

Analysis of The Constitutional Court Decision Number 90/PUU-XXI/2023 Reviewed From The Code of Ethics and Behavior of Constitutional Court Judges

Farhan Alfirman, Ali Yusran Gea

Abstract

In its development, the judicial power in Indonesia underwent changes in the third amendment of the 1945 Constitution so as to give birth to an agency of judicial power engaged in the field of Judicial Review namely the Constitutional Court (MK). One of the Constitutional Court's decisions that has become a public conversation is the Constitutional Court's Decision Number 90/PUU-XXI/2023 regarding the testing of the age limit for presidential and vice presidential candidates. The issues that will be discussed in this journal are the Principal Duties and Functions of the Constitutional Court, What are the Legal Consequences of the Constitutional Court Decision Number 90/PUU-XXI/2023 on the Principles of the Code of Ethics of Constitutional Court Judges based on Constitutional Court Regulation Number 9/PMK/2006 concerning the Implementation of the Declaration of the Code of Ethics and Conduct of Constitutional Judges and How to Legal Analysis of the Constitutional Court Decision No. 90/PUU-XXI/2023 concerning the Age Limit for Presidential and Vice Presidential Candidates Reviewed from the Code of Ethics and Judges' Behavior Constitution. The research method used in this journal is normative, qualitative descriptive data analysis, The approach to the problem in this writing is a legislative approach (Statute Approach) and case approach (Case Approach). The data used is secondary data. And the data collection method uses the literature study method. The Constitutional Court is given the authority to resolve disputes between State institutions, adjudicate the dissolution of political parties, resolve controversies over election results, and adjudicate the opinions of the House of Representatives on violations of the law committed by the President and Vice President. Based on the Constitutional Court Regulation Number 09/PMK/2006 concerning the Implementation of the Declaration of the Code of Ethics and Conduct of Constitutional Judges, violations of the professional code of ethics will be sanctioned in accordance with applicable provisions. These types of sanctions include light sanctions, moderate sanctions, and severe sanctions. The author's analysis of the Constitutional Court Decision Number 90/PUU-XXI/2023 concerning the age limit for presidential and vice presidential candidacy decided by Anwar Usman is considered to violate the code of ethics and the principles of impartiality and independence. The conclusion obtained is that the Constitutional Court has the authority to examine the law against the 1945 Constitution (Judicial review), The legal consequences of the Constitutional Court Decision Number: 90/PUU-XXI/2023 are ethical sanctions from the MKMK and DKPP, and the legal analysis is that it violates the code of ethics and the principles of impartiality and independence of judges, the advice given to judges of the Constitutional Court should uphold the principles of the code of ethics and the behavior of judges who always uphold the principles of impartiality and independence.

Keywords: Constitutional Court Decision Number 90/PUU-XXI/2023, Code of Ethics, and Constitutional Judges

Farhan Alfirman

Master of Management, Universitas Pembangunan Panca Budi, Indonesia

e-mail: Farhanalfirman@gmail.com

Ali Yusran Gea

e-mail: aliyusrangea@dosen.pancabudi.ac.id

2nd International Conference on the Epicentrum of Economic Global Framework (ICEEGLOF)

Theme: Navigating The Future: Business and Social Paradigms in a Transformative Era.
<https://proceeding.pancabudi.ac.id/index.php/ICEEGLOF/issue/view/9>

Introduction

Indonesia as a state of law has the meaning that all aspects of life in the territory of the Unitary State of the Republic of Indonesia must be based on the law and all legislative products and their derivatives that apply in the territory of the Republic of Indonesia. Indonesia as a state of law must be able to enforce laws that apply fairly and equally to all its citizens. According to the 1945 Constitution, Article 1 Paragraph 3, Indonesia is a state of law that has the duty and responsibility to carry out planned, coordinated, and sustainable national legal development in the national legal system in order to maintain the rights and responsibilities of all Indonesian people as outlined in the 1945 Constitution.

As a state of Indonesian law, of course, this is a question mark for the public, because Indonesia declares to be subject to the applicable laws according to the information contained in the 1945 Constitution in article 1 paragraph (3). In the sense that the State of Indonesia is bound by the concept of constitutionalism, the restriction of every action by state institutions is based on the rules made. As James Bryce put it, as a basic law, a country's constitution is "the form of its government and the respective rights and duties of the government towards the citizens and of the citizens towards the government".

