



Does the Government have the Authority to Annul Regional Regulations?

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Article	Abstract
<p>Keywords: Ratio Decidendi; Constitutional Court Decision; Authority to Annul; Regional Regulation.</p> <p>Article History Received: Jul 11, 2024; Reviewed: Jul 12, 2024; Accepted: Aug 1, 2024; Published: Aug 1, 2024.</p>	<p><i>The existence of a dualism in the authority to annul Regional Regulations by the Supreme Court through judicial review and by the Government through executive review has been a significant issue. However, through the Constitutional Court Decisions Number 137/PUU-XIII/2015 and Number 56/PUU-XIV/2016, the Government's authority to annul Regional Regulations has been revoked, transferring this authority to the Supreme Court. This article discusses about the ratio decidendi of the Constitutional Court decisions regarding the authority to annul Regional Regulations and the implications of these decisions on the mechanism for supervising Regional Regulation. This normative juridical research employs conceptual, case, and statutory approaches. The analysis shows that the decisions of the Constitutional Court Numbers 137/PUU-XIII/2015 and 56/PUU-XIV/2016 led to a significant reduction in the quality and execution power of the Supreme Court decisions concerning judicial reviews, creating potential policy conflicts between central and regional governments, and between petitioners and local governments, and hindering the supervision of Regional Regulations due to the Supreme Court's reactive nature in awaiting applications.</i></p>



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INTRODUCTION

Indonesia uses the law as a foundation for the government to administer state affairs. As a consequence of being a constitutional state, all legislation, including regional regulations, must not conflict with the principles of the unitary state and national law (Wijayanto, 2014). Therefore, there must be mechanisms to supervise regional regulations to ensure they do not contradict these principles. Supervision is

necessary to ensure that regional regulations align with the unitary state principles and national law (Alfath et al., 2020) and also serve to protect the citizens from governmental arbitrariness. The role of legislation within a constitutional state is to provide a basis for state administration and to guide governance at both the national level with laws and at the regional level with regional regulations. The necessary legislation must be accommodative to the demands, needs, and developments of the society to realize a democratic constitutional state, often referred to as a modern welfare state (Jaya et al., 2021).

Regional regulations must not conflict with higher regulations and the public interest (Gunawan, 2019; Prayitno, 2017; Sukma, 2017). If a regional regulation contains elements that conflict with higher legislation and the public interest, it can be annulled (Haruni, 2022)(Wardana et al., 2023). Prior to the Constitutional Court decision on the authority to annul regional regulations, such annulment was the responsibility of the central government, specifically the Ministry of Home Affairs and the provincial governors, as part of their supervisory role over the regions. The essence of annulment by the central government relates to administrative law, where legal action is required when a government official's decision is legally flawed or no longer meets formal or substantive requirements. The goal is to protect individuals and the community adversely affected by local government regulations and to restore or negate the legal consequences of a regulation (Shadiqin, 2020).

An annulment can be executed by the decision-maker, the superior of the decision-maker, or by the court, in this case, the Administrative Court. Although annulment actions are typically used against decisions (*beschikking*) in administrative law, it is legally rational to apply them to regional regulations or regulations by regional heads because, constitutionally, the President holds the highest governmental responsibility. The authority to annul regional regulations has now been transferred to the Supreme Court through Constitutional Court Decisions Number 137/PUU-XIII/2015 and Number 56/PUU-XIV/2016 regarding the annulment authority of regional regulations. The Association of All Indonesian Regency Governments filed a judicial review regarding this authority in 2015 at the Constitutional Court. The petitioner requested that any regulation related to the annulment of Regional Regulations in Article 251 of Law Number 23 of 2014 concerning Regional Government should be immediately annulled by the Constitutional Court. This decision also forms the basis for the Supreme Court to annul Regional Regulations at both the provincial and regency/city levels.

Following the issuance of Constitutional Court Decisions Number 137/PUU-XIII/2015 and 56/PUU-XIV/2016, the Ministry of Home Affairs and the Governor no longer have the authority to revoke Regional Regulations. This authority is now vested in the Supreme Court. Looking back, what the Ministry of Home Affairs did was very effective; in June 2016 alone, at least 3,143 regulations were annulled because

they contradicted the provisions of Article (251) paragraphs (1) and (2) of Law Number 23 of 2014. Given that many Regional Regulations still conflict with national laws and likely will continue, regional governments have the authority to create Regional Regulations (Sihombing, 2017).

