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## HARMONIZING REGIONAL SPATIAL ARRANGEMENTS : EFFORT TO OPTIMIZE REGIONAL DEVELOPMENT INSTEAD OF USING JOB CREATION LAW

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### Abstract

The Constitutional Court Decision Number 91/PUU-XVIII/2020 mandates the government to improve Law Number 11 of 2020 concerning Job Creation which is replaced by Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation. Thus, formal and material harmonization is required to provide legal confidence and regulatory policy direction. This article discusses the implementation of spatial planning and how the harmonization of spatial planning is ideal for the regions. The research method uses normative legal research, using primary and secondary legal materials supplemented by field research. As a result, the existing spatial planning in the Job Creation Law needs to be improved regarding the guidance and supervision of regional spatial utilization and the need to harmonize the preparation of detailed spatial plans with the suitability of spatial utilization activities and the stipulation of local regulations by the central government, and the improvement of formal aspects based on statutory provisions.

**Keywords:** Harmonization, Regional Development, and Spatial Planning.

### Abstrak

Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020 mengamanatkan pemerintah untuk menyempurnakan Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja yang digantikan dengan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja. Dengan demikian, harmonisasi formil dan materil diperlukan untuk memberikan kepastian hukum dan arah kebijakan regulasi. Artikel ini membahas mengenai pelaksanaan penataan ruang dan bagaimana harmonisasi penataan ruang yang ideal bagi daerah. Metode penelitian menggunakan penelitian hukum normatif, dengan menggunakan bahan hukum primer dan sekunder yang dilengkapi dengan penelitian lapangan. Hasilnya, penataan ruang yang ada dalam UU Cipta Kerja perlu disempurnakan terkait pembinaan dan pengawasan pemanfaatan ruang daerah dan perlunya penyesuaian penyusunan rencana rinci tata ruang dengan kesesuaian kegiatan pemanfaatan ruang dan penetapan peraturan daerah oleh pemerintah pusat, serta penyempurnaan aspek formil yang didasarkan pada ketentuan perundang-undangan.

**Kata kunci:** Harmonisasi, Pembangunan Daerah, dan Penataan Ruang.

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## Introduction

The omnibus law method in formulating laws and regulations was chosen in the formulation of Law Number 11 of 2022 concerning job creation to overcome excessive regulations and overlapping regulations as well as the many sectoral egos of each state institution (Putra, 2020). Still, at the time of the formation of the law, it was not legally formally recognized in Law Number 12 of 2011 concerning the construction of laws and regulations as amended by Law Number 15 of 2019 concerning amendments to Law Number 12 of 2011 concerning the formation of laws and regulations. With this hyperregulation problem, the omnibus method is

a progressive legal form in the technical formation of laws and regulations (Kristiyanto, 2020). Politically, the omnibus method is used in Law Number 11 of 2022 on Job Creation as an effort to simplify regulations to increase investment in Indonesia which has been slowing down (Prabowo, Triputra dan Junaidi, 2020) due to the misalignment of investment regulations and licensing processes that require a long bureaucracy (Hernawati dan Suroso, 2020), so that regulatory reform is needed as an effort to support the era of the Industrial Revolution 4.0 (Mayasari, 2020). The omnibus method is essentially an umbrella law in a standard legal system. Still, in Indonesia, it is narrated as a law in general and not a fundamental law (Fitryantica, 2019). On the other hand, the formation of laws and regulations using the omnibus law method is not commonly used in countries that adhere to a civil law system, such as Indonesia (Cakra dan Sulistyawan, 2020).

Law No. 11 of 2020 concerning Job Creation, which aims at economic development by creating jobs to accommodate a massive workforce, is contradictory because it cannot provide better overall and better guarantees to workers (Matompo dan Izziyana, 2020). Moreover, it will only provide legal standing to investors and employers to exploit employed workers (Kurniawan, 2020). Problems began to arise during the drafting of Law Number 11 of 2020 concerning Job Creation which was considered closed and brief in its discussion (Suntoro, 2021), even until its promulgation also experienced various problems related to the text agreed between the president and the DPR and the text published after the promulgation experienced differences. So that several groups carried out a judicial review to the Constitutional Court, one of which was Case Number 91/PUU-XVIII/2020 and has been decided which results in Law Number 11 of 2020 concerning Job Creation being declared conditionally unconstitutional within two years it must be immediately corrected otherwise it will become permanently unconstitutional (mk, 2021).

