SUPERVISION OF THE FORMATION OF LOCAL REGULATIONS BY THE GOVERNOR IN THE INDONESIAN REGIONAL AUTONOMY PERSPECTIVE

Fikri Hadi[1*], Sukardi[2], Farina Gandryani[3]
fikrihadi@uwp.ac.id [1], sukardi@fh.unair.ac.id [2], farinayani@uwp.ac.id [3]
Faculty of Law, Wijaya Putra University [1,3]
Faculty of Law Universitas Airlangga[2]

[*]Corresponding Author: Fikri Hadi
Email: fikrihadi@uwp.ac.id

ABSTRACT

Constitutional Court Decision Number 137/PUU-XIII/2015 and Constitutional Court Decision No. 56/PUU-XIV/2016 changed the supervision mechanism of local regulations in Indonesia. The verdict revoked the authority of the Minister of Home Affairs and the Governor. This is a legal research with conceptual and statute approach. The governor still has the authority to cancel local regulations, as determined from the results of the discussion. The governor can conduct preventive supervision and executive preview when the local regulation is still in the form of a draft. Executive preview can take the form of facilitation by the governor and/or harmonization of district/city regional regulations through the legal bureau in the province.

Keywords: *supervision, local regulations, governor, autonomy.*

INTRODUCTION

The Constitutional Court's decision has changed the mechanism of oversight of local regulations in Indonesia. The Constitutional Court decision revoked the authority of the Minister of Home Affairs and the Governor to cancel a local regulation.

The State of Indonesia based on Article 1 paragraph (1) of the 1945 Constitution of the Republic of Indonesia is a unitary state. The consequence is that there is only one legitimate national government and one legitimate national law that

applies throughout the territory of the Republic of Indonesia.[1] On the other hand, Indonesia is a country that applies the concept of decentralized government.

The authority of regions to enact Local Regulations (hereinafter abbreviated as Perda) in order to carry out government functions is an attribution of authority based on Article 18 paragraph (6) of the 1945 Constitution and the Local Government Law. The existence of local regulations is a logical consequence of the decentralization of vertical power that grants autonomy to the regions.[2]

Decentralization contained in the government system in Indonesia does not mean that local governments have as much freedom as possible in carrying out their governance, including in making local regulations. As stated in the constitution that the State of Indonesia is a Unitary State. Therefore, the principle of decentralized local governance remains within the framework of the Unitary State.

The Minister of Home Affairs (Mendagri) and the Governor as representatives of the central government in the regions were initially given the authority to annul district/municipal bylaws based on the provisions in Law No. IX. 23 in the 2014 on Regional Government. But in the end, the Constitutional Court Decision Number 137/PUU-XIII/2015 and the Constitutional Court Decision Number 56/PUU-XIV/2016 on the case of testing Law Number 23/2014 on Regional Government against the 1945 Constitution of the Republic of Indonesia revoked this authority.

Thus, with the repressive supervision authority revoked by the Constitutional Court's decision, the practical supervision and control of the government (Mendagri and the Governor) over local regulations rests on preventive supervision (*executive preview*). From this *executive preview* mechanism, it is expected that harmonization of local regulations before they are passed can be done optimally. Therefore, this article will discuss how the form of harmonization that can be done by the Governor

[1] Sukardi, "Local Regulation Supervision (Case Study on East Java Province), (Constitutional Journal, Puskoling" (FH Universitas Airlangga, Vol. II, No. 1, June 2009), p.142.
[2] Victor Juzuf Sedubun, "Preventive Supervision as a Form of Regional Regulation Testing", (Journal of the Constitution, Center for Constitutional Studies, Udayana University. Volume I Number 1, November 2012). p.158.

and his apparatus in order to conduct preventive supervision (*executive review)* of district / city local regulations.

