

## ABSTRACT

Legal issues raised: 1) Authority to establishment the Local Regulation that based on characteristic of the region, 2) *Ratio legis* and parameter of the control of Local Regulation that based on characteristic of the region, and 3) Legal consequent of the control of Local Regulation that based on characteristic of the region.

The findings of this research are: 1) Authority to establish the Local Regulation that based on the characteristic of the region is regulated under Article 18B of the Constitution of the Republic of Indonesia of 1945, Article 136 paragraph. 3 of Act No. 32 of 2004, Article 14 of Law No. 12 of 2011 and Article 236 paragraph 4 of Law No. 23 of 2014. 2) *Ratio legis* of the control of Local Regulation that based on characteristic of the region are regulate in Article 24A paragraph 1 of the Constitution of the Republic of Indonesia of 1945. Law No. 32 of 2004, Law No. 4 of 2004, Law No. 5 of 2004, Law No. 23 of 2014, Government Regulation No. 79 of 2005 and Regulation of Ministry of Domestic Affairs No. 1 of 2014 does not regulate explicitly the control of the Local Regulation that based on characteristic of the region. Control parameter Local Regulation by the Government, which is contrary to the laws and regulations are higher, the Local Regulation may be annulled if it is contrary to the public interest and morals. The control parameter by the Supreme Court are: contrary to the laws and higher regulations, and the establishment of local regulations do not meet the applicable provisions. 3) Legal consequences of the government control of Local Regulation that based on characteristic of the region in Article 251 paragraph (1) and paragraph (2) is that cancellation ('*vernietigbaar*'). *Vernietigbaar* is '*ex nunc*' which means effective immediately. Legal consequences of annulment is Local Regulation that based on characteristic of the region become effective when there is a cancellation by the Local Government. Legal consequences of annulment by the Supreme Court is that the Local Regulation reviewed and has not binding force.

It is necessary to changes: (i) Article 7 of Law No. 12 of 2011, the Local Regulation should not be divided into the Province Regulation and Municipal Regulation. (ii) Law No. 23 of 2014 to regulate specifically on preventive supervision of the Local Regulation that based on characteristic of the region, with parameters: a. Contrary to the Constitution of the Republic of Indonesia Year 1945 of 1945 and the laws; and b. contrary to the cultural values of the people in the area. (iii) Article 251 of Law No. 23 of 2014 needs to add a paragraph which regulates the implementation deadline for the evaluation of the Local Regulation by Government. (iv) Local Governments can file an objection to the annulment of the decision to the Supreme Court. (v) Parameter of the Government control: 1) contrary to the Constitution of the Republic of Indonesia Year 1945 and legislation; and contrary to the cultural values of the people in the area. Parameters of Supreme Court: a) contrary to the Constitution of the Republic of Indonesia Year 1945 and legislation; b) contrary to the public interest; c) the establishment of the Local Regulation does not meet the applicable rules.

**Keywords:** *Control, Local Regulation based on characteristic of the region.*