In its development in 2022, a government regulation in lieu of Law Number 2 of 2022 concerning Job Creation has been issued. The background of the issuance of Government Regulations in Lieu of Laws is a brief effort to provide legal certainty after the Constitutional Court Decision Number 91 / PUU-XVIII / 2020 to increase investor confidence in setting funding in Indonesia. Still, the issuance of Government Regulations in Lieu of Laws has created a new polemic in the community because it is considered a defiance of the Constitutional Court Decision. Concerning this matter, at this time, a judicial review lawsuit has been filed with Constitutional Court Number 5/PPU-XXI/2023 with formal and material

testing. What is worth looking forward to is the attitude of the People's representative council (DPR) will approve or reject the Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation to be enacted into law. Even so, in the cluster of spatial planning arrangements, starting from the content material to the editorial in the formulation of article by article, it is the same without any changes. Therefore it is necessary to carry out further harmonization in its regulation.

Regarding the omnibus law method and Law Number 11 of 2020 concerning Job Creation behind this, there have been many kinds of research and publications, including research on the environmental cluster conducted by Nila Amania, which states that the increasing workload of the central government has made people's rights to justice and the loss of the principle of strict liability (Amania, 2020). Then in the Investment Cluster conducted by Hari Agus Santoso with the result that the job creation law provides more legal certainty for domestic investors and foreign investors and with the trimming of bureaucracy can increase the ease of doing business for the employment cluster, research has been conducted by Fajar Kurniawan which states that Law Number 11 of 2020 concerning job creation, (Kurniawan, 2020) Osgar Sahim Matompo conducted similar research by adding changes in leave rights which led to the non-fulfillment of Labor Welfare. (Matompo dan Izziyana, 2020)

The rest of the omnibus law method that is carried out boils down to efforts to overcome hyperregulation as a step to harmonize related laws and regulations. It is a progressive legal development in forming laws and regulations and improving the omnibus law method, which must first be stated in the law on the construction of laws and regulations and public participation, such as the research of Antoni Putra (Putra, 2020), Eko Noer Kristiyanto (Kristiyanto, 2020), Ima Mayasari (Mayasari, 2020), Agnes Fitryantica (Fitryantica, 2019), and Agus Suntoro (Suntoro, 2021). The research conducted in this article differs from earlier studies. After all, it will focus more on implementing spatial planning policies in the regions after Law Number 11 of 2020 issuance on job creation and harmonization of ideal regional spatial planning to optimize Regional Development.

### **Research Problems**

This article discusses, first on how to implement and the second one how to harmonize ideal spatial arrangements to implement spatial arrangements in the regions?. Third, how to harmonize ideal spatial arrangements to optimize regional development?.

### **Research Methods**

The research method to answer these problems is normative legal research using primary and secondary legal materials supplemented by field research. According to Soerjono Soekanto, normative legal research includes (Benuf, Mahmudah dan Priyono, 2019): (a) Research on legal principles, (b) Research on legal systematics, (c) Research on the level of legal synchronization, (d) Legal history research, and (e) Comparative legal research.

Normative legal research has a broad scope because /, in normative/doctrinal legal research include theory, philosophy, comparison, composition, consistency, legislation, formality, and binding force. Normative legal research relies on secondary data because it is aimed at written regulations closely related to the literature.

Research data is processed with the level of synchronization of laws and regulations, with two levels of starting points, namely the level of synchronization vertically and horizontally. If done through a vertical starting point, then what is studied is the level of synchronization of laws and regulations governing various fields that have a consistent functional relationship (Ali, 2015).

