

Changes to the mechanism for cancelling regional regulations based on constitutional court decision number 137/PUU-XIII/2015 and number 56/PUU-XIV/2016

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Abstract

The purpose of this research is to examine the reasons of Constitutional Court (MK) Judges regarding the mechanism for canceling Regional Regulations (Perda) through MK decision No.137/PUU-XIII/2015 and MK Decree No.56/PUU-XIII/2016. This study is important because the two MK decisions have eliminated the Governor's authority to cancel Regency/Municipality Perda, and the Minister's authority to cancel Provincial Regulations. So that later it will be known what the judge's view is regarding the annulment of the Perda, because as is known, Perda are regulations whose hierarchy is below the law, and their review can only be carried out by the Supreme Court (MA). Testing by the MA has a strong basis of legitimacy because it relies on the 1945 Constitution of the Republic of Indonesia (UUD 1945) *jo* Law No. 5 of 2004 *jo* Law No. 3 of 2009 *jo* Law No. 12 of 2011 and Supreme Court Regulation (PERMA) No. 1 of 2011.

Keywords: Constitutional court decision, cancellation, regional regulation (Perda)

Introduction

The Unitary State of the Republic of Indonesia (NKRI) is structured with provinces and within each province, there are regencies/Municipalities. According to Article 18 (1) of the UUD 1945, each province and regency/ Municipality has its own regional government. These regional governments have the authority to manage their own government affairs based on the principles of autonomy and assistance duties. However, Article 18 (5) specifies that regional governments exercise the fullest extent of autonomy, except for matters that are designated as central government affairs by law. Furthermore, Article 18 (6) states that regional governments have the right to establish Perda and other regulations to carry out their autonomy and assistance duties. Perda are regulations jointly created by the Regional Heads of Provinces and Regencies/ Municipalities, along with the Regional People's Representative Council (DPRD). These regulations are implemented to ensure the legality of regional government actions in the realm of regional autonomy. Meanwhile, Jimmly Asshiddiqie stated that the difference between Perda and Laws made by the center is only the scope of application of each Law, the term Perda itself is interpreted as a local Law (Local Statue).^[1] The formation of Perda based on the principle of a unitary state recognizes supervision over the administration of government in the regions, including supervision over the material of Perda so that they do not conflict with higher regulations and the public interest.^[2] Supervision is directed to help implement policies in order to achieve goals effectively.^[3]

The special authority regulated in autonomous regions regarding the formation of regulations leads the Regional Head and DPRD to form the desired Perda. One of the Perda discourses that presents problems in constitutional studies is the information about the central government issuing a policy of canceling thousands of Perda in 2016. Monday, 13 June 2016, President Jokowi announced the cancellation of 3,143 problematic Perda, especially those that hamper regional economic growth, lengthen

bureaucratic routes, hamper licensing and investment processes and ease of doing business, including Perda that conflict with higher laws and regulations.^[4] Quoted from other sources, the concrete reason the President canceled thousands of Perda was because they were considered to hamper national capacity and acceleration to win competitions, and were contrary to the spirit of diversity.^[5] Of the total 3,143 Perda that were cancelled/revised by the Ministry of Home Affairs (Kemendagri) which were published via its website, consisting of 1,176 Regency/Municipality Perda or Regional Head Regulations (Perkada) that were revoked or revised, 111 Regulations or Decrees of the Kepmendagri, and 1,267 Perda or Regency/Municipality Perkada which were revoked or revised by the Governor. In this list, the Kemendagri divides it into several provinces.^[6]

Based on the provisions of the Legislative Regulations, the government has the authority to supervise and develop Perda as regional legal products, as stated in Law No. 23 of 2014 concerning Regional Government (UU Pemda). Mechanism for canceling Perda Articles 249 to 252 of the UU Pemda state that the government can cancel Perda through the Kemendagri Decree. When a Perda has been mutually agreed between the Regional Head and the DPRD, it must be submitted to the Kemendagri no later than seven days after it is enacted.^[7]

The Kemendagri then examined whether the Perda was in conflict with higher regulations or not, as formulated in Article 250 (1) of the UU Pemda.^[8] If a conflict is found, the Kemendagri can cancel the Perda, more detailed details are attached to Article 251 (1) and (2) of the UU Pemda, where the cancellation of the Perda.