Before the Constitutional Court issued decisions 137/PUU-XIII/2015 and 56/PUU-XIV/2016, the central government had the authority to revoke Regional Regulations through the Minister of Home Affairs and the Governor. In connection with "executive review," the objective was to address regulations through the approach of revoking or annulling specific regulations that did not comply with legal norms. This internal examination, meaning "executive review," was conducted to ensure that regulations created by the government (executive) remained synchronized and consistent from a normative perspective, vertically maintained, legally orderly, and certain to meet the community's sense of justice or socio-economic changes (Rismana & Hariyanto, 2021).

However, after the issuance of the two Constitutional Court decisions, Number 137/PUU-XIII/2015 in April 2017 and Number 56/PUU-XIV/2016 in June 2017, the first decision, 137/PUU-XIII/2015, annulled the authority of the Minister of Home Affairs and the Governor related to the cancellation of regional and city/district regulations as well as the regulations of regents/mayors by granting the petitioners' request for the review of Articles 2, 3, 4, and 8. The second decision, 56/PUU-XIV/2016, revoked the authority of the Minister of Home Affairs and the Governor to revoke Regional Regulations and transferred the authority for the cancellation of Regional Regulations to the Supreme Court (Sukmariningsih, 2017). Whether transferring the authority to revoke Regional Regulations to the Supreme Court was the best decision is questionable, considering what the Minister of Home Affairs had done previously; in June 2016, there were 3,143 regulations cancelled or revised by the Central Government. This number includes 1,765 regional regulations of cities/districts revoked or revised by the Minister of Home Affairs, evidence that the government was serious about eliminating problematic Regional Regulations (Nugroho et al., 2020). Based on the background of the problem above, this article explores and examines the Constitutional Court's decision regarding which institution has the authority to cancel Regional Regulations.

METHOD

This normative legal study (Negara, 2023) utilizes statutory, conceptual, and case approaches (Al-Fatih, 2023). This study analyses the ratio decidendi of the Constitutional Court Decisions Number 137/PUU-XIII/2015 and Number 56/PUU-XIV/2016 concerning the authority to cancel regional regulations.

RESULTS AND DISCUSSION

Ratio Decidendi of Constitutional Court Decisions concerning the Authority to Annul Regional Regulations

The Constitutional Court, through Decisions No. 137/PUU-XIII/2015 and No. 56/PUU-XIV/2016, ruled that the authority of the Minister of Home Affairs and the Governor as representatives of the central government to unilaterally annul provincial regulations, gubernatorial regulations, and district/municipal regulations was unconstitutional, violating Article 18(6), Article 28D(1), and Article 24A(1) of the 1945 Constitution of the Republic of Indonesia (Trinanda, 2022). According to the Court, regional regulations, as legal products subordinate to national laws, should not be canceled unilaterally by the central government through the Minister of Home Affairs but must go through a judicial review conducted by the Supreme Court, as mandated by Article 24A (1) of the 1945 Constitution, which authorizes it to review subordinate legislation against higher laws.

However, further examination under the law shows that the authority to review laws rests with the Constitutional Court after referring to Law No. 12 of 2011 concerning the Establishment of Legislation, where regional regulations are included under this law as stated in Article 7(1) of the Law concerning the Establishment of Legislation, which describes the "hierarchy of legislation". It raises the question of why the Constitutional Court then delegates this authority to the Supreme Court. Following the decisions No. 137/PUU-XIII/2015 and No. 56/PUU-XIV/2016 regarding the authority to annul regional regulations, is it effective or is it followed up by the House of Representatives (DPR) to amend the law, considering that as long as the law remains unchanged, the Supreme Court will find it difficult to exercise the authority granted by the Constitutional Court?

The Constitutional Court is a judicial institution empowered to assess the constitutionality of laws based on Article 24C (1) of the 1945 Constitution (Al-Fatih, 2018), stating that the Constitutional Court has the authority to adjudicate at the first and last instance whose decisions are final to review laws against the Constitution (Al Fatih & Nur, 2023). The Court's review of laws fundamentally identifies any inconsistencies between the laws being reviewed and the norms of the 1945 Constitution (Muslim et al., 2023), which serve as the basis for the review. If the Court finds inconsistencies, the norms within the law in question will be declared in conflict with the 1945 Constitution and, therefore, lack binding legal force (Kansil & Candra, 2024).

