicate disputes concerning general election results, and decide on the dissolution of political parties. In addition, the Constitutional Court is tasked with examining and adjudicating the opinion of the House of Representatives (DPR) regarding alleged violations committed by the President or Vice President of specific provisions of the 1945 Constitution, or in cases where the President or Vice President is deemed no longer eligible to hold office (Lananda dkk., 2024).

The General Elucidation of the Law on the Constitutional Court indicates that this institution has a primary role and purpose in addressing constitutional matters, particularly to ensure the responsible implementation of the Constitution in accordance with the aspirations of the people and democratic principles. In addition, the Constitutional Court functions as a corrective mechanism for constitutional practices that arise due to differing interpretations of the Constitution. This institution was established following the amendments to the 1945 Constitution.

Within the constitutional system, the Constitutional Court plays the following roles:

1. Upholding the Constitution by ensuring the protection of the fundamental rights of every individual in the life of the nation and the state.
2. Promoting and ensuring that all components of the state comply with the Constitution and implement it consistently and responsibly.
3. Serving as an interpreter in addressing shortcomings within the existing constitutional system, thereby preserving the essence of the Constitution and maintaining stability for both the state and society (Tarigan, 2024).

Based on Article 24C paragraphs (1) and (2) of the 1945 Constitution, the Constitutional Court possesses four principal authorities and one obligation. The powers of this institution are explicitly stipulated in Article 10 of Law Number 24 of 2003 concerning the Constitutional Court of the Republic of Indonesia, as amended by Law Number 8 of 2011. The authorities and responsibility of the Constitutional Court are as follows:

1. To review laws that are deemed contrary to the 1945 Constitution of the Republic of Indonesia.
2. To adjudicate disputes over authority between state institutions whose powers are granted by the 1945 Constitution.

3. To decide on the dissolution of political parties.
4. To adjudicate disputes concerning the results of general elections.
5. To provide a decision on the opinion of the House of Representatives (DPR) regarding alleged violations of law, including corruption, bribery, other serious criminal offenses, or disgraceful conduct committed by the President and/or Vice President, and to determine whether the individual concerned remains eligible to hold office in accordance with the provisions of the 1945 Constitution.

The Constitutional Court is authorized to review laws that are considered to violate the Constitution. However, this judicial review was initially limited only to laws enacted after the First Amendment to the 1945 Constitution on October 19, 1999, as the provision was not retroactive. This limitation was based on Article 50 of Law Number 24 of 2003 concerning the Constitutional Court. Nevertheless, the Constitutional Court subsequently annulled this provision. As a result, there is currently no limitation on the scope of judicial review under the authority of the Constitutional Court, whether the laws were enacted after the amendments to the 1945 Constitution or prior to those amendments (Margi & Khazanah, 2019).

Meanwhile, individuals who consider that their constitutional rights and/or authorities have been impaired by a law may submit a petition to the Constitutional Court. The parties eligible to file such a petition include: individual Indonesian citizens; traditional law community groups, as long as they still exist and are in accordance with the principles of societal development and the Unitary State of the Republic of Indonesia; public or private legal entities; and state institutions or authorized officials (Safitri & Wibowo, 2023).

### **Independence of Constitutional Judges in Age Requirement Cases**

The level of public trust in judicial institutions is greatly influenced by the professionalism and competence of the law enforcement officials who serve within them. The standing of the judiciary can be assessed through the decisions issued by judicial authorities, which function as the last line of defense in upholding law and justice. In adjudicating a case, judges must possess strong integrity, adequate expertise, and conduct that adheres to established legal standards and procedures.

Judicial autonomy is a fundamental principle that must be upheld, particularly in a state based on the rule of law. A rule-of-law state must ensure the existence of an impartial judiciary that is free from external interference, so that judicial processes can be carried out in a manner that upholds order, justice, truth, and legal certainty in order to protect the interests of society.

One of the essential principles of a rule-of-law state is the existence of a judiciary that is independent and impartial (Fahmiron, 2016).

In Constitutional Court Decision Number 90/PUU-XXI/2023 concerning the age requirements for presidential and vice-presidential candidates, there are indications of a potential violation of the principle of judicial independence. This is reflected in the possibility of conflicts of interest, both politically and in terms of familial relationships. In this context, the decision has been suspected of being linked to the political interests of the family of the Chief Justice of the Constitutional Court, who was alleged to have an interest in facilitating participation in the 2024 Presidential Election.

Furthermore, the decision has also been suspected of being influenced by the executive branch, particularly the President, considering that his child, who was under the age of 40, sought to run for vice president, thereby necessitating a revision of the legal provisions governing eligibility to participate in the election (Fahira, 2025).