The substance of the State as a State of law (de recht stats and the rule of law) means that every state legislator whether in state institutions or non-institutions needs to be subject to the law, because the law is supreme and there is no power that is above the law or above the law. Based on this statement, it can be concluded that it is not permissible to commit arbitrary actions and use their power for a wrong action (arbitrary power or misuse of power). In its development, judicial power in Indonesia underwent changes in the third amendment of the 1945 Constitution so as to give birth to an institution of judicial power engaged in judicial review, namely the Constitutional Court. This is based on the principle of cheek and balance in a state of law. The presence of this Constitutional Court by the entire community is expected to oversee and ensure that the constitution runs in accordance with the path and ideals of the constitution of the Republic of Indonesia, namely the Constitution of the Republic of Indonesia in 1945.

To carry out its role, the Constitutional Court is mandated and given the main tasks and authorities by the 1945 Constitution to be able to test the law against the 1945 Constitution at the first and last level. This means that if there is a product of the law issued by the law-maker, in this case the House of Representatives (DPR) and the Government that allegedly harms the constitutional rights of citizens, then the Constitutional Court has the authority to adjudicate it as explained in article 24C paragraph 1 of the 1945 Constitution which reads:

"The Constitutional Court has the authority to adjudicate at the first and last final level to test the law against the 1945 Constitution of the Republic of Indonesia, to decide disputes over the authority of state institutions whose authority is granted by the Constitution, to decide on the dissolution of political parties, and to decide disputes about the results of general elections"

The authority given by the 1945 Constitution Article 24 letter C paragraph 1 above is then further explained by Law Number 48 of 2009 concerning Judicial Power Article 29 paragraph 1 which reads:

The Constitutional Court has the authority to adjudicate at the first and last level whose decision is final for:

1. Examining the law against the Constitution of the Republic of Indonesia in 1945;
2. To decide disputes over the authority of state institutions whose authority is given by the 1945 Constitution of the Republic of Indonesia;
3. Decide on the dissolution of political parties;
4. Settle disputes over the results of elections; and
5. Other powers granted by law.

The magnitude of the role and authority of the Constitutional Court is what makes it a very important institution in supporting the running of the Indonesian constitution, so that the integrity of constitutional judges must continue to be in the corridor because according to the Constitutional Court regulation Number 9/PMK/2006 concerning the Enforcement of the Code of Ethics and Conduct of Constitutional Judges, integrity is an inner attitude that reflects the integrity and balance of the personality of constitutional judges in carrying out their positions. Refers to The Bangalore Principles of Judicial Conduct 2002 explained several basic principles that must be possessed by a judge, including Independence (Independence), impartiality (Impartiality), Integrity (Integrity), speed and courtesy (Property), equality (equality), proficiency and equality (competence and diligence) as well as various values that live in the community according to State Fundamental Standard the Indonesian people, namely Pancasila.

Supervision of constitutional judges has an important role in maintaining the balance of power and ensuring that decisions taken by constitutional judges are in accordance with constitutional principles and state law, both through internal and external supervision. Because constitutional judges are the guardians of the constitution (The Guardian of Constitution) and constitutional interpreters (the interpretation of constitution) whose decision is final and binding and the decision is *erga omnes* which means binding for anyone, not only the party to the dispute.

One of the Constitutional Court's decisions that has become a public discussion/polemic among the public and legal experts today is the Constitutional Court Decision Number 90/PUU-XXI/2023 related to the testing of the age limit for presidential and vice presidential candidates who are believed to have issues of conflict of interest and political nepotism in it. The decision issued by the Constitutional Court on November 29, 2023 has attracted public attention since it was read by the former chief justice of the Constitutional Court, namely Anwar Usman and eight other Constitutional Court judges, whose verdict is as follows:

1. Grant the Applicant's application in part;
2. Declare Article 169 letter q of Law Number 7 of 2017 concerning General Elections (Statute Book of the Republic of Indonesia Number 182 of 2017, Supplement to Statute Book of the Republic of Indonesia Number 6109) which states, "at least 40 (forty) years of age" is contrary to the Constitution of the Republic of Indonesia of 1945 and has no binding legal force, as long as it is not interpreted as "at least 40 (forty) years old or has been/is occupying a position that elected through general elections including the election of regional heads". So that Article 169 letter q of Law Number 7 of 2017 concerning General Elections reads in full "at least 40 (forty) years old or has been/is occupying positions elected through general elections, including the election of regional heads";
3. Order the publication of this decision in the State Gazette of the Republic of Indonesia as appropriate.

The controversial decision is alleged to have hurt the image and independence of constitutional judges who are free and independent in exercising their authority. The question is whether there is really a violation of the law or ethics of the judge in deciding the verdict. To answer this, the author is interested in conducting research through an analysis of the decision on the code of ethics and behavior of Constitutional Judges.

Problem Formulation

Based on the above background, the problems that will be discussed in this journal are as follows:

1. What are the main duties and functions of the Constitutional Court.
2. What are the Legal Consequences of the Constitutional Court Decision Number 90/PUU-XXI/2023 on the Principles of the Code of Ethics of Constitutional Court

Judges based on Constitutional Court Regulation Number 9/PMK/2006 concerning the Implementation of the Declaration of the Code of Ethics and Conduct of Constitutional Judges.

