

Azalina: Raus' appointment based on former CJ's advice
Free Malaysia Today
July 11, 2017

Minister in the Prime Minister's Department Azalina Othman Said urges everyone to end the polemics over the extension issue, saying it must be respected.

PETALING JAYA: Putrajaya today defended the extension to chief justice Md Raus Sharif and Court of Appeal president Zulkefli Ahmad Makinudin's respective tenures, stating it was based on the Federal Constitution and on the advice of the then Chief Justice Arifin Zakaria, before he retired.

Minister in the Prime Minister's Department Azalina Othman Said said Arifin had advised the Yang di-Pertuan Agong on March 30, on making Raus and Zulkefli additional judges, while he was still the chief justice.

She also urged everyone to end the polemics over them being made additional judges and the extension of their posts saying it must be respected, as it had been done with the approval of the Yang Di-Pertuan Agong.

In a brief statement, the minister in the Prime Minister's Department, who is also the defacto law minister, defended the decision, saying that the duo's expertise and experience were needed in the Malaysian judiciary.

"However, those who feel that the extension of service went against the Federal Constitution can bring the matter to court."

On Friday night, the Prime Minister's Office released a statement announcing that Raus will continue to hold his position for another three years from Aug 4, while Zulkefli, the Court of Appeal president, also had his appointment extended for another two years from Sept 28.

Both men would have to be first appointed as additional judges in the Federal Court pursuant to Article 122 (1A) of the Federal Constitution, the statement said.

Raus and Zulkefli would remain in their positions but in their capacity as additional judges of the Federal Court, a move that many are calling unconstitutional let alone unprecedented.

The extension drew criticisms from various quarters including former Malaysian Bar president Zainur Zakaria who urged Putrajaya to explain the rationale behind the appointments.

The move was also slammed by the Bar Council as “blatantly unconstitutional”, with plans for an extraordinary general meeting (EGM) to discuss the matter next month.

Prominent lawyer and DAP politician Ramkarpal Singh said from a non-legal point of view, the extensions could not inspire confidence and seemed to suggest that no other judges were qualified to replace Raus and Zulkefli.

“Apart from being unprecedented, the said extensions are certainly unnecessary and a step in the wrong direction in the development of the judiciary,” he was reported as saying.

Prominent lawyer Muhammad Shafee Abdullah however, defended the appointment, saying such appointments had happened before.

And this was something that Azalina also argued, pointing out that Jeffrey Tan Kok Hwa was given an extension in 2016 for two additional years, while Federal Court judge Justice S Chelvasingam McIntyre was also brought back in 1965.

“The Federal Constitution also does not prevent the appointment of additional judges.”

It was previously reported that Articles 121 to 131A of the Federal Constitution gave rise to the conclusion that a Federal Court judge, who includes the chief justice, could not remain in office after 66 years and six months in age.

The chief justice could also not remain in office by being appointed an “additional judge of the Federal Court by the Yang di-Pertuan Agong, acting on the advice of the chief justice”.

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Source: <http://www.freemalaysiatoday.com/category/nation/2017/07/11/azalina-raus-appointment-based-on-former-cjs-advice/>