

PROBLEMATIKA PENAFSIRAN KETENTUAN USIA PENCALONAN KEPALA DAERAH DALAM PUTUSAN MAHKAMAH AGUNG NOMOR 23 P/HUM/2024 DAN PERKEMBANGANNYA DALAM PUTUSAN MAHKAMAH KONSTITUSI NOMOR 70/PUU-XXII/2024

Oleh:

Muhammad Faiq Haidar¹ dan Andy Omara²

INTISARI

Putusan MA 23 P/HUM/2024 menuai respons publik dengan mengubah ketentuan batas usia minimum pencalonan kepala daerah dalam PKPU 9/2020 yang semula dihitung pada tahapan penetapan pasangan calon menjadi pelantikan pasangan calon terpilih. Kemudian, terdapat Putusan MK 70/PUU-XXII 2024 yang mengembalikan batas usia minimum dihitung pada tahapan penetapan pasangan calon. Oleh karenanya, penelitian bertujuan untuk menjawab dua pertanyaan penelitian, yaitu: (1) bagaimana problematika penafsiran MA dalam Putusan MA 23 P/HUM/2024 terhadap ketentuan batas usia minimum pencalonan kepala daerah dalam UU 10/2016?; dan (2) bagaimana Putusan MK 70/PUU-XXII/2024 menafsirkan ketentuan batas usia minimum pencalonan kepala daerah dalam UU 10/2016 pasca Putusan MA 23P/HUM/2024?. Penelitian ini merupakan penelitian yuridis normatif dengan menelusuri data sekunder berupa bahan hukum primer dan sekunder yang relevan dengan topik penelitian yang didapat melalui studi pustaka. Data tersebut dianalisis secara kualitatif dengan pendekatan perundang-undangan dan konseptual.

Hasil penelitian ini menjumpai beberapa kesimpulan. **Pertama**, terdapat beberapa kekeliruan dalam argumentasi MA yang menafsirkan titik hitung batas usia minimum pencalonan kepala daerah dengan: i) menafsirkan pasal konstitusi yang tidak berkaitan dengan ketentuan yang diuji; ii) berpijak pada ketentuan usia jabatan hakim yang pengisiannya tidak menggunakan mekanisme pemilu; dan iii) tidak menunjukkan *original intent* UU Pilkada yang berkaitan dengan mengamodasi kesempatan anak muda. **Kedua**, MK menafsirkan ketentuan batas usia minimum yang tidak dirumuskan secara eksplisit dengan mengubungkan suatu fakta hukum dengan kaidah hukum melalui pendekatan sistematis, praktik, dan komparatif. Kemudian, MK menjaga keadilan dan kesetaraan bagi calon perseorangan dan kepastian hukum ketidakpastian hukum verifikasi persyaratan pencalonan dan pelantikan pasangan calon terpilih.

Kata kunci: Usia pencalonan kepala daerah, Penafsiran peraturan perundang-undangan, Mahkamah Agung, Mahkamah Konstitusi

¹ Mahasiswa Konsentrasi Hukum Tata Negara, Program Sarjana, Fakultas Hukum, Universitas Gadjah Mada.

² Pengajar pada Departemen Hukum Tata Negara Fakultas Hukum, Universitas Gadjah Mada.

THE PROBLEMATICS OF INTERPRETATION OF THE AGE PROVISIONS FOR REGIONAL HEAD CANDIDATES IN THE SUPREME COURT DECISION NUMBER 23 P//2024 AND THE DEVELOPMENT IN THE CONSTITUTIONAL COURT DECISIION NUMBER 70/PUU-XXII/2024

By:

Muhammad Fa'iq Haidar³ dan Andy Omara⁴

ABSTRACT

Supreme Court Decision Number 23 P/HUM/2024 received a public response by changing the minimum age limit for nominating regional heads in PKPU 9/2020 which was originally calculated at the stage of determining candidate pairs to the inauguration of selected candidate pairs. Then, there was MK Decision 70/PUU-XXII 2024 which reinstated the minimum age limit calculated at the stage of determining candidate pairs. Therefore, the research aims to answer two research questions, namely: (1) what are the problems with the Supreme Court's interpretation in Supreme Court Decision 23 P/HUM/2024 regarding the minimum age limit for regional head candidacy in Law 10/2016?; and (2) how does Constitutional Court Decision 70/PUU-XXII/2024 interpret the provisions on the minimum age limit for regional head candidacy in Law 10/2016 following Supreme Court Decision 23P/HUM/2024? This research is normative juridical research by exploring secondary data in the form of primary and secondary legal materials relevant to the research topic which were obtained through library studies. These data are qualitatively analyzed using statute and conceptual approaches.

The results of this research came to several conclusions. First, there are several errors in the Supreme Court's argument that interprets the calculation point for the minimum age limit for regional head candidacy by: i) interpreting constitutional articles in a way that is far-fetched and not related to the provisions being reviewed; ii) based on the provisions on the age of office of judges whose filling does not use an election mechanism; and iii) does not show the original intent of the Regional Election Law relating to accommodating young people's opportunities. Second, the Constitutional Court interprets the minimum age limit provisions which are not explicitly formulated by connecting legal facts with legal rules through a systematic, practical and comparative approach. Then, the Constitutional Court maintains justice and equality for individual candidates and legal certainty, legal uncertainty, verification of nomination requirements and the inauguration of selected candidate pairs.

Keywords: Age requirements for regional head candidacy , Constitutional Court

³ Constitutional Law Department Student, Bachelor Degree Program, Faculty of Law, Gadjah Mada University.

⁴ Lecturer in the Constitutional Law Department at Faculty of Law, Gadjah Mada University.