3. How is the Legal Analysis of the Constitutional Court's Decision No. 90/PUU-XXI/2023 concerning the Age Limit for Presidential and Vice Presidential Candidates Reviewed from the Code of Ethics and Behavior of Constitutional Judges.

Research Methods

The research method used is normative study, which is research that examines documents, namely legal source material consisting of legislation, court decisions or determinations, agreements, legal theories, and doctrines or opinions of legal experts. The nature of qualitative descriptive research is a technique that is carried out by looking at and paying attention to the facts in the field and combined with secondary data from the literature, then the results of this analysis are presented descriptively so that qualitative descriptive research results are obtained. The type of data used in this study is secondary data, namely carrying out a series of activities of reading, citing, recording books, and studying laws related to research problems.

Result and Discussion

4.1 Main Duties and Functions of the Constitutional Court

4.1.1 History of the Establishment of the Constitutional Court

The Constitutional Court (hereinafter abbreviated as the Constitutional Court) is one of the most important judicial institutions in the country. The name of this institution is often popular, especially related to constitutional affairs and legislation. Definitively, the Constitutional Court is the highest institution in the constitutional system together with the Supreme Court. The Constitutional Court is an institution that holds judicial power, especially to test and adjudicate various rules related to the law. The Constitutional Court is a relatively new institution in the history of Indonesian constitutionality. The Constitutional Court was born after a long struggle over the Indonesian constitution which began with the change of the new order regime to a reform regime that wanted a comprehensive change in the Indonesian constitutional system. The emergence of the Constitutional Court is also proof of the urgency of the position of the State Constitution as a political document of Indonesian law. The Constitution is important to be guarded. This is because the constitution contains protection and guarantees of human rights.

The history of the establishment of the Constitutional Court began with the adoption of the idea of the Constitutional Court (Constitutional Court) in the amendment of the Constitution carried out by the People's Consultative Assembly (MPR) in 2001 as formulated in the provisions of Article 24 paragraph 2, Article 24C, Article 7B of the 1945 Constitution as a result of the 3rd (third) amendment which was ratified on November 9, 2001. The idea of forming the Constitutional Court is one of the developments of modern legal and state thinking that emerged in the 20th century. After the ratification of the Third Amendment to the 1945 Constitution, in order to wait for the formation of the Constitutional Court, the MPR stipulated that the Supreme Court (MA) temporarily carry out the functions of the Constitutional Court as stipulated in Article III of the Fourth Amendment of the 1945 Constitution.

The emergence of the Constitutional Court institution is a positive implication of the turmoil of reform and amendment of the 1945 Constitution (hereinafter referred to as the 1945 Constitution). The establishment of the Constitutional Court (MK) is one of the tangible manifestations of the need for balance and control among state institutions and is an affirmation

of the principles of the rule of law and the need for the protection of human rights (constitutional rights) that have been guaranteed by the constitution.

4.1.2 Main Duties of the Constitutional Court

The Constitutional Court is a judicial institution that has the authority to test the conformity of the law with the 1945 Constitution. The Constitutional Court is present as the Guardian of the 1945 Constitution so that the Constitutional Court has a constitutional obligation to maintain the implementation of the constitutionality of the law. Based on Article 24C paragraphs 1 and 2, the Constitutional Court is given the authority to resolve disputes between State institutions, adjudicate the dissolution of political parties, resolve controversies over election results, and adjudicate the opinions of the House of Representatives on violations of the law committed by the President and Vice President.

The Constitutional Court also has the authority to examine laws against the 1945 Constitution, also known as Judicial review. Theoretically and practically there are 2 types of testing that are known, namely formal testing and material testing. Formal testing is a test of the process of forming laws/perpus against the 1945 Constitution. Meanwhile, material testing is the material/content of the norms of the law/perpu against the 1945 Constitution. All laws and regulations produced must be in accordance with the 1945 Constitution and must not violate the provisions contained in the 1945 Constitution.

According to Article 10 paragraph 1 letters a to d of Law Number 24 of 2003 concerning the Constitutional Court, there are 4 main tasks of the Constitutional Court, namely:

1. Testing the Law against the 1945 Constitution
2. To decide authority disputes between State Agencies whose authority is delegated by the 1945 Constitution
3. Decide on the Dissolution of Political Parties
4. Decide Disputes regarding election results.

All cases in the Constitutional Court are referred to as pleas and not lawsuits, in the submission of an application, the application must include evidence that shows its seriousness. This evidence is the preliminary evidence required in the application, but during the trial, the applicant may still introduce additional evidence that is deemed to support his or her application.