One of the constitutional powers granted to the Supreme Court as an executor of Judicial Authority is to review legislation, commonly known as Material Testing or Judicial Review. The main goal in granting the power to review legislation is to clarify and reinforce the role and duties of the Supreme Court in its judicial capacity, enabling it to oversee compliance by the government or authorities. This authority is further

detailed in Article 20 paragraph (2) letter b of Law No. 48 of 2009 concerning Judicial Authority, which states that the Supreme Court has the authority to test the constitutionality of subordinate legislation against higher laws. Moreover, Article 1 paragraph (1) of the Supreme Court Regulation No. 1 of 2011 evaluates the content of subordinate legislation against higher legislative norms.

Concerning the potential for conflict between higher and lower norms, this relates to the relationship between laws or customary law and court decisions and between the constitution and laws. The relationship between laws or general norms of customary law and court decisions can be interpreted in the same way. Court decisions create specific norms that must be considered valid and, therefore, legal as long as these decisions have not been annulled in a legally prescribed manner.

The general principle underlying a law's validity can be formulated through a legal norm always being valid; a legal norm cannot be void (null), but it is annulable. However, there are varying degrees of annullability. The legal system may authorize a specific organ to declare a norm void. Discrepancies between the content of a norm and its implementation may occur due to the government's inability to accurately interpret the content of a legal norm, leading to practices that may infringe upon the rights of citizens protected and guaranteed by the constitution. This becomes one of the gateways for establishing legal standing in filing requests for judicial review at the Constitutional Court. Here are some considerations of the Court in its decision (Agustino, 2017):

1. A Regional Regulation (Perda) is a form of legislation with a hierarchy below the Law. Therefore, the authority to review it rests solely with the Supreme Court, as stipulated in Article 24A paragraph (1) of the 1945 Constitution.
2. The considerations for annulling a Regional Regulation based on Law No. 23 of 2014 concerning Regional Government due to violations of public interest and/or morality fall within the purview of the Supreme Court to set the standards. Additionally, the Constitutional Court views the annulment of District/City Regulations through gubernatorial decisions as incompatible with the legislative regulation regime in Indonesia. This is because District/City Regulations, as legal products in the form of regulations (*regeling*), cannot be annulled by gubernatorial decisions, which are legal products in the form of decisions (*beschikking*).
3. There is a potential for dualism in court decisions between the Administrative Court (PTUN), which examines the legality of gubernatorial/ministerial decisions, and the Supreme Court's review of Regional Regulations concerning the same substance of the case but different legal products. The Court considers this could lead to legal uncertainty, violating Article 28D paragraph (1) of the 1945 Constitution.

However, in issuing its decisions, the Court must conduct an in-depth review and analyze each test material from the content of a regulation and expert views from the law to be tested. Constitutional Court Decision Number 137/PPU-XII/2015 concerning the authority to cancel regional regulations was not unanimously decided; four Constitutional Judges expressed dissenting opinions for the following reasons (Shimada & Bhima Yudhistira Adhinegara, 2016):

1. The authority of the Regional Head and the Regional People's Representative Council (DPRD) to form Regional Regulations is an attributive authority (*attributie van wetgevingsbevoegheid*) that can only be granted and established by the 1945 Constitution and Law Number 23 of 2014 concerning Regional Government. If the formation of Regional Regulations is considered delegated legislation, then there has been a non-hierarchical transfer of authority, bypassing Government Regulations, Presidential Regulations, and Ministerial Regulations.
2. The President is the ultimate and final responsible party for government administration and has the obligation to take any action against a legal product of government administration that contradicts higher laws, public interest, and morality.
3. The content of Regional Regulations includes matters of governmental affairs which, according to the Regional Government Law, fall under the presidential authority, the execution of which is carried out by state ministries.

In assessing the status of Article 251 of Law No. 23 of 2014 concerning Regional Government, the Court should base its judgment on the understanding that the authority of the Regional Head and the Regional People's Representative Council (DPRD) to enact Regional Regulations is an attributive power, granted by the Constitution and laws as stipulated in Article 18 paragraph (6) of the 1945 Constitution and Article 236 of Law No. 23 of 2014 concerning Regional Government. It must be recognized that Regional Regulations are not a delegation or transfer of authority from laws, as this would violate the commonly known principle of *delegatie van wetgevingsbevoegheid*, which is the transfer of authority to enact legislation from a higher to a lower regulation.