## **Discussion**

### **First Discussion,**

#### **Implementation of regional spatial planning regulation policy after Law Number 11 of 2020 on job creation**

After the decision of the Constitutional Court Number 91/PUU-XVIII/2020, the job creation policy continues to be carried out according to Prof. Maria SW Sumardjono, who stated that after the Constitutional Court's decision regarding the formal test of Law Number 11 of 2020 concerning job creation, it still has legal force. However, it does not have binding force until there is a refinement (Ady Thea DA, 2021), even as a form of supervision of the implementation of policies from the central government, the Minister of Home Affairs circular letter No. 34/3526/OTDA regarding guidance and supervision of the formation of regional legal products affected by Law Number 11 of 2020 concerning Job Creation.

To find out the implementation of regional spatial planning policies after the issuance of Law Number 11 of 2020 concerning job creation in the implementation of spatial planning, correspondence was conducted to the Public Works and Spatial Planning Office of Magelang City Government, in general, spatial planning includes planning, utilization, and control.

After Job Creation Law issuance, spatial planning has undergone significant changes in the preparation stage, data and information collection, data processing and analysis, and formulation of spatial plans and legal products as policy

arrangements have also changed. The stipulation of regional regulations on regional spatial plans for a certain period of time can be stipulated by the central government. This is delegated to the Minister of Agrarian Affairs and Spatial Planning. As for the detailed spatial plan, the stipulation uses a regional head regulation. Suppose the substance is not determined within one month after approval. In this case, it will be determined by presidential regulation, which previously determined the detailed spatial plan using regional regulations.

In spatial utilization, significant changes occur in the use of detailed spatial plans used as the main instrument in the implementation of business licensing through online single submission (OSS), so that for data integration and integration must use digital maps and synchronization of online single submission (OSS) applications with the Patial Plan Geospatial Information System. Regarding space utilization control, which is the authority of the local government, it is still given. Still, it is less than optimal because it is not involved in issuing the suitability of space utilization activities through OSS, which, in its implementation, is the central government's authority. There is no notification or copy to the regions for its issuance.

The implementation of spatial policies carried out by Law Number 11 of 2020 concerning Job Creation which was replaced by Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation, first, spatial planning for very rigid stages requires careful and detailed planning. The stipulation period of one month from the approval of the substance will be a challenge in itself. Even though the stipulation uses a regional head regulation, it must still apply the Regional People's Representative Council as a formal aspect. Second, the Issuance of the Suitability of Space Utilization Activities issuance process is still manual because the detailed spatial plan and its digitized map have not yet been determined. After the detailed spatial plan is established, it will be switched through Patial Plan Geospatial Information System, including online spatial information services through interactive detailed spatial plans. Third, spatial utilization control is temporarily stagnant. It is only carried out when there are complaints because the technical guidelines as the basis for its implementation have not yet been issued.

The obstacles in the implementation of spatial utilization are caused by (a) weak socialization in the community so that they do not understand changes in the field of spatial planning, (b) the implementation of OSS has not been able to be implemented optimally, which results in delays in the issuance of the suitability of space utilization activities and land technical considerations which have implications for business licensing and investment, and (c) the absence of

synchronization, data integration, and easy access to Patial Plan Geospatial Information System and OSS. Regarding spatial utilization control, the electronic issuance of conformity of spatial utilization activities by the central government without factual verification in the field and confirmation to the regions makes it difficult for local governments to monitor compliance with regional spatial patterns.

Laws are made as guidelines in regulating society or to meet the needs and achieve the goals of a country's direction. One of the most famous legal system theories is the theory discovered by Lawrence M. Friedman, who argues that the legal system has 3 (three) main elements: structure, substance, and culture (Munslow, 2012). Structure relates to the institutions or agencies involved and how they carry out their functions (Ansari, 2020). Legal substance relates to the applicable laws and regulations that have binding force and are used as guidelines to be appropriately applied (Ansari, 2020). Meanwhile, legal culture emphasizes community attitudes, respect, or appreciation for the law and the legal system (Ansari, 2020). Apart from Friedman, a scientist who is no less famous in legal system theory is Ronald M Dworkin.