4.1.3 Main Functions of the Constitutional Court

The Constitutional Court is one of the judicial institutions that is a member of the judiciary. If the institutions that are members of the judiciary can carry out their duties and functions properly, then the judiciary will ease the duties of the State. However, the duties of the judiciary will not run well because the executive institutions, legislative institutions and judicial institutions cannot cooperate properly, therefore it is appropriate that the State institutions can carry out their functions properly, this needs to be done so that the tasks of the State can be completed optimally.

As a newly established institution in the Indonesian constitutional system, the Constitutional Court cannot be separated from the grand vision that has been instilled by its founders. The great vision of the Constitutional Court is to guard the 1945 Constitution so that it can be implemented as a source of fair and correct law, not used as an instrument to perpetuate power as during the new order period. Article 24 paragraph 2 of the 1945 Constitution states that judicial power is exercised by a Supreme Court and the Judiciary under it within the General Court, Religious Court, Military Court, State Administrative Court and by a Constitutional Court.

The Constitutional Court has the authority to adjudicate at the first and last level whose decision is final to: a. test the law against the 1945 Constitution, b. decide disputes over the

authority of State institutions whose authority is granted by the 1945 Constitution, c. decide on the dissolution of political parties and d. decide disputes about election results. Based on this authority, the Constitutional Court has the following functions:

1. As a Guardian of the Constitution
2. As an interpreter of the constitution that is final, in accordance with the content of the 1945 Constitution which includes the basic rules of state life based on the principles of democracy and guarantees for the protection of human rights.
3. As the Guardian of Democracy
4. As a protector of the constitutional rights of citizens
5. As a protector of human rights.

4.2 Legal Consequences of the Constitutional Court Decision Number 90/PUU-XXI/2023 on the Principles of the Code of Ethics of Constitutional Court Judges based on Constitutional Court Regulation Number 9/PMK/2006 concerning the Implementation of the Declaration of the Code of Ethics and Conduct of Constitutional Judges

4.2.1 The Beginning of the Issuance of the Constitutional Court Decision Number 90/PUU-XXI/2023 concerning the Age Limit for Presidential and Vice Presidential Candidates

The Constitutional Court's Decision Number 90/PUU-XXI/2023 concerning the age limit for presidential and vice presidential candidates began with an application submitted by Almas Tsaqibbirruq, an alumnus of the Faculty of Law, University of Surakarta, where his application asked the Constitutional Court to conduct a material test of the Law of the Republic of Indonesia Number 7 of 2017 concerning General Elections in Article 169 letter Q which reads: "One of the requirements to be a presidential candidate and vice presidential candidate is to be at least 40 years old". The existence of this Article, according to Almas Tsaqibbirruq, is contrary to the constitutional rights regulated and protected by the 1945 Constitution.

With the enactment of Article 169 letter Q of Law Number 7 of 2017 concerning General Elections, it has caused a real sense of discrimination for Almas Tsaqibbirruq which has clearly harmed constitutional rights, a right protected by the constitution Article 28 letter I paragraph 2 of the 1945 Constitution which reads: "Everyone has the right to be free from discriminatory treatment on any basis and has the right to be protected from discriminatory treatment." Therefore, for the above reasons, the applicant requests to change the reading of Article 169 letter Q to "as long as the minimum age is at least 40 years old, it is conditionally contrary to the 1945 Constitution and does not have binding legal force as long as it is not interpreted with or experienced as a Regional Head both at the Provincial and Regency/City levels.

The reason for Almas submitting this application is that according to him, there are still many young generations who have the potential to become presidential candidates and vice presidential candidates but are hindered by the age limit, in his application Almas questioned the constitutionality of the age limit and argued that it could limit his constitutional rights to compete fairly in the political environment. Process Judicial Review Law Number 7 of 2017 concerning General Elections, especially related to Article 169 letter Q which was submitted to the Constitutional Court, was accepted in part with an amar that stipulates that the minimum age limit for presidential and vice presidential candidates is 40 years old or the candidate has been/is currently occupying the position of Regional Head elected through general elections.

The result of the Constitutional Court's decision is what has resulted in a debate in the community and legal experts about the results of the decision. Chief Justice of the Constitutional Court Anwar Usman is considered irrelevant to the Election Law and is associated with the judge's professional code of restrictions on judges so as to facilitate the supervisory function of judges. Because, basically, a judge is the spearhead of the peak of

justice so that judges must act according to their morals and provisions. Judges who are known to have violated the judge's code of ethics that has been determined will be given sanctions as stipulated in the Joint Regulations of the Supreme Court and the Judicial Commission Number 02/PB/MA/IX/2012 and Number 02/PB/P.KY/09/2012 which contain the Guidelines for the Enforcement of the Code of Ethics and the Code of Conduct for Judges.