Regarding the petition for review in case No. 137/PUU-XIII/2015, the Constitutional Court opined that the provisions of Article 251 paragraphs (2) and (3) of the Regional Government Law, besides deviating from the logic and structure of the Indonesian legal state as mandated by Article 1 paragraph (3) of the 1945 Constitution, also negate the role and function of the Supreme Court as the authority to review legislation below the law, particularly Regional Regulations of Districts/Cities as affirmed in Article 24A paragraph (1) of the 1945 Constitution. Similarly, regarding the public interest and/or morality also used as a benchmark in canceling regional regulations as contained in Article 251 paragraphs (2) and (3) of the

Regional Government Law, the Constitutional Court also views this as the domain of the Supreme Court to establish such benchmarks, besides the provisions of higher legislation because it is contained in laws, thus also serving as a touchstone by the Supreme Court in adjudicating the review of regional regulations. Through these legal considerations, the cancellation of District/City Regional Regulations through the executive review mechanism contradicts the 1945 Constitution.

In the Constitutional Court decision No. 56/PUU-XIV/2016, through its legal considerations, the Constitutional Court opined that the authority granted to the Minister and Governor as representatives of the central government to cancel District/City Regional Regulations had deviated from the logic and structure of Indonesia as the state of law as asserted in Article 1 paragraph (3) of the 1945 Constitution and negated the role and function of the Supreme Court as the authority to review legislation below the law as affirmed in Article 24A paragraph (1) of the 1945 Constitution. Similarly, regarding the public interest and/or morality also used as a benchmark in canceling Regional Regulations contained in Article 251 paragraphs (2) and (3) of the Regional Government Law, the Court views this also as the realm of the Supreme Court to apply such benchmarks, besides the provisions of higher legislation, because it is contained in laws, thus also serving as a touchstone by the Supreme Court in adjudicating the review of regional regulations. Further, the cancellation of District/City Regional Regulations by issuing a Governor's decision is not aligned with the legislative regulation regime because aside from the Governor's decision not being recognized as one type and hierarchy of legislation as stipulated in Article 7 paragraph (1) and Article 8 of Law No. 12 of 2011, there has been a misconception if District/City Regional Regulations, inherently in the form of regulations (*regeling*), are canceled by a Decision (*beschikking*).

These legal considerations fundamentally pertain to the Constitutional Court decision Number 137/PUU-XIII/2015, dated April 5, 2017, which the Court deemed also applicable to decision MK No. 56/PUU-XIV/2016. Thus, the Court opined that Article 251 paragraphs (1) and (4) of Law No. 23 of 2014, insofar as they pertain to the phrase "Provincial Regulations and," are contrary to the 1945 Constitution. Meanwhile, Article 251 paragraph (2) of Law No. 23 of 2014 concerning District/City Regulations becomes moot because the Court has already considered and declared them contrary to the 1945 Constitution in decision Number 137/PUU-XIII/2015.

Regarding Article 251 paragraph (7) of Law No. 23 of 2014, the Constitutional Court found that since it pertains to Provincial Regulations which have been declared contrary to the 1945 Constitution, the time frame for filing objections to the cancellation of Provincial Regulations no later than 14 days after the cancellation decision is received, becomes irrelevant. Therefore, the phrase "Provincial Regulations and" found in Article 251 paragraph (7) of Law No. 23/2014 also contradicts the 1945 Constitution. Furthermore, paragraph (8) concerning "District/City Regulations" is

considered moot because it was declared contrary to the 1945 Constitution in Decision 137/PUU-XIII/2015, dated April 5, 2017.

Based on these legal considerations, the Constitutional Court, in its decision decree, refused to accept the provisions about Regency/Mayoral Regulation and District/Mayoral Regulations in Article 251 paragraphs (2) and (8) of Law No. 23 of 2014. Regarding the phrase "Provincial Regulations and" in Article 251 paragraphs (1) and (4), and the phrase "Provincial Regulations and" in Article 251 paragraph (7), as well as Article 251 paragraph (5) of Law Number 23 of 2014 concerning Regional Government, these are declared contrary to the 1945 Constitution of the Republic of Indonesia and have no binding legal force.

In line with the nature of the Constitutional Court decisions, as stated in the Constitution, these decisions are final and binding. "Final" means no further legal remedies are available, and "binding" means they apply generally. Ideally, decisions of the Constitutional Court should be followed by legislative changes by the legislature as legislative products; however, some decisions of the Constitutional Court are implemented by the addressees of the decisions through regulatory processes, thus without waiting for legislative changes, which can also adopt the decisions of the Constitutional Court in the revision or creation of new legislation. Therefore, the decisions of the Constitutional Court take effect immediately after being pronounced in session .