Article 251 (5) of the UU Pemda states that the time for stopping the implementation of a Perda after a decision to cancel it by the Kemendagri is no later than seven days after the decision to cancel it, as intended in Article 251 (4) of the UU Pemda, where the Regional Head must stop implementing the Perda and then the DPRD together with the Head The region revokes the Perda in question. If the

Regional Head cannot accept the cancellation decision with justifiable reasons, then the Governor submits an objection to the President no later than 14 days after the cancellation decision is received.^[9]

Director of Regional Legal Products, Directorate General of Regional Autonomy, Kemendagri, Kurniasih said that there were four causes for the cancellation of Perda, namely; firstly, inhibiting investment, which includes Licensing, Levies, Business Services, Building Permits, Third Party Contributions, and several others. Second, it is contrary to higher laws and the public interest. Third, it is contrary to the UU Pemda and the MK Decision on Water Resources, Telecommunication Towers, BUMD, and Transfer of Affairs. And fourth, the Perda that were annulled were deemed unnecessary because they are lay norms that apply in society.^[10]

Among the explanations for the reasons for the annulment of the Perda, not all of the reasons for the annulment can be accepted, because firstly, the Kemendagri is considered to be counter-productive to efforts to realize good governance, because in carrying out its duties, the Kemendagri is bound by the principles of legal certainty, accountability, precision and prudence. So, in taking a stance on canceling a regional regulation, prior study is needed to minimize the potential for violations of principles. And secondly, several of the reasons used as a reference for the cancellation of Perda by the Kemendagri do not have a strong legal basis.

Responding to the contradictions among the community after the Cancellation of 3,143 Perda through the Instruction of the Kemendagri No. 582/476/SJ concerning the Revocation/Amendment of Perda, Perkada and Decisions of Regional Heads that Inhibit Bureaucracy and Investment Licensing,^[11] Mahfud MD said that according to the legal regime of regional government, the Kemendagri has the authority to carry out cancellation of the Perda in accordance with the provisions of Article 251 of the UU Pemda. However, through the legal aspects of the Act, the legal basis used by the Kemendagri to carry out the cancellation is legally wrong. This is based on the contents of the UU Pemda which contradicts Law No. 12 of 2011 concerning the Formation of Legislative Regulations which originates directly from the UUD 1945.^[12]

So far, there has been a dualism of review authority between the Kemendagri and the Governor regarding Legislative Regulations under the Law, namely through the Executive Review and Judicial Review mechanisms which have given rise to complex legal polemics.

Testing of Perda through Judicial Review by the MA has a strong basis for constitutional legitimacy because it relies directly on the UUD 1945 jo. Law No. 5 of 2004 jo. Law No. 3 of 2009 jo. Law No.12 of 2011 and MA Regulation No. 1 of 2011. Meanwhile, the cancellation of the Perda by the government through an Executive Review is based on the provisions of Law No. 23 of 2014 jo. Kemendagri Regulation No. 80 of 2015.^[13]

Based on the description above, the author believes that it is appropriate for the annulment of Perda that conflict with statutory regulations to still be carried out through a judicial review at the MA. Even if it is necessary to revoke a Perda outside of Judicial Review, it can be done through a Legislative Review, namely the cancellation of a Perda which is carried out through a legislative process by the Regional Head and DPRD by repealing/replacing it with a new equivalent Perda. So the author is interested in studying

"Changes in the Cancellation Mechanism of Perda Based on MK Decision No. 137/PUU-XIII/2015 and No. 56/PUU-XIV/2016."

Research Methods

This research utilizes normative legal research, also known as doctrinal legal research. The methodology involves analyzing a range of library materials and secondary data, which includes primary, secondary, and tertiary legal materials. The objective is to offer a comprehensive depiction of the content within a scholarly work.^[14]

The two approaches employed in this context are the Statutory Approach and the Historical Approach.^[15] The Statutory Approach is utilized to address conflicts arising from norms, specifically when vertical conflicts occur, leading to normative legal issues. The legislative approach is employed to examine modifications in the mechanism for revoking regional regulations, as outlined in MK Decisions No.137/PUU-XIII/2015 and 56/PUU-XIV/2016, along with an analysis of the different views of MK Judges regarding the cancellation of Perda through Decision No.137/PUU-XIII/2015 and No. 56/PUU-XIV/2016 which allegedly gave rise to several different opinions (Dissenting Opinions) between the Judges.

The Historical Approach is research and study of the formation of Legislation and its development. According to Johnny Ibrahim, the Historical Approach allows researchers to understand the law in more depth about a particular legal system or arrangement so as to minimize errors, both in understanding and applying certain legal provisions. The historical approach used to analyze the judge's legal reasons for canceling the Executive Review mechanism for Cancellation of Perda will later be analyzed prescriptively and comprehensively.