RESEARCH METHODS

This research is a legal research. This research is a *doctrinal research* type, namely *Research which provides a systematic exposition of the rules governing a particular legal category, analyzes the relationship between rules, explains areas of difficulty and, perhaps, predicts future developments* or when translated is research that produces a systematic explanation of the legal rules governing certain legal regulations, analyzes the relationship between rules and may predict future developments.[3] The approach used in this research is a conceptual approach and statute approach related to local government regulations and case approaches based on Constitutional Court decisions[4].

RESULT AND DISCUSSION

Unitary State, Decentralization, and Local Regulation Oversight

The Unitary State is the concept of the oldest form of state in the history of statehood, because until the Middle Ages only the unitary state was known as the only form of state, while the federation as the equivalent of a new state form exists and has only been known since the birth of the United States as an independent country.[5]

A country is called a unitary state when the powers of the central government and local governments are not equal. The power of the central government is a

[3] Terry C. Hutchinson, "Developing legal research skills: expanding the paradigm", (Melbourne University Law Review, 32, 2008). P.1065-1095
[4] Peter Mahmud Marzuki, "Legal Research", (Kencana, Prenadanamedia Group, Jakarta,2017). P. 133.
[5] Hendarmin Ranadireksa, "State Vision: Democratic Constitutional Architecture, Why Some Countries Fail to Implement Democracy". (Fokus Media, Bandung, 2007). P.58-59

prominent power in the state.[6] Abu Daud Busroh argues that a unitary state is a state that is not composed of several states, as is the case in a federated state, but the state is single in nature, meaning that there is only one state, there is no state within the state, so that in the unitary state there is also only one government, namely the central government which has the highest power or authority in all fields of government. It is this central government that at the last and highest level can decide everything in the country.[7]

Decentralization is the implementation of the concept of autonomous government, which is a legal community unit that has certain territorial boundaries with duties and obligations and the authority to carry out its own household affairs. Based on this reason, there is a handover of government affairs from the central government to the local government, to further become its own household affairs.[8]

Article 1 point 7 of Law Number 23 of 2014 concerning Regional Government[9] states that decentralization is the transfer of Government Affairs by the Central Government to autonomous regions based on the Principle of Autonomy. In terms of Constitutional Law, decentralization gives rise to a low-level state organization unit, namely the Autonomous Region institution.

Based on article 1 point 12, an autonomous region is a legal community unit that has territorial boundaries that is authorized to regulate and manage Government Affairs and the interests of the local community according to its own initiative based on community aspirations within the system of the Unitary State of the Republic of Indonesia. Autonomy is the system of the unitary state (unitary state, een heidstaat). Autonomy is a phenomenon of the unitary state.[10] When looking at the current

[6] Morissan, "Indonesian Constitutional Law in the Era of Reform", (Ramdina Prakarsa, Jakarta, 2005), p.98.
[7] Abu Daud Busroh, "State Science", (Bumi Aksara, Jakarta, 1990). P.53
[8] Ateng Sarifudin. "The Tides of Regional Autonomy". (Bina Cipta, Bandung, 1985). p.33.
[9] Law of the Republic of Indonesia Number 23 of 2014 concerning Regional Government, State Gazette of the Republic of Indonesia Year 2014 Number 244, Supplement to State Gazette of the Republic of Indonesia Number 5587.
[10] Bagir Manan, "Historical Journey of Article 18 of the 1945 Constitution", (Unsika, Karawang, 1992). p.2

regulations on local government, the phrase autonomy used is autonomy as broad as possible.

Decentralization is the implementation of the concept of autonomous government, which is a legal community unit that has certain territorial boundaries with duties and obligations and the authority to carry out its own household affairs. Based on this reason, there is a handover of government affairs from the central government to the local government, to further become its own household affairs.[11]

Article 1 point 7 of Law Number 23 of 2014 concerning Regional Government[12] states that decentralization is the transfer of Government Affairs by the Central Government to autonomous regions based on the Principle of Autonomy. In terms of Constitutional Law (HTN), decentralization gives rise to a low-level state organization unit, namely the Autonomous Region institution.