Therefore, following the Constitutional Court Decision No. 137/PUU-XIII/2015, pronounced during the Full Court session on Monday, August 20, 2016, and Decision No. 56/PUU-XIV/2016, pronounced in an open Full Court session of the Constitutional Court on Wednesday, June 14, 2017, the review of Regional Regulations is now conducted through Judicial Review at the Supreme Court. With the annulment of Article 251 of Law No. 23 of 2014, repressive supervision of Regional Regulations through executive review is no longer feasible. The judicial institution, the Supreme Court, carries out repressive supervision of Regional Regulations. Although it is not new for the Supreme Court to review Regional Regulations, with the closing of another avenue for such review, the Supreme Court becomes the sole authority for canceling Regional Regulations.

Implications of the Constitutional Court Decision on the Supervision Mechanism of Regional Regulations

The Constitutional Court, through Decisions Number 137/PUU-XIII/2015 and Number 56/PUU-XIV/2016, has revoked the government's authority to cancel Regional Regulations, positioning the Supreme Court as the only state institution that can test Regional Regulations. This means there will be obstacles to monitoring the regional regulations that have been enacted (Expost). It is essential to understand that according to Article 1 paragraph (3) of Supreme Court Regulation Number 1 of 2011

concerning Material Testing Rights, it is stated that “The complainant is a group of people or individuals who submit an objection to the Supreme Court over the enactment of a regulation lower than the law,” which means the nature of the Supreme Court in handling the testing of legislation below the law is passive, i.e., waiting for an application from complainants objecting to the enforcement of a regulation lower than the law. If there are many problematic Regional Regulations and no complaints are filed with the Supreme Court, these regulations will continue to be effective, waiting for a group of people or individuals to file an objection, thus hampering the oversight of Regional Regulations because the Supreme Court is passive in waiting for cases (Mulyani & Handity, 2020).

In Decision No. 56/PUU-XIV/2016, the Constitutional Court ruled that the central government no longer has the authority to cancel regional regulations at the provincial level. Decisions Number 137/PUU-XIII/2015 and Number 56/PUU-XIV/2016 have brought something new; now, the Minister of Home Affairs and the Governor have lost their authority to conduct judicial reviews at the regional level (Shadiqin, 2020). With the removal of the authority of the Minister of Home Affairs and the Governor as representatives of the central government to cancel Regional Regulations after they are enacted, there is no longer dualism in the testing of Regional Regulations; only the Supreme Court has that authority. This decision has indirectly ended the long debate, so we are not confused about which institution is most entitled to cancel Regional Regulations because, based on the legislative regime, the review must be pursued through judicial review (Winata et al., 2018).

The implication is that there is legal certainty about which party has the authority to cancel local legal products, commonly called "local laws." Given that regions have the right to manage and regulate their own affairs, including the creation of regional regulations tailored to their local needs, the dualism of testing authority is no longer present. To maintain synchronization between the central and regional governments, the remaining authority of the Minister of Home Affairs and the Governor is limited to executive preview (Sedubun et al., 2019). It should be noted that the Minister and Governor can still cancel draft Regional Regulations that have not yet been enacted so that in the executive preview process (Armin et al., 2023), there is legal certainty and not just an evaluation mechanism (Yuswanto & Arif, 2018). The executive preview mechanism to be implemented by the Minister or Governor is carried out when assigning a registration number to the draft Provincial or Regency/City Regulations, which must be done no later than seven days after the draft regulation is received by the Minister of Home Affairs or the Governor. Testing after the regulation is enacted can now only be done in the Supreme Court, commonly referred to as judicial review (Chng, 2024).

However, obtaining legal certainty does not mean that testing at the level of the Supreme Court is without flaws. One such flaw is that the testing conducted by the

Supreme Court is only material in nature. This means the Court only evaluates whether the Regional Regulation under review contradicts a higher regulation. This is in accordance with the principle of *lex specialis derogate le infriore*, meaning a higher rule overrides a lower one. The evaluation of whether a regulation was issued in the manner prescribed by the applicable law, commonly referred to as the formal aspect, is not yet considered.

The decision indirectly presents challenges for the Supreme Court and the Ministry of Home Affairs, considering that removing this authority could hinder investment programs due to Regional Regulations that conflict with higher regulations. There is a concern for the Central Government regarding the production of Regional Regulations in the regions, which could create disharmony between the Central and Regional Governments, even though repressive authority still exists.