From the perspective of the principle of impartiality, there is an allegation of bias by the Constitutional Court judges against the applicant. This occurred because the decision benefited the judge's family, particularly his nephew. In situations where a judge has a family relationship with an interested party, he or she should have withdrawn from supervising the case. Furthermore, the oversight demonstrated by the judges in this case demonstrates a lack of independence in decision-making. The resulting decision reflects the influence among the judges, so that the judgment was not entirely based on the facts they objectively assessed (Kautsar, 2024).

The Constitutional Court (MK) has come under public scrutiny regarding its authority to review laws against the 1945 Constitution. MK Decision Number 90/PUU-XXI/2023, which reviews Article 169 letter (q) of Law Number 7 of 2017 concerning General Elections (Election Law), is deemed to contain a conflict of interest. Previously, the regulation regarding the age requirements for presidential and vice-presidential candidates in Article 169 letter (q) stipulated a minimum age of 40 years. However, in MK Decision Number 90/PUU-XXI/2023, the clause was changed to a minimum age of 40 years or having held/currently held a public office elected through general elections, including regional head elections (Tambunan dkk., 2024).

*The Constitutional Court judges who ruled on the age limit for presidential and vice-presidential candidates were deemed to have violated the code of ethics. Chief Justice Anwar Usman was deemed to have committed a serious violation of the code of ethics, while the other judges were also deemed to have jointly violated the Code of Ethics and Conduct for Constitutional Judges. The violations in the process of making the decision of the Constitutional Court Number 90/PUU-XXI/2023 raised concerns about the validity of the decision.*

*Due to procedural errors or flaws, debate arose regarding the validity of the decision. Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that one of the authorities of the Constitutional Court is to "adjudicate at the first and final instance, whose decisions are final, to test laws against the 1945 Constitution." The definitive nature of the Constitutional Court's decision means that the decision immediately has permanent legal force from the moment it is pronounced and cannot be challenged or other legal remedies submitted. Furthermore, the finality of the Constitutional Court's decision also includes binding legal force (final and binding) (Auliadi dkk., 2024).*

Judicial neutrality requires judges to be impartial and free from personal or political interests in deciding a case. However, in this situation, the Chief Justice of the Constitutional Court has family ties with President Joko Widodo and Gibran Rakabuming Raka, which could potentially influence the decision in the judicial review of the law. Therefore, the independence and impartiality of Constitutional Court judges are crucial to ensure that decisions are not influenced by political influence. Considering the various issues discussed previously, the application of the principle of independence in Constitutional Court Decision Number 90/PUU-XXI/2023 is questionable (Khalisah Silva Delgiana, 2024).

Violations of the code of ethics by Constitutional Court judges are commonplace. Therefore, there are several legal consequences for judges found to have violated the code of ethics. These include internal disciplinary action, temporary dismissal, and legal enforcement in accordance with statutory provisions. Regarding Decision Number 90/PUU-XXI/2023, the Constitutional Court received notification regarding an alleged violation of the code of ethics by Chief Justice Anwar Usman. In response to this notification, the Constitutional Court established the Constitutional Court Honorary Council (MKMK), tasked with reviewing and evaluating violations of the code of ethics by Constitutional Court judges (Mawangi, 2023).

### **Perspectives on Constitutional Court Ruling on Candidate Age Limits**

The debate surrounding the Constitutional Court's decision to change the age requirements for presidential and vice-presidential candidates has sparked both support and opposition among the public, academics, and legal experts. Supporters of the decision argue that setting the age limit at 40 is more appropriate to ensure the emergence of mature and experienced candidates to lead the country. Conversely, opponents of the decision argue that it limits individuals' constitutional rights to run for president or vice president.

The Constitutional Court's ruling has a significant impact on the presidential and vice-presidential election process in Indonesia. Adjusting the age requirements for candidates could impact political dynamics, the quality of national leadership, and public engagement in the election. Furthermore, this ruling affirms the Constitutional Court's role in interpreting the constitution and issuing decisions with national authority (Fadhillah & Priskap, 2024).

For political figures, the Constitutional Court's decision to set an age limit for presidential and vice-presidential candidates has become a controversial issue. The majority of politicians support this decision, stating that 40 is considered mature enough to govern the country. They believe this age provides prospective leaders with sufficient life experience and an understanding of the country's dynamics and societal needs (Presiden & Utomo, 2024).

However, some oppose this decision. Several politicians from certain parties believe the 40-year age limit is excessive and limits the opportunities for promising young candidates to participate. They argue that democracy should create opportunities for intelligent and dynamic young individuals to participate in government, especially considering the large number of young people currently achieving outstanding achievements in various fields (Saverodkk., 2024).

On the other hand, some politicians view the Constitutional Court's ruling as a beneficial measure to prevent the "decline" of the country's leadership. They worry that setting the age limit too low could produce candidates who are unprepared for the significant challenges of governing the country.