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The data that has been obtained, both primary data and secondary data, will be arranged in a comprehensive arrangement. Then it will be analyzed qualitatively juridically, guided by existing legal norms. The analysis will be carried out on primary, secondary and tertiary legal materials so that the results of this analysis become an analysis that is described in a prescriptive^[17] and comprehensive manner.

Result and Discussion

As a legal product whose position is under the law, Perda should not be canceled unilaterally by the Kemendagri. But it must go through a Judicial Review by the MA. This is in accordance with the MA's authority as regulated in Article 24A (1) of the UUD 1945.^[18] This point is the basis for submitting a petition for constitutional review of Article 251 (2), (3), (4), and (8) of the UU Pemda against Article 18 (6), Article 24A (1), and Article 28D (1) of the UUD 1945 in Case No. 137/PUU-XIII/2015.

The test is based on two norms contained in the article being tested, namely.^[19] First, Regency/Municipal Perda and

Regent/Mayor Regulations which conflict with higher laws and regulations, conflict with the public interest and/or decency are canceled by the Governor. If the governor does not cancel, then the minister will. And secondly, objections by the Regent/Mayor to the cancellation are submitted to the Minister no later than 14 days after the decision to cancel is received.

Not without reason, the applicant carried out a review based on several constitutional disadvantages, including:

1. The Governor or Minister has constitutionally assumed the authority of the MA as contained in Article 24A (1) of the UUD 1945.
2. The norms of these provisions can create fair legal uncertainty because they conflict with the MA Law and the Establishment of Legislative Regulations.^[20]

Based on the legal facts above, the applicants submitted a request to the MK Judge to grant the request in its entirety, stating Article 251 (2), (3), (4), and (8) along the phrase "Annulment of district/municipality regulations and regent/regent regulations The mayor as intended in paragraph (2) is determined by the governor's decision as the representative of the central government." The UU Pemda is contrary to the UUD 1945, stating Article 251 (2), (3), (4), and (8) along the phrase "Annulment of Perda district/municipality and regent/mayor regulations as intended in paragraph (2) are determined by the decision of the governor as the representative of the central government." The UU Pemda does not have binding legal force.

Based on these considerations, the MK through several Constitutional principles, considered further the review of the constitutionality of Article 251 (2), (3), (4), and (8) of the UU Pemda relating to the annulment of Regency/Municipality Perda and Regent/Mayor regulations as well as mechanisms object to the cancellation.^[21]

1. Cancellation of Regency/Municipality Perda

The inclusion of Article 251 (2) and (3) in the UU Pemda, which grants authority to Ministers and Governors to revoke Regency/Municipal Perda that contradict higher legislation, not only goes against the principles of the Indonesian rule of law as stated in Article 1 (2) of the UUD 1945 but also reinforces the role and function of the MA as an institution responsible for reviewing legislative regulations, including Regency/Municipal Perda, as outlined in Article 24A (1) of the UUD 1945. Furthermore, the consideration of public interest and/or morality as the basis for annulling a Perda, as mentioned in Article 251 (2) and (3) of the UU Pemda, falls within the jurisdiction of the MA, separate from higher legislative regulations, since it is explicitly stated in the law. Thus, the MA can utilize this as a criterion when adjudicating Perda. In line with the legislative regulations implemented in Indonesia, the cancellation of Regency/Municipal Perda through a Governor's Decree, as outlined in Article 251 (4) of the UU Pemda, is not in alignment. According to Article 7 (1) and Article 8 of Law No.12 of 2011, Governor's Decrees are not recognized as a type or level of Legislative Regulations. Provincial Perda and Regency/Municipal Perda are the recognized laws and regulations based on their hierarchy.^[22]

It is important to note that the Governor's Decree does not fall under the jurisdiction of the Legislative Regulations regime. Therefore, it does not hold the legal authority to

invalidate a Regency/Municipal Perda. Essentially, there is an error in assuming that a Governor's Decree, as a decision-based legal product, can override a Regency/Municipal Perda, which is a regulation-based legal product. Moreover, if the executive branch has the authority to annul Perda through the issuance of legal products as stated in Article 251 (4) of the UU Pemda, it has the potential to create a conflicting situation in court decisions. This occurs when both the executive and judicial institutions have the power to review or cancel Perda.