Based on article 1 point 12, an autonomous region is a legal community unit that has territorial boundaries that is authorized to regulate and manage Government Affairs and the interests of the local community according to its own initiative based on community aspirations within the system of the Unitary State of the Republic of Indonesia. Autonomy is the system of the unitary state (unitary state, een heidstaat). Autonomy is a phenomenon of the unitary state.[13] When looking at the current regulations on local government, the phrase autonomy used is autonomy as broad as possible.

What needs to be underlined in the implementation of regional autonomy in Indonesia is that it remains within the framework of the Unitary State of the Republic of Indonesia. So that no region has its own sovereignty. In the general explanation of Law Number 23 Year 2014, it is stated as follows:

[11] Ateng Sarifudin. "The Tides of Regional Autonomy". (Bina Cipta, Bandung, 1985). p.33.
[12] Law of the Republic of Indonesia Number 23 of 2014 concerning Regional Government, State Gazette of the Republic of Indonesia Year 2014 Number 244, Supplement to State Gazette of the Republic of Indonesia Number 5587.
[13] Bagir Manan, "Historical Journey of Article 18 of the 1945 Constitution", (Unsika, Karawang, 1992). p.2

> "The granting of the widest possible autonomy to the Regions is carried out based on the principle of a unitary state. In a unitary state sovereignty There is only sovereignty over the state or national government and no sovereignty over the regions. Therefore, no matter how much autonomy is given to the Regions, the final responsibility for the implementation of Regional Government will remain in the hands of the Central Government. For this reason, Regional Government in a unitary state is an integral part of the National Government. Correspondingly, the policies made and implemented by the Regions are an integral part of national policies. The difference lies in how to utilize the wisdom, potential, innovation, competitiveness, and creativity of the Regions to achieve these national goals at the local level which in turn will support the achievement of overall national goals."

In line with the accountability of Local Government administration, this also includes harmonization of Local Regulations with regulations at the national level. Article 237 states that the principles of formation and content material of Local Regulations are guided by the provisions of laws and regulations and legal principles that grow and develop in society as long as they do not conflict with the principles of the Unitary State of the Republic of Indonesia. The general explanation also reaffirms the following:

> "In carrying out Government Affairs which fall under the authority of the Region, the regional head and DPRD as the organizers of the Regional Government make local regulations as a legal basis for the Region in implementing Regional Autonomy in accordance with the conditions and aspirations of the community and the peculiarities of the Region. Local regulations made by the Regions only apply within the jurisdictional boundaries of the Regions concerned. However, local regulations stipulated by the Regions must not conflict with the provisions of laws and regulations of a higher level in accordance with the hierarchy of laws and regulations. In addition, local regulations as part of the system of laws and regulations must not conflict with

> the public interest as stipulated in the rules for the preparation of local regulations.
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> Regions implement Regional Autonomy derived from the authority of the President who holds the power of government. Given that the final responsibility for governance rests with the President, the logical consequence is that the authority to cancel local regulations rests with the President. It is inefficient for the President to directly cancel local regulations. The President delegates the authority to cancel provincial local regulations to the Minister as an assistant to the President who is responsible for Regional Autonomy. Meanwhile, for the annulment of regency/city local regulations, the President delegates his authority to the governor as the representative of the Central Government in the region."

Therefore, in Law No. 23/2014, the Minister of Home Affairs and the Governor as the representative of the Central Government in the region. This is given the authority to cancel regional regulations. This is reflected in article 251 of Law No. 23/2014.

However, in the end, Constitutional Court Decision Number 137/PUU-XIII/2015 and Constitutional Court Decision Number 56/PUU-XIV/2016 on the case of judicial review of Law Number 23/2014 on Regional Government against the 1945 Constitution of the Republic of Indonesia revoked this authority. In the opinion, the court argued that the authority to annul regional regulations is the constitutional authority of the Supreme Court.[14] In addition, the Court is of the view that it is not appropriate for legal products in the form of regional regulations in the form of regelling to be canceled through a decision (beschikking).[15] Therefore, the Constitutional Court annulled the provisions of Article 251 paragraph (2), paragraph (3), paragraph (4) and paragraph (4). (8) which mentions the authority to cancel a regional regulation by the Minister of Home Affairs and/or the Governor.