Dworkin as the initiator of content theory, focuses on legal development based on principles, standards, rules, and political influences that are a condition for achieving justice values in terms of morality (Salle, 2020). In addition to principles and standards, the legal system also has characteristics that include: elements, relationships, structure, and integrity (Salle, 2020). Another case was with Antony Allot, who also put forward a theory about legal effectiveness that would be difficult to measure. The law will not work well if it does not meet the social context (Salle, 2020).

Considering that spatial planning policy is a strategic policy that needs to be guarded from preparation to stipulation through laws and regulations, the involvement of the central government, local governments, and the active role of the community is needed to realize comprehensive, sustainable, and accommodating spatial planning for the needs of the community to achieve prosperity which is the main goal of the Indonesian nation.

In the implementation of spatial planning policies after the issuance of Law Number 11 of 2020 concerning Job Creation which is aimed at accelerating economic growth, there are several obstacles in the aspects of spatial utilization and aspects of controlling spatial utilization, so these two things need regulatory adjustments in spatial planning policies to be implementable and able to support regional development through the implementation of business licensing as the

main instrument targeted in efforts to realize the investment and economic improvement.

## Second Discussion,

### **The Ideal Effort To Harmonize Regional Spatial Arrangements To Optimize Regional Development**

Based on the explanation above, it appears that there is still a misalignment between the ease of doing business policy in the process of licensing business activities and regulations in the field of spatial planning, which causes obstacles to the licensing process and economic development in the regions so that as an ideal effort in regulating regional spatial plans as the basis for regional development after the issuance of Job Creation for legal certainty in regional development, the following can be done:

1. Harmonization of Content Material Through Synchronization of Detailed Spatial Plan Arrangements with the Conformity of Space Utilization Activities

To form legislation that is intact and interrelated between one policy and other related policies so that material synchronization and harmonization occur, the formulation of articles must be based on horizontal theory in the formulation of the body. Content material that needs to be reformulated:

- (a) The regulation of the suitability of space utilization activities stipulated in Article 17 related to the amendment of Law Number 26 the Year 2007 on Spatial Planning at number 7 of Article 14 with Article 14 and Article 15 on job creation. In supporting licensing, there is an obligation of the central government to integrate detailed spatial plans in the electronic business licensing system, but on the other hand, there is an exception by providing leeway that business licenses can still be submitted even though the spatial plan has not been compiled. With the following article:

#### Article 14

- (1) The suitability of space utilization activities, as referred to in Article 13 letter a, is the suitability of the location plan of activities and/or businesses with a Detailed Spatial Plan.

- (2) Local governments must compile and provide Detailed Spatial Plans in digital form and according to standards.
- (3) Provision of Detailed Spatial Plan in digital form, as referred to in paragraph (2), is carried out in accordance with standards and can be accessed easily by the public to obtain information regarding the suitability of activity location plans and/or businesses with Detailed Spatial Plan.
- (4) The Central Government must integrate the Detailed Spatial Plan in digital form into the electronic Business Licensing system, as referred to in paragraph (2).
- (5) If the Business Actor obtains the information that the location plan of its business activities, as referred to in paragraph (3), is in accordance with the DETAILED SPATIAL PLAN, the Business Actor submits an application for conformity of space utilization activities for its business activities through the electronic Business Licensing system as referred to in paragraph (4) by filling in the coordinates of the desired location to obtain confirmation of the conformity of space utilization activities.
- (6) After obtaining confirmation of the suitability of space utilization activities, as referred to in paragraph (5), the Business Actor applies for a Business License.