If a Regency/Municipality Perda is annulled by a Governor's Decree, the legal recourse is to file a lawsuit in the PTUN (State Administrative Court). If the lawsuit is successful, the previously annulled Regency/Municipality Perda will become effective again. On the other hand, there are also legal efforts to review Perda through the MA, which can be initiated by the government, local communities, or parties who believe they have been disadvantaged by the implementation of these regulations. For instance, if a legal action is taken through the MA, the Perda will be declared invalid.

So there is dualism on the same issue. Although legal certainty is the right of everyone, guaranteed and protected by law, there may be a duality in judicial decisions regarding the content of the same case between the PTUN ruling and the MA's Perda review ruling, only with different legal products, which will lead to Legal uncertainty. UUD 1945 Article 28D (1). For reasons of legal certainty and in accordance with UUD 1945, according to MK, the review or cancellation of Perda falls within the competence of the MA.

Therefore, Section 251 (8) of the UU Pemda provides for the mechanism for raising objections to the cancellation of the Regent/Municipal Perda under Sections 251 (2), (3) and (4) of the UU Pemda, which MK believes is inconsistent with UUD 1945 Contradictory, therefore Section 251 (8) of Pemda has lost its relevance and therefore, Section 251 (8) of UU Pemda must also be declared to be inconsistent with UUD 1945 so far as Perda Regency/Municipality is concerned.

1. Cancellation of Regional Head Regulations

And Perkada under Article 1 (26) of the Pemda Act is the Governor's Decree and the Regent/Mayor's Decree. Furthermore, Section 246 (1) of the Pemda Act stipulates that the regional chief has the power to establish a Perda with the mutual consent of the regent/mayor to implement the Perda regency/municipality formed by the DPRD. Regent/Mayor regulations are enacted by the Regent/Mayor without involvement of the Regent/Municipal DPRD.

Because Perkada is a legislative provision based on Article 8 (2) of Law No. 12 of 2011, but because it is composed only of regional managers as Bestuur units to handle Perda and implement the mandatory provisions set out in the Implementing Regulations The Government Affairs Pemda Act gives the central government, as the senior donor unit, the right to abolish Perda within the framework of a unitary state.

The mechanism for raising objections to the abolition of Perda in the Pemda Act is part of the oversight mechanism of Pemda by the President/Ministers and Governors, or in the form of an oversight rather than an audit by a superior Bestuur unit with a subordinate Bestuur unit in a Bestuur environment units.

The previous UU Pemda, neither Law No. 22 of 1999 nor Law No. 32 of 2004, provided for the cancellation of Perda and the mechanism for raising objections to its cancellation. When referring to Perda, the terms "Regional Chief Ordinance" are used.

As the Pemda Act evolved, the Pemda Act regulated the repeal of the Perda and the mechanism for challenging its repeal, which was co-regulated with the Perda. The Legislature classified Perkada as a District Chief Decree/State Administrative Decision (KTUN) to enable the government to implement control mechanisms over it and not to be inconsistent with the UUD 1945.

State control mechanisms for this fall within the scope of state administrative tasks. Therefore, the provisions of the Regency/Mayor Ordinance regarding the abolition of Perda and the mechanism for raising objections to its abolition under Article 251 (2), (3), (4) and (8) of Das Pemda apply MK stated that this law There is no contradiction with UUD 1945.

Based on the considerations raised by MK, MK decided in its decision that the words "county/city and/or regional regulations" in Article 251(2) and (4) are "county/city and/or Perda" . The wording in Article 251(3) and the wording "The district/municipal executive cannot take a decision to repeal a district/municipal-regional ordinance" and the wording "Perda Regency/Municipality" or Article 251(8) wording in the paragraph. The UU Pemda violates UUD 1945 and is not binding.^[23]

In addition to the constitutional review of Article 251 (2), (3), (4), and (8) of the UU Pemda against Article 18 (6), Article 24A (1), and Article 28D (1) of the UUD 1945 in Case No. 137/PUU-XIII/2015. The applicant named Abdul Khair Mufti, *et al* also submitted application No. 56/PUU-XIV/2016. The Petitioner submitted a review of Article 251 (1), (2), (7), and (8) of the Pemda Law against the UUD 1945.^[24]

The Petitioner stated that Article 251 (1), (2), (7), and (8) of the UU Pemda conflict with Article 24A (1) and Article 27 (1) of the UUD 1945.