Unfortunately, if we look at the cases handled by the Supreme Court, the average is still below one hundred, and in 2016, there were only 49 cases, including eight involving Regional Regulations, while in 2016, the government canceled 3,143 Regional Regulations (Shadiqin, 2020). Thus, the potential for an increase in cases at the Supreme Court is real. If we examine the provisions in Law No. 23 of 2014, there are two types of supervision over Regional Regulations: preventive supervision (preview), which is implemented through the evaluation mechanism of draft regulations, and repressive supervision through canceling regulations (executive review).

Concerning preventive supervision, as stipulated in Article 245 of Law No. 23 of 2014, there is an evaluation mechanism applied to draft regulations concerning Regional Long-Term Development Plans (RPJPD), Regional Medium-Term Development Plans (RPJMD), Regional Budgets (APBD), changes to APBD, accountability of APBD implementation, local taxes, local retributions, and regional spatial planning. These draft regulations must first be evaluated by the Minister of Home Affairs or the Governor according to their authority before being enacted by the Regional Head (Nugroho et al., 2020).

At a more technical regulatory level, the Minister of Home Affairs has issued Regulation Number 80 of 2015 concerning the Formation of Regional Legal Products. In addition to regulations concerning the evaluation of regional regulations, this Ministerial Regulation also covers the facilitation of draft regulations as a form of supervision for development purposes. According to the provisions of Articles 87 and 88 of Ministerial Regulation Number 80 of 2015, all regional regulations formed by Regional Governments that have not been evaluated must first be facilitated.

Before the Constitutional Court Decisions Number 137/PUU-XIII/2015 and 56/PUU-XIV/2016, Law No. 23 of 2014 also regulated repressive supervision (executive review) as evidenced by the provisions of Article 251. According to Article 251, in practice, this is realized through the mechanism of canceling regional

regulations. If a regional regulation formed by a Provincial Government is deemed to contradict higher statutory regulations, public interest, and/or decency, then the Minister of Home Affairs can cancel the regulation by issuing a Decision (Efendi, 2017; Gandhi, 2021; Novandra, 2019). Similarly, for Regency/City regulations, if the content of the regulation is judged to conflict with higher statutory regulations, public interest, and/or decency, then the Governor, as the representative of the Central Government, is authorized to cancel the Regency/City regulation by issuing a Governor's Decision. The provisions also state that if the Governor does not cancel a Regency/City regulation that contradicts higher statutory regulations, public interest, and/or decency, then the Minister can assume the authority to cancel the Regency/City regulation (Iskandar & Budiaman, 2022).

CONCLUSION

The authority to cancel regional regulations has now been fully returned to the Supreme Court through Constitutional Court Decision No. 137/PUU-XIII/2015 concerning the Material Test of Law 23 of 2014 concerning Regional Government. The Court argued that the Minister and governor, as representatives of the Central Government in cancelling regional regulations, contradicted higher statutory provisions, deviating from the logic and framework of the law of Indonesia. Constitutional Court Decision No. 137/PUU-XII/2015 implies that Article 251 of Law No. 23 of 2014 no longer grants the Minister and/or Governor the authority to cancel Regency/City regulations. Meanwhile, in Constitutional Court Decision No. 56/PUU-XIV/2016, the Court ruled that the central government no longer has the authority to cancel regional regulations at the provincial level. Constitutional Court Decisions No. 137/PUU-XIII/2015 and No. 56/PUU-XIV/2016 have brought about a new situation where the Minister of Home Affairs and governors have lost their authority to conduct judicial reviews of regulations at the regional level. With the removal of this authority from the Minister of Home Affairs and governors as representatives of the central government in cancelling regional regulations, there is no longer a dualism in testing regional regulations, leaving only the Supreme Court with this authority, known as judicial review, according to Article 24A paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

REFERENCES

- Agustino, L. (2017). Pembatalan 3.143 Peraturan Daerah: Satu Analisis Singkat. *CosmoGov*, 3(1), 14. <https://doi.org/10.24198/cosmogov.v3i1.12405>
- Al-Fatih, S. (2018). Model Pengujian Peraturan Perundang-Undangan Satu Atap Melalui Mahkamah Konstitusi. *Jurnal Ilmiah Hukum LEGALITY*, 25(2), 247.