#### Article 15

- (1) If the Regional Government has not prepared and provided Detailed Spatial Plan as referred to in Article 14 paragraph (2), the Business Actor submits an application for approval of the suitability of space utilization activities for its business activities to the Central Government through the electronic Business Licensing system in accordance with the provisions of laws and regulations.
- (2) The Central Government approves the suitability of space utilization activities as referred to in paragraph (1) in accordance with the spatial plan.
- (3) The spatial plan, as referred to in paragraph (2), consists of:
  - a. the national spatial plan;
  - b. island/archipelago spatial plans;
  - c. national strategic area spatial plan;
  - d. provincial spatial plans; and/or
  - e. district/city spatial plan.

Whereas in Article 17 relating to the amendment of Law Number 26 of 2007 concerning Spatial Planning at number 7 of Chapter 14, it is stated as follows:

#### Article 14

- (1) Spatial planning is carried out to produce:



- a. a general spatial plan; and
  - b. detailed spatial plans.
- (2) The general spatial plan, as referred to in paragraph (1) letter hierarchically consists of the following:
    - a. national spatial plan;
    - b. provincial spatial planning; and
    - c. district spatial plans and city spatial plans.
  - (3) The detailed spatial plan, as referred to in paragraph (1) letter b consists of:
    - a. island/archipelago spatial plans and national strategic area spatial plans; and
    - b. detailed district/city spatial plans.
  - (4) The detailed spatial plan, as referred to in paragraph (1) letter b is prepared as an operational tool for the general spatial plan.
  - (5) The detailed spatial plan, as referred to in paragraph (3) letter a is prepared if:
    - a. the general spatial plan cannot yet be used as the basis for implementing spatial utilization and controlling spatial utilization; and/or
    - b. the general plan of spatial planning covers a large area, and the map's scale in the general plan of spatial planning requires details before it is operationalized.

To provide certainty in regulation and support the regulation of space utilization for the implementation of licensing policies, the provisions in paragraph (4) and paragraph (5) regarding the preparation of detailed district/city spatial plans and island/archipelago spatial plans and national strategic area spatial plans are mandatory, and in their preparation should be formulated coherently in accordance with the description in paragraph (3).

Because the detailed spatial plan is an Instrument in the implementation of space utilization and control of space utilization and supports the operationalization of spatial policy and the suitability of the implementation of community activities, Such an arrangement would be more in line with the provision in paragraph (4) which states that a detailed spatial plan is an operational tool of the general spatial plan, so that paragraph (5) can be interpreted as a provision that reinforces the arrangement in paragraph (4).

In additions, such regulation will become an umbrella regulation for the implementation of Law Number 11 of 2020 concerning Job Creation in terms of issuing Confirmation of Conformity of Space Utilization Activities for business and non-business activities, which in the application process

requires activity location coordinates. So, to be able to determine the coordinates,, it will be more appropriate if a detailed spatial plan is available in the area to speed up the next licensing process. As optimization of the implementation of spatial utilization control, accommodation of regional involvement in the issuance of ISSUANCE OF THE SUITABILITY OF SPACE UTILIZATION ACTIVITIES is carried out so that it will be more effective if from the beginning of the submission, it already knows the feasibility of implementation/implementation of activities. Transitional provisions are given during the transition period to overcome the limited ability of human resources to draft spatial planning policies and the limited use of technology.

1. Removal Of Central Government Authority In The Determination Of Local Regulations

Based on the 1945 Constitution in Article 18 paragraph (6) , the formation of regional regulations is a regional constitutional right in the context of implementing regional autonomy and assistance tasks and synchronizing arrangements with Law Number 12 of 2011 concerning the Formation of Legislation as amended several times last by Law Number 13 of 2022 concerning the Second Amendment is the regional head, this is also in line with the principle of appropriate forming institutions or officials, namely that in the formation of laws and regulations must be prepared and ratified/enacted by appropriate institutions or officials because this will affect the form and type of regulations formed.

The stipulation of local regulations as an effort to accelerate the establishment of spatial planning policies in the region is certainly not the most appropriate effort, considering that the stipulation of local regulations on regional spatial plans is only a sub-activity at the stage of drafting local regulations which is one of the sub-activities in the preparation of spatial planning policies which includes the preparation stage, data and information collection, data processing and analysis, formulation of the conception of the Regional Spatial Plan and the preparation of Local Regulations.