Article 24A paragraph (1): "The supreme court has the authority to judge at the cassation level, examine statutory regulations under the law against the law and has other authorities granted by law."

Article 27 (1): "All citizens have the same position under the law and government and are obliged to uphold the law and government without exception."

Several grounds for filing a petition in Case No. 56/PUU-XIV/2016, include: ^[25] firstly, Provincial-level Perda or Regency/Municipality-level Perda which are promulgated from a legislative and communication process between the DPRD and the Governor or Regent/Mayor, in order to create a society that lives with justice, can be annulled by the Governor and/or Minister. Second, the authority of the Governor and Ministers granted by the provisions of Article 251 (1) and (2) of the Regional Government Law, has the potential to harm the applicant's Constitutional rights because the Perda are annulled without going through a mechanism for reviewing the provisions of the Legislative Regulations. In relation to the a quo petition, there is a Perda which according to the applicants has the potential to be annulled.

And Third, the application of Article 251 (7) and (8) of the UU Pemda, which only recognizes government administrators at the Regency/City and Provincial levels, to

submit objections to decisions to annul Provincial or Regency/City level Perda, and Governor Regulations or Regent Regulations /Mayor, has eliminated the applicant's right to participate in maintaining the existence of the Perda in question. Because, it is very possible that government administrators at the Regency/City and Provincial levels do not use their rights to submit objections to the Governor's or Minister's Decree regarding the cancellation of Provincial or Regency/City Regulations, and Governor Regulations or Regent/Mayor Regulations. This clearly harms the applicant's Constitutional rights.

After the MK examined the petitioners' petition, the President's statement, the applicant's evidence, the applicant's expert statement, the expert testimony presented by the MK, and read the applicant's conclusions, which are completely contained in the case sitting section, the MK considered two things, namely:^[26]

Firstly, in relation to Perkada, the MK refers to Decision No. 137/PUU-XIII/2015 in Paragraph 3.15.4, which in the consideration of the MK, Perkada is a Decision of the Regional Head or KTUN, so that the cancellation of Perkada in casu Regent/Mayor Regulations through the Executive mechanism Reviews. Such control mechanisms are within the scope of state administrative functions that can be carried out and are not in conflict with the UUD 1945.

Because the petition of the a quo petitioners apart from arguing regarding the Governor's Regional Regulation, the petitioners also argue for the annulment of the Regent/Mayor's Perda, so according to the MK in Decision No. 137/PUU-XIII/2015, therefore, the applicant's argument is for the annulment of the Regent/Mayor's Perda is *nebis in idem*.

Meanwhile, for the Governor's Regulation, because the substance of the norm is the same as the norms governing the Regent/Mayor's Perda, the MK's considerations in Decision No. 137/PUU-XIII/2015 also apply to the petition of the a quo petitioners, so that the applicant's argument regarding the cancellation of the Regulation of the Regional Head Governor as intended in Article 251 (1) and (7) has no legal grounds.

And secondly, regarding Perda, the MK refers to Decision No. 137/PUU-XIII/2015, especially in 3.12.4. Based on the MK's legal considerations in the Decision, the cancellation of Regency/City Perda through the Executive Review mechanism is contrary to the UUD 1945. Therefore, Article 251 (1) and (4) of the UU Pemda regulates the cancellation of Provincial Regulations through the Executive mechanism. Review, the legal considerations in Decision No.137/PUU-XIII/2015 also apply to the petition of the a quo petitioners. So the MK is of the opinion that Article 251 (1) and (4) of the UU Pemda as long as it concerns the phrase "provincial and regional regulations" is contrary to the UUD 1945.

As for the Regency/City Perda in Article 251 (2) of the UU Pemda, the MK has considered it and declared it to be contrary to the UUD 1945 in Decision No. 135/PUU-XIII/2015, so according to the MK the applicant's argument regarding "regency/city regional regulation " in Article 251 (2) of the UU Pemda has lost its object.^[27]

Whereas regarding the applicant's argument regarding Article 251 (7) of the UU Pemda, because it is related to the Provincial Regulation which has been declared contrary to the UUD 1945, the period for submitting objections to the

cancellation of the Provincial Regulation is no later than 14 days from the time the cancellation of the Perda is received loses its relevance, so that The phrase "provincial and regional regulations" contained in Article 251 (7) of the UU Pemda must also be declared contrary to the UUD 1945, Meanwhile, regarding the applicant's argument regarding Regency/City Perda in Article 251 (8) of the UU Pemda, this has been considered by the MK and declared contrary to the UUD 1945 in Decision No. 137/PUU-XIII/2015, so that according to the MK, The applicant's argument regarding Article 251 (8) of the UU Pemda, especially regarding "regency/city regulations" has lost its object.^[28]