In the Joint Regulation of the Supreme Court and the Judicial Commission Number 02/PB/MA/IX/2012 and Number 02/PB/P.KY/09/2012 which contains the Guidelines for the Enforcement of the Code of Ethics and the Code of Conduct for Judges, it is also regulated about the prohibitions of Judges in adjudicating cases related to family, kinship and interests, including the following:

Article 7 paragraph 3 letter a of the Joint Regulation of the Supreme Court and the Judicial Commission Number 02/PB/MA/IX/2012 and Number 02/PB/P.KY/09/2012 which reads: "Judges are prohibited from adjudicating cases where family members of the judge concerned act on behalf of a litigant or as a party who has an interest in the case."

Furthermore, Article 9 paragraph 5 letter a of the Joint Regulation of the Supreme Court and the Judicial Commission Number 02/PB/MA/IX/2012 and Number 02/PB/P.KY/09/2012 which reads: "Judges may not adjudicate a case if they have a conflict of interest, either because of personal and family relationships, or other relationships that are reasonably suspected of containing conflicts of interest."

Deep Law Number 48 of 2009 concerning Judicial Power There is also Article 17 paragraph 3 which reads: A judge is obliged to resign from the trial if he is bound by a blood or blood family relationship up to the third degree, or a relationship between a husband or wife even though he has been divorced, with the chairman, one of the member judges, prosecutors, advocates, or clerks."

Violations of a code of ethics and judges' behavior are not limited to an internal problem of the judiciary, but also a problem of the community and justice seekers. However, to realize a court as stated above is not easy because of various obstacles. These obstacles arise from within the judiciary itself, especially related to the lack of effective internal supervision, and the tendency to increase various forms of abuse of authority by judges.

The form of sanctions received is based on Article 19 of the Joint Regulation of the Supreme Court and the Judicial Commission Number 02/PB/MA/IX/2012 and Number 02/PB/P.KY/09/2012, taking into account the background, level of seriousness, and consequences of the violation. The three types of sanctions include light sanctions, moderate sanctions, and heavy sanctions. Light sanctions can be in the form of verbal reprimands or written reprimands for dissatisfaction with a judge's performance. Then, the sanctions are in the form of delays in periodic salary increases to a maximum of one year, salary reductions in accordance with the maximum salary increase for one year, delays in promotions for a maximum of one year, not allowed to hear a case within a period of six months, transfer to another court with a lower level, and cancellation or suspension of promotion. Then, severe sanctions in the form of dismissal from office, not allowed to hear a case within a period of six months to two years, the lowest demotion of up to three years, permanent dismissal with the right to retire or dishonorable dismissal.

4.2.2 Legal Consequences of the Constitutional Court Decision Number 90/PUU-XXI/2023 on the Principles of the Code of Ethics of Constitutional Court Judges based on Constitutional Court Regulation Number 9/PMK/2006 concerning the Implementation of the Declaration of the Code of Ethics and Conduct of Constitutional Judges

One of the Constitutional Court decisions that became a public conversation and became a polemic among the public and legal experts in the run-up to the 2024 presidential and vice

presidential elections was the Constitutional Court's decision Number 90/PUU-XXI/2023 related to the testing of the age limit for presidential and vice presidential candidates who are believed to have issues of conflict of interest and political nepotism in it. The verdict, issued by the Constitutional Court on November 29, 2023, has attracted public attention since it was read by former Constitutional Court chairman Anwar Usman and eight other Constitutional Court judges. The controversial decision allegedly has injured the image and independence of constitutional judges who are free and independent in exercising their authority.

Talking about the Constitutional Court's decision Number 90/PUU-XXI/2023 which cannot be changed because it is final and binding even though there are formal defects due to the fact that the application has been withdrawn by the applicant and the letter of revocation of the application or the controversial substance of the decision which caused discourse of disagreement in the community at that time. This is in line with the decision of the Honorary Assembly of the Constitutional Court (hereinafter referred to as MKMK) which shows that the Constitutional Court's decision Number 90/PUU-XXI/2023 is procedurally and substantially legally defective. According to Prof. Jimly Ashidiqqie, Chairman of MKMK. Anwar Usman's behavior violates the code of ethics and the principles of partisanship, integrity, competence, equality, independence, and propriety and decency. The MKMK not only punished Anwar Usman as the Chairman of the Constitutional Court at that time, but eight other Constitutional Court judges were sanctioned for violating the code of ethics of constitutional judges.