When viewed from the implementation of government affairs, the guidance of regional government is under the Ministry of Home Affairs, this is also in line with the arrangements contained in the provisions of Article 87 paragraph (1) of the Minister of Home Affairs Regulation

Number 80 of 2015 concerning the Formation of Regional Legal Products and its amendments, which states that "Guidance on the draft of regional legal products in the form of regulations in the province is carried out by the Minister of Home Affairs through the Director General of Regional Autonomy," while the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency is a ministry in charge of the spatial planning sector which will focus more on technical substance in spatial planning, but is not an authorized institution in fostering regional legal products which are laws and regulations in regions that have been formally carried out rigidly.

2. Assistance at the stage of preparation of Spatial Planning, especially at the stage of processing and Data Analysis

In its implementation, the process of preparing a regional spatial plan that requires observation and a relatively long preparation process lies in the data processing and analysis stage as well as the stage of formulating the concept of the regional spatial plan, Appendix "Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 11 of 2021 concerning Procedures for Preparation, Review, Revision, and Issuance of Substance Approval of Provincial, Regency, City Spatial Plans, and Detailed Spatial Plans". "At this stage, the regions need more assistance from the central government, namely the Ministry of Spatial Plan/ National Land Agency, to speed up the preparation and monitor the direction of the general spatial plan policy.

Assistance from the central government to local governments will facilitate the synchronization of spatial planning policies. This will also be a solution to the limitations of human resources in the regions in formulating spatial planning policies, become a medium for knowledge transfer and technology transfer from the center to the ' areas of the region, and facilitate the integration of spatial planning policies between bordering regions.

Suppose monitoring of the preparation has already started from the beginning. In that case suppose monitoring of the preparation has begun from the start. In that case, it can accelerate the process up to its determination. It will be in accordance with the rigidly determined time limit facilitating regional development to advance and prosper the

community and considering that the regional spatial plan is the main instrument that is the basis for every regional development planning.

3. The Need To Strengthen Public Participation

As a democratic country upholding human rights, public involvement in every policy-making in the form of laws and regulations is one of the main joints in addition to being a formal requirement in the formation of laws and regulations as well as an instrument to find out the empirical situation in society and the response to the formulation of policies that have been prepared.

Public participation as a concretization of democratic values in the formation of laws and regulations in its implementation must be interpreted as the implementation of the state in fulfilling the people's right to be heard, the people's right to be considered in submitting proposals, and the people's right to obtain explanations for the opinions given through institutions granted authority (“ Prioritize Settlement of Polemics on the Job Creation Law,” undated)

Public participation that is not just a formality will be able to map the needs and problems in the field so that policy making will be more effective, unravel existing problems, and minimize conflicts at the implementation stage.

4. Strengthening inter-institutional coordination

Job creation policies that involve various institutional sectors and significantly impact national legal arrangements in their preparation must be carried out carefully and require intense coordination between sectoral institutions related to and affected by the policy. For example, the interest in attracting investors through business facilitation programs in the licensing sector will intersect with environmental management and protection policies. This policy is interested in maintaining a healthy environment from pollution by humans through certain activities. Therefore, there must be sorting and limitation of policies so that there is no overlap between one policy and another.

The urgency of coordination between government agencies is for the integration and synchronization of policies that become the content material of laws and regulations to minimize the impact of policy implementation or the breadth of Policy Content Material needed by

one of the institutions affected by job creation policies so as not to cause catastrophic losses in one field.

5. Synchronization of Legal Product Formulation Arrangements in the Stipulation of Spatial Planning with Positive Law in the Field of Legislation Formation

In the formation of laws and regulations, there are material legal principles that will be elaborated in the substance of the regulatory material an article by article and formal legal principles relating to legal ideals as guidelines in the mechanism and procedures for its formation, the form/format of regulations, and procedural matters that must be passed to obtain its validity.