Through the considerations carried out by the MK regarding Case No. 56/PUU-XIV/2016 which was based on information from three experts, namely Ni'matul Huda, Ryas Rasyid, and Bagir Manan as well as other considerations explained by the MK, in its decision, the MK adjudicated that the petitioners' petition regarding the review of Article 251 (2) and (8) of the UU Pemda as long as "Perkada regent/mayor" cannot be accepted, stating that the petitioners' request regarding the review of Article 251 (2) and (8) of the UU Pemda as long as "Regency/city regional regulations" are unacceptable, stating the phrase "provincial regional regulations and" in Article 251 (1) and (4) and the phrase "provincial regional regulations and" in Article 251 (7), as well as Article 251 paragraph (5) The UU Pemda is contrary to the UUD 1945 and has no binding legal force.

Another fundamental reason for the MK deciding that the Kemendagri can no longer cancel Perda is because the MK considers that regional regulations are legal products by regional executive and legislative institutions, namely the Pemda together with the DPRD. The position of Provincial and Regency/City Perda in the hierarchy of Legislative Regulations is under the Law, as regulated in Article 7 (1) of Law No.12 of 2011 concerning the Formation of Legislative Regulations.^[29] Even in the legal consideration of the main case, the applicant who submitted a lawsuit to the MK regarding cases No. 137/PUU-XIII/2015 and 56/PUU-XIV/2016 has fulfilled the requirements for Constitutional losses and has Legal Standing so that the MK considers the main points submitted.

Based on the main points of the applicant's petition, the MK basically understands that the aim and purpose of the a quo petition is to request constitutional review of the UU Pemda, namely Article 251 (2), (3), (4), and (8) of the UUD 1945, specifically Article 18 (6), Article 24A (1), and Article 28D (1).^[30]

Based on some of the explanations above, the author concludes that the mechanism for canceling regional regulations through an Executive Review by the Kemendagri is very inappropriate to be applied in the context of supervision and guidance of regional administration based on the principles of autonomy and assistance duties. So if there is a case where a Perda has been ratified and established and is binding on the public and is then canceled by the Kemendagri on the grounds that it is contrary to the public interest and/or higher laws and regulations, then it can be said that the cancellation of the Perda is unconstitutional.

This assessment is based on the aspect of authority to review legal norms which are material content in Legislative Regulations which must go through a Judicial Review mechanism by the MA. The Judicial Review mechanism is

considered appropriate to measure whether legal products under the Law conflict with the Law or not. On the other hand, the Judicial Review mechanism or testing by a third party, which does not have a hierarchical relationship with the forming institution, means its independence is more guaranteed.

Conclusion

There are two things that underlie the MK's decision regarding the cancellation of the authority of Ministers and Governors in carrying out Executive Reviews of Perda, namely: (1) because the Judge considers that Article 251 of the UU Pemda has deviated from the logic of the UU Pemda, supremacy of law, and (2) eliminate the function of the MA as an auditing institution for Legislative Regulations based on Laws against Laws. These two basic considerations are based on the principles of the Unitary State of Indonesia, decentralization and regional autonomy, as well as judicial power and the supremacy of law. The judge assessed that the authority of the Minister and Governor in carrying out Executive Review of Perda violated Article 24A (1) of the 1945 Constitution and Article 9 (2) of Law No.12 of 2011. Thus, MK Decision No.137/PUU-XIII/2015 concerning Regency/City Perda, and MK Decision No. 56/PUU-XIV/2016 concerning Provincial Perda does not have binding legal force.

Suggestions

It was recommended to the majority of MK judges who decided to change the mechanism for canceling regional regulations from Executive Review to Judicial Review through Decision No. 137/PUU-XIII/2015 and 56/PUU-XIV/2016 to present other strong reasons based on a Regional Regulation that is in conflict with higher level Legislative Regulations except the UUD 1945 is not necessarily wrong, if it turns out that higher level Legislative Regulations high level which violates regional rights and obligations guaranteed by the UUD 1945 or the UU Pemda. For this reason, the annulment of regional regulations should not be carried out by the government, but by the MA through a Judicial Review. As for the formation of regional regulations, multi-level supervision is needed up to the center so that there is no cancellation of regional regulations because they conflict with other laws and regulations.

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