[14] *Vide* Constitutional Court Decision Number 137/PUU-XIII/2015. [206]
[15] Ibid

However, this decision also contained dissenting opinions from 4 (four) Constitutional Court judges. This was based on, among others, the Unitary State concept used by Indonesia in the state and the position of the President as the head of government and the highest governmental responsibility.

> "...The President is the highest government responsible. Thus, implicitly, it is the president's obligation to take action against legal products of government administrators that contain defects, in this case the defect is that the legal products of government administrators are contrary to higher laws and regulations, public interests, and / or decency...
>
> ... according to Article 4 of the 1945 Constitution, the President is the holder of governmental power. Therefore, it is appropriate that the formulation contained in Article 1 paragraph 1 of the Local Government Law states that the Central Government is the President of the Republic of Indonesia who holds the power of government of the Republic of Indonesia assisted by the Vice President and ministers as referred to in the 1945 Constitution of the Republic of Indonesia. In other words, the person in charge of the overall implementation of government is the President. This is because Indonesia is a unitary state, as affirmed in Article 1 paragraph (1) of the 1945 Constitution. Local government is part of the exercise of government power. Thus, although under Article 18 of the 1945 Constitution the regions are given the widest possible autonomy to also organize the government, the final person in charge of the administration of the government remains the President. Therefore, the President has an interest and legal basis to ensure that the administration of the government under his responsibility, in this case the regional government, does not conflict with higher laws and regulations, public order, and/or decency. Thus it is constitutional if the President, through the Minister and governors as representatives of the Central Government in the regions, is given the authority to cancel regional regulations."[16]

[16] *Ibid* . p. 216

Harmonization of Regency / City Regional Regulations by the Governor

In general, the process of drafting local regulations consists of 5 (five) stages, consisting of: 1) Planning, 2) Drafting, 3) Discussion, 4) Determination, and 5) promulgation. The Constitutional Court's decision has implications for changes in the legal politics of internal government supervision of local regulations. Now, the government can only conduct supervision through a-priori review. This supervision model emphasizes the preventive nature before the draft local regulation is passed and becomes binding for the public.[17]

In theory, supervision of local regulations is divided into 2 (two), namely preventive supervision and repressive supervision. If repressive supervision is carried out on regional legal products that have been determined and then enacted, then preventive supervision is carried out on regional legal products that have not yet been enacted. Repressive supervision according to Bagir Manan is carried out in the form of suspension (schorsing) and cancellation (vernietiging), while preventive supervision contains "prerequisites" so that regional decisions in the field or which contain certain characteristics can be carried out.[18]

Furthermore, according to Bagir Manan, preventive supervision is in an "earlier" position than repressive supervision. The power to intervene in the Region is also greater. Thus, it is generally accepted that restrictions on preventive supervision are stricter than those on repressive supervision. One form of restriction is by regulating or determining exactly the type or type of Regional decision that conducts supervision.[19]

Preventive supervision of regional regulations is contained in Law Number 23 of 2014 concerning Regional Government, namely in article 245 *section* (1) - *section* (5), as follows:

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[17] Pan Mohamad Faiz, "Changes in Legal Politics of Regional Regulation Testing after the Constitutional Court Decision (in Yuzuru Shimada, Government and Regional Government, Reflections on the reform era", *(*CV. Anugrah Utama Raharja, Lampung, 2018). p.94.

[18] Bagir Manan, The *Relationship Between the Center and the Regions Under the 1945* Constitution, (Pustaka Sinar Harapan, Jakarta, 1994). [191].