The Constitutional Court's (MK) ruling was announced on October 16, 2023. Following the announcement of the ruling, the Constitutional Court drew criticism and strong reactions from various community groups for upholding the minimum age requirement of 40 for presidential and vice-presidential candidates, albeit with certain exceptions. Under the ruling, individuals under 40 may run for president or vice president if they possess relevant leadership experience, such as having served as president, vice president, governor, regent, mayor, or deputy mayor.

The Constitutional Court's ruling has sparked various reactions and in-depth studies from various sectors. Many believe the ruling does not fully meet the expectations and demands of the wider public. The debate surrounding the age limit has also raised questions about the factors that should be considered when assessing a person's fitness to govern the country (Wahyuni dkk., 2024).

Furthermore, the majority of individuals view the decision as a positive development, as reaching 40 is considered mature enough to engage in

politics. The public believes that this age threshold does not fully reflect a person's effectiveness and competence in a leadership position. They believe that the crucial factors are the integrity, vision, and policies espoused by a prospective leader, not simply their age.

Academically, this ruling has sparked a deep discussion about the function and limitations of the Constitutional Court within Indonesia's political framework. Legal scholars argue that this ruling has sparked a debate about the extent to which the Constitutional Court is permitted to intervene in the political sphere through legal interpretation. This ruling also questions the conventional understanding of the separation of powers between the legislative and judicial branches, as the Constitutional Court appears to have taken a more proactive role in shaping public policy.

Academics argue that the age restrictions for presidential and vice-presidential candidates are not fully adaptive, given the major social, political, and economic transformations that have encouraged the emergence of many young leaders capable of effectively governing the country. They propose that the Constitutional Court's ruling be reviewed, particularly taking into account the competency and vision of the prospective leaders. A number of academics also argue that the age restrictions could have implications for the quality of democracy in Indonesia (Fadhillah & Priskap, 2024).

Following the reading of a number of Constitutional Court (MK) decisions on requests for judicial review of laws related to the constitutionality of Article 169 letter q of Law Number 7 of 2017 concerning General Elections, which regulates the minimum age requirements for presidential and vice-presidential candidates, various views emerged from academics who also provided assessments of the decision.

Muchamad Ali Safa'at, Professor of Constitutional Law at the Faculty of Law, Brawijaya University, found several irregularities in the Constitutional Court (MK) Decision Number 90/PUU-XXI/2023, which tests the constitutionality of Article 169 letter q of the Election Law concerning age restrictions for presidential and vice-presidential candidates. He believes this decision has permanent legal force and cannot be pursued further legal action.

Prof. Ali emphasized that the Constitutional Court had added a new norm that was inconsistent with its primary function, which is to test existing norms. According to him, the Constitutional Court should only decide whether the 40-year age limit is constitutional, not add new requirements. He also noted that this ruling cannot be separated from the political context, especially in the lead-up to the 2024 presidential election. There are indications that this decision benefits Gibran Rakabuming Raka, President Jokowi's son, who is seeking to run for vice president. This raises concerns about a potential conflict of interest.

The Constitutional Court's decision was not unanimous; instead, there were dissenting and concurring opinions among the judges. This created confusion as to which opinion to follow, as these variations reflected uncertainty in the decision-making process. Prof. Ali also pointed out irregularities in the judges' considerations outlined in the dissenting and concurring opinions, including the trial process, which was considered unusual. Several judges expressed oddities in the decision-making and voting process. (Ulum, 2023)

## CONCLUSION

Constitutional Court Decision No. 90/PUU-XXI/2023 regarding the age limit for presidential and vice-presidential candidates has attracted extensive scholarly, political, and public scrutiny, particularly in relation to the role and authority of the Constitutional Court, the independence of constitutional judges, and the broader implications for Indonesia's constitutional order. While the decision reflects the Court's strategic position in interpreting the Constitution and resolving constitutional disputes, it has simultaneously generated controversy and raised serious concerns about institutional independence. Allegations of conflicts of interest and potential violations of judicial ethics, especially in connection with familial relationships involving constitutional justices, have contributed to perceptions of partiality and injustice, thereby affecting public confidence in the judiciary.

The diverse reactions from politicians, civil society, and legal scholars illustrate the complex consequences of the ruling for democratic governance and the rule of law. Supporters view the decision as a legitimate exercise of constitutional interpretation, whereas critics argue that it risks undermining citizens' constitutional rights and the integrity of electoral competition. Consequently, this decision underscores the urgent need to reinforce judicial independence, strengthen ethical oversight mechanisms, and ensure transparency and accountability within the Constitutional Court. Sustained institutional reform is therefore essential to guarantee that future constitutional adjudication is firmly grounded in the principles of justice, impartiality, and the public interest, thereby preserving and enhancing public trust in constitutional justice.

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