<https://doi.org/10.22219/jihl.v25i2.6005>

- Al-Fatih, S. (2023). *Perkembangan Metode Penelitian Hukum di Indonesia - Sbolabuddin Al-Fatih - Google Buku* (1st ed., Vol. 1). UMM Press. https://books.google.co.id/books/about/Perkembangan_Metode_Penelitian_Hukum_di.html?id=EOBiEAAAQBAJ&redir_esc=y
- Al Fatih, S., & Nur, A. I. (2023). Does the Constitutional Court on Local Election Responsive Decisions? *Journal of Human Rights, Culture and Legal System*, 3(3), 569–596. <https://doi.org/10.53955/jhcls.v3i3.74>
- Alfath, T. P., Salman, R., & Sukardi, S. (2020). Derivasi Konsep Negara Kepulauan Dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. *Bina Hukum Lingkungan*, 4(2), 216. <https://doi.org/10.24970/bhl.v4i2.101>
- Armin, U., Kosariza, K., & Ansorullah, A. (2023). Analisis pengawasan peraturan daerah berdasarkan undang-undang tentang pemerintahan daerah. *Limbago: Journal of Constitutional Law*, 3(2), 261–279. <https://doi.org/10.22437/limbago.v3i2.24215>
- Chng, K. (2024). Re-examining judicial review of delegated legislation. *Legal Studies*, 44(1), 81–98. <https://doi.org/10.1017/lst.2023.7>
- Efendi, E. (2017). Hak Uji Materi Pemerintah Terhadap Peraturan Daerah (Kajian Terhadap Kewenangan Pemerintah Pusat Pasca Putusan Mahkamah Konstitusi Nomor 137/PUU-XIII/2015). *Ayy-Syir'ah: Jurnal Ilmu Syari'ah Dan Hukum*, 51(1), 131–147. <https://doi.org/10.14421/ajish.v51i1.324>
- Gandhi, D. (2021). Kewenangan pembatalan peraturan daerah. *JHR (Jurnal Hukum Replik)*, 4(2), 25–34. <https://doi.org/10.31000/jhr.v4i2.11>
- Gunawan, B. A. (2019). Tantangan Penjabaran Prinsip-prinsip Demokrasi dalam Pembentukan Peraturan Daerah. *Al-Azhar Islamic Law Review*, 1(2), 112–126. <https://doi.org/10.37146/ailrev.v1i2.20>
- Haruni, C. W. (2022). Constitutionality of Monitoring and Evaluation of Regional Regulation Drafts and Regional Regulations by Regional Representative Council. *Legality: Jurnal Ilmiah Hukum*, 30(1), 103–115. <https://doi.org/10.22219/ljih.v30i1.20532>
- Iskandar, T., & Budiaman, H. (2022). Executive Review Dan Judicial Review Terhadap Peraturan Daerah Sebagai Implementasi Unsur-Unsur Negara Hukum. *Jurnal Ilmiah Galuh Justisi*, 10(1), 102. <https://doi.org/10.25157/justisi.v10i1.7235>
- Jaya, A. T. D., Ruslan, A., & Riza, M. (2021). Anomali Pembatalan Peraturan Daerah: Ratio Legis Putusan Mahkamah Konstitusi. *Halu Oleo Law Review*, 5(1), 1–14.
- Kansil, C. S. T., & Candra, D. V. (2024). Putusan Mahkamah Konstitusi Terkait Usia Calon Presiden dan Calon Wakil Presiden. *UNES Law Review*, 6(4), 10263–10273. <https://doi.org/https://doi.org/10.31933/unesrev.v6i4.2000>
- Mulyani, T., & Handity, B. (2020). Implikasi Pasca Pencabutan Kewenangan Pemerintah Untuk Membatalkan Peraturan Daerah. *ADIL: Indonesia Jurnal*, 2(2),

