

**KEWENANGAN MAHKAMAH KONSTITUSI DALAM MEMUTUSKAN
PERKARA BATAS USIA CALON PRESIDEN DAN CALON WAKIL
PRESIDEN (STUDI PERKARA NOMOR 90/PUU-XXI/2023)**

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ABSTRAK

Perkara pengujian Pasal 169 huruf q Undang-Undang Nomor 7 Tahun 2017 tentang Pemilihan Umum telah mengubah ketentuan usia calon Presiden dan calon wakil presiden melalui putusan nomor 90/PUU-XXI/2023, dalam putusan tersebut Mahkamah Konstitusi menyatakan dengan tegas bahwa frasa “berusia paling rendah 40 (empat puluh) tahun” bertentangan dengan UUD NRI 1945 dan tidak mempunyai kekuatan hukum mengikat, kemudian Mahkamah Konstitusi juga menambahkan frasa yaitu “atau pernah/sedang menduduki jabatan yang dipilih melalui pemilihan umum termasuk pemilihan kepala daerah”. diketahui bahwa batas usia merupakan ketentuan *open legal policy* yang kebijakannya diserahkan sepenuhnya kepada pembuat undang-undang. Penelitian ini menggunakan metode yuridis-normatif dengan pendekatan perundang-undangan (*statue approach*) serta pendekatan asas (*principle approach*), data yang digunakan menggunakan data sekunder sebagai data utama dan studi kepustakaan sebagai cara untuk memperoleh data serta dianalisis secara deskriptif, hasil penelitian menunjukkan bahwa Mahkamah Konstitusi memiliki kewenangan untuk memutuskan perkara tersebut meskipun bersinggungan dengan kebijakan *open legal policy* hal ini berdasarkan pada asas ultra petita di Mahkamah Konstitusi dan kewenangan Hakim Konstitusi, Hakim Konstitusi dapat saja bertindak dengan berdasarkan pada kekuasaan kehakiman, dan karena jabatannya sebagai seorang hakim dapat melakukan terobosan demi hukum progresif yang sesuai dengan perkembangan zaman, dengan kewajibannya sebagai individu yang dituntut untuk menggali nilai-nilai yang berada di ditengah masyarakat

Kata Kunci : Kewenangan, Judicial Review, Mahkamah Konstitusi

**THE AUTHORITY OF THE CONSTITUTIONAL COURT IN DECIDING
CASES OF AGE LIMITS FOR PRESIDENTIAL AND VICE
PRESIDENTIAL CANDIDATES (CASE STUDY NUMBER 90/PUU-
XXI/2023)**

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ABSTRACT

Case testing of Article 169 letter q of Law Number 7 Year 2017 on General Elections has changed the age provisions for Presidential and Vice Presidential candidates through decision number 90/PUU-XXI/2023. decision number 90/PUU-XXI/2023, in which the Constitutional Court stated unequivocally that the phrase “at least 40 (forty) years old” is contradictory. that the phrase “at least 40 (forty) years old” is contrary to the 1945 Constitution and does not with the 1945 Constitution of the Republic of Indonesia and has no binding legal force. The Constitutional Court also added the phrase “or has / is currently occupying positions elected through general elections including regional head elections.” It is known that the age limit is an open legal policy provision. that the age limit is an open legal policy provision whose policy is left entirely to the legislator. policy is left entirely to the legislator. This research uses juridical-normative method with a statutory approach and a principle approach. as well as the principle approach, the data used uses secondary data as the main data and literature study as a way to obtain data and analyzed descriptively. data and analyzed descriptively, the results of the research show that the Constitutional Court has the authority to decide the case even though it intersects with the open legal policy. This is based on the principle of ultra petita in the Constitutional Court and the authority of the Constitutional Court. Constitutional Judges, Constitutional Judges can only act based on judicial power, and because of their position in the Constitutional Court. judicial power, and because of his position as a judge can make breakthroughs for progressive law. make breakthroughs in favor of progressive law in accordance with the times, with his obligations as an individual who is required to explore the values that are in the midst of society. that are in the midst of society

Keywords: Authority, Judicial Review, Constitutional Court