[19] *ibid*

1) Draft Provincial Regulations governing the RPJPD, RPJMD, APBD, APBD amendments, accountability for APBD implementation, regional taxes, regional levies and regional spatial planning must receive a Ministerial evaluation before being stipulated by the governor.
2) The Minister in evaluating the Draft Provincial Regulation on regional taxes and levies as referred to in paragraph (1) coordinates with the minister who organizes government affairs in the field of finance and for the evaluation of the Draft Provincial Regulation on regional spatial planning coordinates with the minister who organizes government affairs in the field of spatial planning.
3) Draft district/city regulations governing the RPJPD, RPJMD, APBD, APBD amendments, accountability for the implementation of the APBD, regional taxes, regional retributions, and regional spatial planning must be evaluated by the governor as the representative of the Central Government before being stipulated by the regent/mayor.
4) The Governor as the representative of the Central Government in evaluating the draft Regency/City Regional Regulation on local taxes and levies consults with the Minister and then the Minister coordinates with the minister who organizes government affairs in the field of finance, and for the evaluation of the draft Regency/City Regional Regulation on regional spatial planning consults with the Minister and then the Minister coordinates with the minister who organizes government affairs in the field of spatial planning.
5) The results of the evaluation of draft Provincial Regulations and draft Regency/City Regulations as referred to in section (1) and section (3) if approved are followed by the provision of a register number.

When reading the provisions outlined above, it can be understood that: first, only certain draft local regulations can be evaluated by the Minister or the Governor. Secondly, the article does not mention the barometer used for evaluation, whether it contradicts higher laws and regulations, public interest or decency, thus causing a

subjective assessment of local regulations by the central government. Thirdly, there is no mention of the duration of the evaluation and fourthly there is no mention of the consequences if the draft local regulation should not be passed.[20] So in this case, the author has a number of solutions to the Governor's role in the harmonization of local regulations:

> *"Create an executive preview model of local regulations, emphasizing the public interest barometer".*

In future legislation on local government, an executive preview model should be built for all draft local regulations from all levels, from the Regency / City, Provincial, and Ministerial levels. The model must be contained in a regulation at the level of Law. And the most emphasized thing in the concept of the future executive preview model is not only evaluating based on the hierarchy of laws and regulations, but also based on public interest. When looking at the previous Law on Regional Government, namely Law No. 32/2004 on Regional Government[21] , it is mentioned about the role of the Governor in the supervision of regional regulations. This can be seen in Article 186 section (3) and section (4) which are stated as follows:

(3) If the Governor states that the results of the evaluation of the draft Regional Regulation on the APBD and the draft Regent/Mayor Regulation on the Explanation of the APBD are in accordance with the public interest and higher laws and regulations, the Regent/Mayor shall enact the draft into a Regional Regulation and Regent/Mayor Regulation.

(4) If the Governor states that the results of the evaluation of the draft Regional Regulation on the APBD and the draft Regent / Mayor Regulation on the Explanation of the APBD are not in accordance with the public interest and higher laws and regulations, the Regent / Mayor together with the DPRD

[20] Yuswanto, M. Yasin Al Arif, "*Discourse on Cancellation of Regional Regulations after* Constitutional *Court Decisions No. 137/PUU-XIII/2015 and No. 56/PUU-XIV/2016",* (Constitutional Journal, Volume 15, Number 4, December 2018). p.727.

[21] Law of the Republic of Indonesia Number 32 of 2004 concerning Regional Government, State Gazette of the Republic of Indonesia Year 2004 Number 125, Supplement to State Gazette of the Republic of Indonesia Number 4437.

make improvements no later than 7 (seven) days from the receipt of the evaluation results.

If we look at the article above, although the evaluation in the Law No. 32/2004 regime is limited to the elaboration of the APBD, the evaluation barometer in the article is clear, namely based on public interest and laws and regulations. In contrast, Law No. 23/2014 does not provide a clear barometer for the evaluation of a regional regulation by the Minister of Home Affairs and/or the Governor. This is also in line with public law theory. In theory, public law is a rule that is and aims to protect the public interest and defend the public interest.[22]

The principle of public interest is also mentioned in both the principles of government administration in general and the principles of local government administration. Evaluation and supervision of local regulations is also part of Government Administration. One of the principles in government administration is the principle of public interest. Article 10 of Law Number 30 of 2014 concerning Government Administration[23] states that one of the General Principles of Good Governance (AUPB) is the principle of public interest, which in its explanation is explained that the principle of public interest is a principle that prioritizes public welfare and benefits in an aspirational, accommodative, selective, and non-discriminatory manner. Likewise, in the principles of regional government administration mentioned in Article 58 of Law Number 23 of 2014, one of which is the principle of public interest.