Based on the Code of Ethics and Code of Conduct for Judges, judges who have high integrity have a loyal and tough attitude, adhere to the principles or standards that apply in carrying out their duties, and have a personality that reflects moral responsibility in their profession. as shown by the elements of obligations and prohibitions mentioned in point (5) of the Basic Principles of the Code of Ethics and Code of Conduct for Judges (Dadah Holidah, 2023). The Constitutional Court has a Code of Ethics and Conduct for Constitutional Judges based on The Bangalore Principles of Judicial Conduct 2002, with the addition of Indonesian cultural values. This code of ethics was announced as Sapta Karsa Hutama on October 17, 2005 and adopted in Constitutional Court Regulation Number 07/PMK/2005. Then it was perfected through Constitutional Court Regulation Number 09/PMK/2006. To supervise the behavior of judges, the Constitutional Court established the Constitutional Judges' Ethics Council (DE-HK) through PMK No. 2/2013, which was replaced by Constitutional Court Regulation No. 2/2014 concerning the Honorary Assembly of the Constitutional Court in order to maintain and maintain the integrity and competence of Constitutional Judges.

Violations of the professional code of ethics will be sanctioned in accordance with applicable regulations. Based on the Constitutional Court Regulation No. 09/PMK/2006 concerning the Implementation of the Declaration of the Code of Ethics and Conduct of Constitutional Judges, judicial power as part of the legal system has an important role in upholding the principles of the rule of law. Ethical violations by Constitutional Court judges have a serious impact on the integrity and accountability of the judiciary, and can reduce public trust in the judicial system. Judges who violate ethics damage the image of justice and can make people lose faith in the justice system as a whole. Judicial accountability depends on transparency and supervision, ethical violations by Constitutional Court judges can indicate a lack of accountability, trigger suspicion, and affect political stability. The image of the judiciary is formed from the rulings which are the last bastion in law enforcement and justice. Judges must have ethics that reflect integrity, competence, and behavior in accordance with legal norms and procedures. The Constitutional Court Decision Number 90/PUU-XXI/2023 regarding the age limit for presidential and vice presidential candidacy decided by Anwar Usman is considered to violate the principles of impartiality and independence. The power of the judiciary should not be influenced by the executive or the legislature. This action is considered to violate the judicial code of ethics and principles "Nemo Judex In Causa Sua"

This means that the judge may not adjudicate cases related to himself. This decision also includes an additional requirement, namely experience in leading, which shows that the Constitutional Court exceeds its authority by acting as a legislator. So that the legal consequences of the Constitutional Court Decision Number 90/PUU-XXI/2023 on the Principles of the Code of Ethics of Constitutional Court Judges based on Constitutional Court Regulation Number 9/PMK/2006 concerning the Implementation of the Declaration of the Code of Ethics and Conduct of Constitutional Judges are the issuance of MKMK Decision No. 2/MKMK/L/11/2023, Putu an MKMK No. 3/MKMK/L/11/2023, MKMK Decision No. 4/MKMK/L/11/2023, MKMK Decision No.5/MKMK/L/11/2023 revealed that there were violations of the code of ethics committed by Constitutional Court (MK) judges related to the Constitutional Court Decision No. 90 of 2023.

The legal consequences of the MKMK's decision are in the form of legal sanctions regulated in Article 19 of the Joint Regulations of the Supreme Court and the Judicial Commission Number 02/PB/MA/IX/2012 and Number 02/PB/P.KY/09/2012, taking into account the background, level of seriousness, and consequences of the violation. The three types of sanctions include light sanctions, moderate sanctions, and heavy sanctions. Light sanctions can be in the form of verbal reprimands or written reprimands for dissatisfaction with a judge's performance. Then, the sanctions are in the form of delays in periodic salary increases to a maximum of one year, salary reductions in accordance with the maximum salary increase for one year, delays in promotions for a maximum of one year, not allowed to hear a case within a period of six months, transfer to another court with a lower level, and cancellation or suspension of promotion. Then, severe sanctions in the form of dismissal from office, not allowed to hear a case within a period of six months to two years, the lowest demotion of up to three years, permanent dismissal with the right to retire or dishonorable dismissal.

The legal consequences of the Constitutional Court Decision Number 90/PUU-XXI/2023 concerning the age limit for presidential and vice presidential candidacy decided by Anwar Usman were also followed up by the Honorary Council of Election Organizers (hereinafter referred to as the DKPP) by providing an ethical witness in the form of a final stern warning to the commissioner of the General Election Commission (hereinafter referred to as the KPU). The DKPP has issued a decision on 4 applications registered in the cases and decided with Number: 135-PKE-DKPP/XII/2023, 136-PKE-DKPP/XII/2023, 137-PKE-DKPP/XII/2023, and decision Number 141-PKE-DKPP/XII/2023, these decisions essentially impose the sanction of the last stern warning and a stern warning to 7 commissioners of the KPU RI, namely Hasyim Asy'ari as the chairman of the KPU were sanctioned in the form of the last stern warning, while harsh warning sanctions were imposed on Yulianto Sudrajat, Agust Mellaz, Betty Epison Idroos, Parsadaan Harahap, Idham Holik and Mochammad Affifuddin.

