

ABSTRAK

DINAMIKA PENGATURAN MASA JABATAN DAN BATAS USIA MINIMUM HAKIM KONSTITUSI

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Penelitian ini bertujuan untuk mengetahui dinamika pengaturan atas masa jabatan dan batas usia minimum hakim konstitusi dalam UU MK dan menjelaskan latar belakang perubahan pengaturan tersebut. Jenis penelitian ini adalah penelitian hukum normatif dengan pendekatan historis, pendekatan perundang-undangan, dan pendekatan komparatif. Hasil penelitian menunjukkan bahwa ketentuan tentang masa jabatan dan batas usia minimum hakim konstitusi telah mengalami dinamika pengaturan dengan Perubahan atas UU Nomor 24 Tahun 2003 Tentang MK (UU MK). Pengaturan masa jabatan hakim konstitusi pada Perubahan Pertama UU MK (UU Nomor 8 Tahun 2011), tidak mengalami perubahan. Namun pada Perubahan Ketiga UU MK (UU Nomor 7 Tahun 2020) masa jabatan hakim konstitusi berubah, dari sebelumnya 5 tahun dan dapat diperpanjang 1 periode, menjadi tidak dibatasi. Adapun pengaturan batas usia minimum hakim konstitusi mengalami perubahan pada Perubahan Pertama dan Perubahan Ketiga UU MK. Sebelumnya pada UU MK diatur batas usia minimum adalah 40 tahun, lalu berubah menjadi 47 tahun pada Perubahan Pertama UU MK dan diubah menjadi 55 tahun pada Perubahan Ketiga UU MK. Dinamika pengaturan atas masa jabatan dan batas usia minimum hakim konstitusi karena berdasarkan penelusuran *original intent* Perubahan UUD NRI 1945, pengaturan atas keduanya merupakan kebijakan hukum terbuka (*open legal policy*). Sehingga perubahan pengaturan atas keduanya bergantung pada pertimbangan hukum dan keadaan yang relevan, dari pembentuk UU. Diketahui, alasan perubahan atas masa jabatan adalah untuk menyamakan pengaturan masa jabatan antara MK dengan MA. Perubahan pengaturan atas batas usia minimum yang pertama, didasarkan pada alasan pertimbangan kebutuhan pencalonan hakim konstitusi. Adapun alasan perubahan ketiga tentang batas usia minimum hakim konstitusi, selain penerapan prinsip *equality* antara MK dan MA, juga karena adanya Putusan MK Nomor 7/PUU-XI/2013.

Kata Kunci: Batas Usia Minimum, Hakim Konstitusi, Masa Jabatan

ABSTRACT

DYNAMICS OF REGULATIONS REGARDING THE TERM OF OFFICE AND MINIMUM AGE REQUIREMENTS FOR CONSTITUTIONAL JUDGES

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The purpose of this study is to ascertain the dynamics of the Constitutional Court Law's regulations governing the term of office and minimum age requirements for constitutional judges and to explain the rationale for the regulation's change. This research is normative legal research with a historical, statutory, and comparative approach. The findings indicate that constitutional judges' provisions governing the term of office and minimum age requirements have been subject to regulatory change with the Amendment to UU (Law) No. 24 of 2003 concerning the Constitutional Court Law (UU MK). The arrangement for the tenure of constitutional judges in the First Amendment of the Constitutional Court Law (UU No. 8 of 2011) has not changed. However, in the Third Amendment to the Constitutional Court Law (UU No. 7 of 2020), constitutional judges' terms of office were changed from five years and one-period extension previously to be unlimited. The minimum age requirements for constitutional judges have changed in the First Amendment and Third Amendment of the Constitutional Court Law. Previously, the Constitutional Court Law required a minimum age of 40 years, which was increased to 47 years in the First Amendment and 55 years in the Third Amendment. The dynamics of determining the term of office and minimum age requirements for constitutional judges occurred because, based on the original intent search for an amendment to The Constitution of the Republic of Indonesia of 1945, both are subject to open legal policy regulation. So that changes in the regulation of both depend on the legislators' legal considerations and relevant circumstances. The reason for the change in the term of office is to equalize the terms of office between the Constitutional Court and the Supreme Court. The first amendment to the regulation on the minimum age requirements is based on considerations of the need for the nomination of constitutional judges. Apart from applying the principle of equality between the Constitutional Court and the Supreme Court, the third change to the minimum age requirements for constitutional judges is also a result of the Constitutional Court's Decision No. 7/PUU-XI/2013.

Keywords: Minimum age requirements, Constitutional Judges, Term of Office