The existence of an executive review model in the amendment of the Law gives the Governor strong legitimacy in evaluating a draft local regulation. In line with the concept of authority, namely the legal basis, which means that the authority must always be able to be appointed legal basis or given based on existing laws and

[22] Paulus Efendie Lotulung,, "Government Actions According to Public Law, in Officials as Prospective Defendants of State Administrative Judicial Training Materials", (Book I, CV. Sri Rahayu) p. 137.

[23] Law of the Republic of Indonesia Number 30 of 2014 concerning Government Administration, State Gazette of the Republic of Indonesia Year 2014 Number 292, Supplement to State Gazette of the Republic of Indonesia Number 5601.

regulations.[24] In addition, it is expected that with the executive review model, the Governor as the representative of the Central Government in the region can cancel the draft Regional Regulation that is contrary to the public interest or contrary to the hierarchy of laws and regulations to create harmonization between regional regulations and regulations at the national level.

1. *Maximizing the Role of Legal Bureau and Bapemperda in the Province*

The next solution is to empower regional units or devices that are directly involved in drafting local regulations. The devices in question are the Legal Bureau and the Regional Regulation Formation Agency.

As a form of regulation (regelling), in terms of the mechanism for forming a regional regulation, it is not only based on the Law on Regional Government. In this case, it must also look at other laws and regulations. The formation of laws and regulations in Indonesia is based on Law No. 12/2011 on the Formation of Laws and Regulations.25[25] Article 36 states that the preparation of Provincial Prolegda within the Provincial Government is coordinated by the legal bureau and may include relevant vertical agencies. Article 58 states that the harmonization, rounding, and stabilization of the conception of the Draft Provincial Regulation originating from the Governor is coordinated by the legal bureau and may include vertical agencies from the ministry that carries out government affairs in the field of law. This provision also applies to draft district regulations based on Article 40 and Article 63.

Another legal basis for the role of these two instruments can be seen in Government Regulation Number 12/2018 concerning Guidelines for the Preparation of Rules of Procedure of the Provincial, Regency and City Regional House of Representatives.[26] Article 7 section (1) – (3) are stated as follows:

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[24] Emanuel Sujatmoko, *"*Legal Forms of Interregional Cooperation*"*. (PT. Revka Petra Media, Surabaya, 2016). p.20

[25] Law of the Republic of Indonesia Number 12 of 2011 on the Formation of Laws and Regulations, State Gazette of the Republic of Indonesia Year 2011 Number 82, Supplement to State Gazette of the Republic of Indonesia Number 5234.

[26] Government Regulation of the Republic of Indonesia Number 12 of 2018 concerning Guidelines for the Preparation of Rules of Procedure of the Provincial, Regency and City Regional House of Representatives. State Gazette of the Republic of Indonesia Year 2018 Number 59, Supplement to State Gazette of the Republic of Indonesia Number 6197.

(1) Draft local regulations originating from the DPRD are draft local regulations resulting from harmonization, rounding, and stabilization of conception coordinated by Bapemperda.
(2) Draft local regulations originating from the Regional Head are draft local regulations resulting from harmonization, rounding, and stabilization of conception coordinated by the regional apparatus in charge of legal affairs.
(3) In harmonizing, rounding, and stabilizing the conception of the Draft Perda, it can involve vertical agencies of the ministry that organizes government affairs in the field of law.