4.3 Legal Analysis of the Constitutional Court Decision No. 90/PUU-XXI/2023 concerning the Age Limit for Presidential and Vice Presidential Candidates Reviewed from the Code of Ethics and Behavior of Constitutional Judges

4.3.1 Analysis of Violations of the Judge's Code of Ethics in the Constitutional Court Decision No. 90/PUU-XXI/2023

In legal analysis, of course, we do not have the right to judge something as right or wrong if it is not based on an in-depth study, and ensure the legal basis that underlies every argument given as a form of academic study. The following is the author's analysis of the Violation of the Judge's Code of Ethics in the Constitutional Court decision No. 90/PUU-XXI/2023. In the Constitutional Court Regulation Number 2 of 2014 concerning the Honorary Assembly of the Constitutional Court (MKMK), it is explained that the MKMK is a device formed to maintain and uphold the honor, dignity, and code of ethics of Constitutional Judges.

In its implementation, the Constitutional Court Honorary Assembly (MKMK) was formed by the Constitutional Court based on a proposal from the Ethics Council.

In Case No.90/PUU-XXI/2023, the applicant submitted an application for a material test related to the age limit requirements to become a presidential or vice presidential candidate. The applicant proposes an alternative option that includes experience as a regional head, both as a governor at the provincial level and as a regional head at the district/city level, as a criterion that can replace the age limit requirement. The applicant affirms his status as an Indonesian Citizen (WNI) which can be proven through the possession of an Identity Card (KTP). The applicant is a student at the Faculty of Law, University of Surakarta and has a dream to become president or vice president in the future. The applicant also mentioned that he was inspired by Gibran Rakabuming Raka, who served as the Mayor of Surakarta from 2020 to 2025. The applicant highlighted the significant economic growth in the city of Solo under the leadership of Gibran Rakabuming Raka as one of the motivational reasons for submitting the application.

The Constitutional Court's Decision Number 90/PUU-XXI/2023 which cannot be changed because it is final and binding even though there is a formal defect due to the fact that the application has been withdrawn by the applicant and the letter of revocation of the application or the controversial substance of the decision which caused discourse of discourse of opinion in the community at that time. This is in line with the decision of the Honorary Assembly of the Constitutional Court (hereinafter referred to as MKMK) which shows that the Constitutional Court's decision Number 90/PUU-XXI/2023 is procedurally and substantially legally defective. According to Prof. Jimly Ashidiqqie, Chairman of MKMK. Anwar Usman's behavior violates the code of ethics and the principles of partisanship, integrity, competence, equality, independence, and propriety and decency. The MKMK not only punished Anwar Usman as the Chairman of the Constitutional Court at that time, but eight other Constitutional Court judges were sanctioned for violating the code of ethics of constitutional judges.

The Constitutional Court Decision Number 90/PUU-XXI/2023 regarding the age limit for presidential and vice presidential candidacy decided by Anwar Usman is considered to violate the principles of impartiality and independence. The power of the judiciary should not be influenced by the executive or the legislature. This action is considered to violate the judicial code of ethics and principles "Nemo Judex In Causa Sua" This means that the judge may not adjudicate cases related to himself. Violations of the professional code of ethics will be sanctioned in accordance with applicable regulations. Based on the Constitutional Court Regulation No. 09/PMK/2006 concerning the Implementation of the Declaration of the Code of Ethics and Conduct of Constitutional Judges, judicial power as part of the legal system has an important role in upholding the principles of the rule of law.

Conclusion And Suggestions

Conclusion

Based on the above discussion, the author concludes several conclusions as follows:

1. The duties and functions and authority of the Constitutional Court are the Constitutional Court with the authority to adjudicate at the first and last level whose decisions are final to: Test the Law against the 1945 Constitution, decide disputes over the authority of State institutions whose authority is granted by the 1945 Constitution, decide on the dissolution of political parties and decide disputes about election results.
2. The legal consequences of the Constitutional Court Decision Number 90/PUU-XXI/2023 on the Principles of the Code of Ethics for Constitutional Court Judges based on Constitutional Court Regulation Number 9/PMK/2006 concerning the Enforcement of the Declaration of the Code of Ethics and Conduct for Constitutional Judges is the existence of sanctions for ethical violations from the MKMK and DKPP

3. Legal Analysis of the Constitutional Court Decision No. 90/PUU-XXI/2023 concerning the Age Limit for Presidential and Vice Presidential Candidates Reviewed from the Code of Ethics and Behavior of Constitutional Judges, the judicial power should not be influenced by the executive or legislature. This action is considered to violate the judicial code of ethics and principles "Nemo Judex In Causa Sua" This means that the judge may not adjudicate cases related to himself. Violations of the professional code of ethics will be sanctioned in accordance with applicable regulations.