- 1–11. <https://jurnal.unw.ac.id/index.php/AIJ/article/view/620>
- Muslim, S., Hadiyantina, S., Mundzir, H., & Ayub, Z. A. (2023). The Meaning of "Strength Executive" in the Constitutional Court Decision for the Execution of Fiduciary Securities. *Legality: Jurnal Ilmiah Hukum*, 31(1), 1–20. <https://doi.org/10.22219/ljih.v31i1.23244>
- Negara, T. A. S. (2023). Normative Legal Research in Indonesia: Its Originis and Approaches. *Audito Comparative Law Journal (ACLJ)*, 4(1), 1–9. <https://doi.org/10.22219/aclj.v4i1.24855>
- Novandra, R. (2019). Pengawasan Peraturan Daerah Setelah Putusan Mahkamah Konstitusi Nomor 137/PUU-XIII/2015 dan 56/PUU-XIV/2016. *Rechtidee*, 14(2), 186–206. <https://doi.org/10.21107/ri.v14i2.4764>
- Nugroho, R. D., Wibowo, G. D. H., & Purnomo, C. E. (2020). Tinjauan Terhadap Pertimbangan Hukum Dalam Pembatalan Kewenangan Menteri Dan Gubernur Di Daerah Berkaitan Dengan Executive Review Pada Putusan No. 137/Puu-Xiii/2015 Dan No. 56/Puu-Xiv/2016. *Jurnal Dinamika Sosial Budaya*, 22(1), 80. <https://doi.org/10.26623/jdsb.v22i2.2469>
- Prayitno, S. (2017). Mekanisme Pembatalan Peraturan Daerah Dan Akibat Hukumnya Berdasarkan Asas Lex Superiori Derogat Legi Inferiori. *Jurnal Surya Kencana Satu: Dinamika Masalah Hukum Dan Keadilan*, 8(2), 109–120. <https://doi.org/10.32493/jdmhkdmhk.v8i2.698>
- Rismana, D., & Hariyanto, H. (2021). Perspektif Teori Sistem Hukum Dalam Kebijakan Vaksinasi di Tengah Pandemi Covid-19. *Jurnal IUS Kajian Hukum Dan Keadilan*, 9(3), 591–606. <https://doi.org/10.29303/IUS.V9I3.951>
- Sedubun, V. J., Saptanno, M. J., Pietersz, J. J., & Sisinaru, S. Y. (2019). Pembatalan Peraturan Daerah dan Akibat Hukumnya Menurut Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah. *Sasi*, 25(2), 107. <https://doi.org/10.47268/sasi.v25i2.216>
- Shadiqin, M. T. (2020). Implikasi Putusan Mahkamah Konstitusi Nomor Nomor 137/PUU- XIII/2015 dan No . 56/PUU-XIV/2016 Terhadap Mekanisme Pengawasan Perda. *Al-Hakam Islamic Law & Contemporary Issues*, 1(1), 19–36.
- Shimada, Y., & Bhima Yudhistira Adhinegara, D. (2016). *Pemerintah pemerintahan Refleksi pada Era Reformasi dan Daerah* (Issue 0).
- Sihombing, E. N. (2017). Perkembangan Kewenangan Pembatalan Peraturan Daerah Dan Peraturan Kepala Daerah. *Jurnal Yudisial*, 10(2), 217. <https://doi.org/10.29123/jy.v10i2.147>
- Sukma, N. M. (2017). Analisis Yuridis Pembatalan Perda Oleh Menteri Dalam Negeri. *Jurnal Ilmiah Galub Justisi*, 5(1), 1. <https://doi.org/10.25157/jigj.v5i1.150>
- Sukmariningsih, R. M. (2017). Overlapping authority on the cancellation of local regulation (An erroneous logic of local autonomy). *Hasanuddin Law Review*, 3(2), 191–197. <https://doi.org/10.20956/halrev.v3i2.1196>

- Trinanda, D. (2022). Pembatalan Peraturan Kepala Daerah: Studi Permendagri Nomor 120 Tahun 2018. *Ijtihad*, 38(1).
- Wardana, D. J., Sukardi, & Salman, R. (2023). Public Participation in the Law-Making Process in Indonesia. *Jurnal Media Hukum*, 30(1), 66–77. <https://doi.org/10.18196/JMH.V30I1.14813>
- Wijayanto, D. E. (2014). Hubungan Kepala Desa Dengan Badan Permusyawaratan Desa Dalam Pembentukan Peraturan Desa. *Jurnal Independent*, 2(1), 40. <https://doi.org/10.30736/ji.v2i1.17>
- Winata, M. R., Putri, M. C., & Aditya, Z. F. (2018). Legal Historis Kewenangan Pengujian Dan Pembatalan Peraturan Daerah Serta Implikasinya Terhadap Kemudahan Berusaha. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 7(3), 335. <https://doi.org/10.33331/rechtsvinding.v7i3.266>
- Yuswanto, Y., & Arif, M. Y. Al. (2018). Diskursus Pembatalan Peraturan Daerah Pasca Putusan MK No. 137/PUU-XIII/2015 (The Discourse of Cancellation Local Regulation Following the Constitutional Court Decision No. 137/PUU-XIII/2015 and No. 56/PUU-XIV/2016). *Jurnal Konstitusi*, 15(4), 710–731. <https://doi.org/https://doi.org/10.31078/jk1542>