Likewise, when looking at the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products.[27] Article 30 section (1) and section (2) states:

(1) The provincial secretary assigns the head of the regional apparatus in charge of provincial law to coordinate the harmonization, rounding, and stabilization of the conception of the draft provincial regulation;
(2) In coordinating the harmonization, rounding, and stabilization of conception as referred to in paragraph (1), the head of the regional apparatus in charge of provincial law may include vertical agencies from the ministry that carries out government affairs in the field of law.

Article 32 states that Provisions regarding the preparation of local regulations within the provincial government as referred to in Article 31 shall apply *mutatis mutandis* to the preparation of local regulations within the district/city government.

From the aforementioned regulations, it is clear that the process of making a local regulation is not only through political mechanisms in the Regional House of Representatives. There are procedures that are passed first before being stipulated as a regional regulation, one of which is harmonization. With the Constitutional Court's decision to revoke the Governor's authority to cancel regional regulations, the role of

[27] Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 80 of 2015 concerning the Formation of Regional Legal Products, State Gazette of the Republic Indonesia of 2015 Number 2036.

the Governor and his apparatus such as the legal bureau must emphasize the supervision of the draft regional regulation before it is enacted as a regional regulation.

2. Improved Facilitation of Draft Local Regulations.

One of the things that the Governor can do in the context of harmonizing city district regulations is facilitation. Facilitation based on the Regulation of the Minister of Home Affairs Number 120 of 2018 concerning amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products[28] is a written guidance on regional legal products in the form of regulations on the content material and drafting techniques before being stipulated.

In general, facilitation of draft local regulations is carried out by the governor on draft district/municipal local regulations and by the Minister of Home Affairs on draft provincial local regulations. After the draft regency/city bylaw is received by the governor and/or the draft provincial bylaw is received by the Minister through the Director General of Regional Autonomy within a maximum of 15 (fifteen) days must provide the results of facilitation to the regent/mayor for regency/city bylaws and to the governor for provincial bylaws.

In the case of submission of provincial bylaw facilitation, coordination is carried out by the Director General of Regional Autonomy together with the Legal Bureau, if there is no problem the Director General of Regional Autonomy signs a letter on facilitation. In the case of facilitation of district/city local regulations, the regional secretary on behalf of the governor makes a letter on facilitation of the draft local regulations. Regency/city, draft regent/mayor regulations, draft joint regent/mayor regulations or draft regent/mayor DPRD regulations.

The regency/municipality and/or provincial government follows up on the facilitation letter above by making improvements to the regency/municipality draft local regulation to avoid cancellation. Draft local regulations that have been evaluated no longer need facilitation.

[28] Regulation of the Minister of Home Affairs Number 120 of 2018 concerning amendments to Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the of Formation of Regional Legal Products, State Gazette of the Republic of Indonesia Year 2018 Number 157.

This facilitation procedure is part of the procedure for harmonization of local regulations by the Governor / Minister of Home Affairs in a preventive manner. Thus, the Governor still has a number of authorities in order to prevent disharmonization of regional regulations against regulations at the national scale after the Constitutional Court's decision that canceled the Governor's authority in terms of canceling a district / city regional regulation.

CONCLUSION

Based on the discussion above, it can be concluded that the governor still has the authority in order to carry out harmonization of district / city regional regulations after the Constitutional Court Decision Number 137 / PUU-XIII / 2015 and the Constitutional Court Decision Number 56 / PUU- XIV / 2016. The authority includes conducting preventive supervision or *executive preview* when it is still in the form of a draft regional regulation. The form of *executive preview* can be in the form of facilitation by the governor and/or harmonization of district / city regional regulations through the legal bureau in the Province.

Suggestions for the future are that an *executive preview* model of regional regulations be established, emphasizing the public interest barometer. This model must be elaborated in the law on regional government in the future. In line with the principle of legal certainty in government administration and local government administration, the model contained in the law can be used as a legal basis for the Governor and the Minister of Home Affairs in overseeing regional regulations so that regional regulations which are part of the local government can be implemented. Public law is not based solely on political agreement, but also takes into account the public interest.

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