Suggestions

The suggestions that the author can give are as follows:

1. Judges of the Constitutional Court should uphold the principles of the code of ethics and behavior of judges who always uphold the principles of impartiality and independence.
2. The Constitutional Court Honorary Assembly (MKMK) should be further strengthened in terms of monitoring, examining and imposing strict sanctions on the actions of constitutional judges who are suspected of violating the code of ethics and guidelines for the conduct of constitutional judges.
3. The government and the House of Representatives should give freedom to the judiciary to exercise its authority without having to intervene for the political interests of a group. And the community should play a more active role in carrying out social control if there is a judge's decision that is not in accordance with the judge's code of ethics and behavior.

References

- Adhari, August. (2016), The Formulation of New Norms in Judicial Review by the Constitutional Court. Paper (p. 1). Medan: Panca Budi Development University Medan.
- Butarbutar, E. Nurhaiani, (2018), Legal Research Methods. PT. Rev. Aditama, (p. 146). Bandung.
- Gani, Abdullah, (2020), Law Enforcement Mechanism for Judges Who Violate the Code of Ethics in the Constitutional Court That Meet the Criminal Element (Study of Decision No. 01/MKMK-SPL/II/2017). Adigama Law Journal, (p. 1173). Jakarta.
- Gea, Yusran, Ali, (2024), The Urgency of Philosophical, Sociological and Juridical Foundations in Law Formation in Indonesia. Journal of the United Law Review, Vol 6 No.4, (p. 10978). Terrain.
- Holidah, Dadah, (2023), The Role of Judges in Strengthening the Integrity of the Judiciary as a Fulfillment of Public Trust. Journal of Syar-i Social and Culture , (p. 628). West Java River.
- Ishaq. (2016), Legal Research and Writing Thesis, Thesis, and Dissertation. Alphabet, (p. 99). Bandung.
- Isharyanto. (2016), State Institutional Law (Legal and Constitutional Study on the Development of the Constitutional Republic of Indonesia). CV.Budi Utama (p. 318). Yogyakarta: State Institutional Book.
- Ismaidar, (2024), The Role of Students in Guarding the Constitution and Building Awareness and Optimism of Legal Politics in Indonesia. Journal of Innovative (p. 1897). Kampar, Riau: Tuanku Tambusai Hero University.
- Mawangi, R. (2023), The Validity of the Constitutional Court's Decision Number 90/PPUXXI/2023 Against the Code of Ethics of Judges Reviewed from Law Number 48 of 2009 concerning Judicial Power. Madania: Journal of Criminal Law and Islamic Constitution, (p. 110). Field.

- Muhaimin. (2020), Legal Research Methods. Mataram University Press, (p. 45). Mataram.
- Munaf, Yusri, (2014). constitution and state institutions. Marpoyan Tujuh Publishing, (p. 149). Pekanbaru.
- Mursyidin, et al. (2023), Constitutional Law. Haura Utama, (p. 76). Surabaya.
- Ramadan, Wahyu, Aji, (2020). Reformulation of Constitutional Court Supervision in order to increase the effectiveness of enforcing the Code of Ethics of Constitutional Judges. Journal of Studia Legalia, (p. 21). Hapless.
- Siregar, A. Maulana, (2017). The Constitutional Court's Authority in Testing the Law on the 1945 Constitution. Journal of Responsive Law Faculty of Law Unpab, (p. 101). Terrain.
- Sulaiman, F. (2019), Theory and Constitutional Jurisprudence. Nusa Media, (p. 186). Bandung.
- Suzeeta, N. S. (2023), Violations of the Code of Ethics by Constitutional Court Judges Related to the Constitutional Court Decision Number 90/Puu-Xxi/2023. Madani: Multidisciplinary Scientific Journal, (p. 255). Jakarta.
- Tanjung, Indra. Utama, (2021). THE EXISTENCE OF JUDICIAL COMMISSIONS IN THE SUPERVISION OF JUDGES (Juridical and Islamic Law Review of Law No. 18 of 2011). Al-Fikru: Scientific Journal, (p. 66). Lubuk Pakam Deli Serdang.
- Ulum.H, (2023), Analysis of the influence of violations of the code of ethics of Constitutional Court judges on the decisions made (case study of the Constitutional Court decision Number: 90/PUU-XXI/2023). Unizar Law Review, (p. 246). Mataram.
- Value 4 The Bangalore Principles of Judicial Conduct 2002. (n.d.). Bangalore. <https://www.unodc.org/documents/ji/training/bangaloreprinciples.pdf>.