The function of formal legal principles as a reference direction in the formation of laws and regulations, namely: 1) as a guideline for the formation of laws and regulations and/or a touchstone for formulated legal norms; 2) as a tool to facilitate the closeness of understanding of legal norms; 3) is a concretization of the values of national civilization in viewing its behavior.

In relation to the legal principles in the formation of laws and regulations based on positive law, the stipulation of regional regulations is regulated in Law Number 12 of 2011 concerning the Formation of Legislation as amended by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation, related to the formulation of the form of legal products will be closely related to the principle of the right forming institution or official, namely that in the formation of laws and regulations must be prepared and ratified/stipulated by the right institution or official, because this will affect the form and type of regulation formed.

For regional regulations, the stipulation authority is only given to the regional head. This is based on Law Number 12 of 2011 concerning the Formation of Legislation as amended by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation and Law Number 23 of 2014 concerning Regional Government as amended several times last by Law Number 11 of 2020 concerning Job Creation, which states that the

Regional Head has the authority to stipulate regional regulations that have received approval from the Regional People's Representative Council.

In addition to the above, when referring to the theory of hierarchy of laws and regulations, which states that there is a relationship of legal norms in stages with the consequence that the content material of the regulation of laws and regulations at the lower level must refer to the content material of the regulation of higher laws and regulations. In this case, relating to the regional government, as regulated by the 1945 Constitution, which is the highest degree of legislation based on positive law, specifically in Article 18 states that:

Article 18

- (1) The United Republic of Indonesia shall be divided into provinces, and the provinces shall be divided into regencies and municipalities, and each province, regency, and municipality shall have a regional government, which shall be regulated by law.\*\*)
- (2) The regional governments of the provinces, regencies, and municipalities shall regulate and manage their government affairs according to the principles of autonomy and assistance tasks.\*\*)
- (3) The provincial, district, and municipal governments have a Regional House of Representatives whose members are elected through general elections.\*\* )
- (4) Governors, regents, and mayors as heads of provincial, regency, and city governments, respectively, are democratically elected.\*\*)
- (5) Local governments shall exercise the broadest possible autonomy, except for governmental affairs, which are determined by law to be the affairs of the Central Government.\*\*)
- (6) Regional governments have the right to enact regional regulations and other regulations to implement autonomy and co-administration.\*\*)
- (7) The structure and procedures for organizing regional governments are regulated by law.\*\* )

To elaborate on the provisions in paragraph (5) and paragraph (6) above, it has been further regulated by Law Number 23 of 2014 concerning Regional Government, which until now has not been amended regarding the authority of the regional head in stipulating regional regulations as stated in 65 paragraph (2). Based on the theory of the hierarchy of laws and regulations, the laws and regulations with lower strata for regulating the stipulation and authority of regional

regulations must refer to Chapter 18, paragraph (6) of the 1945 Constitution.

Therefore, as a step to synchronize the regulation and mechanism for stipulating regional regulations on spatial planning to be carried out:

- 1) Vertical synchronization with 18 paragraph (6) of the 1945 Constitution, that the stipulation of regional regulations is the right of regional governments; and
- 2) Horizontal synchronization with Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation, that the stipulation of regional regulations is carried out by the governor for provincial regional regulations and regents/mayors for district/city regional regulations after refining the results of the evaluation by higher levels of government.

6. Compliance with Standard standards, methods, and principles in the formation of legislation

After the decision of the Constitutional Court Number 91/PUU-XVIII/2020 regarding the Judicial Review of Law Number 11 of 2020 concerning Job Creation against the 1945 Constitution of the Republic of Indonesia. In its formulation, in addition to using the theory of synchronization and hierarchy of laws and regulations, it is also necessary to consider the theory of the legal system, which is characterized by: (1) there is a decision based on morality formulated by judges to find the best theory; (2) there are interrelationships and dependencies that are intact and systematic; (3) the legal structure as a whole that emphasizes the truth of principles and decisions into a structured unit; and (4) law as an instrument that needs to be refined in accordance with developments.

The Constitutional Court's decision as the result of a judge's assessment based on conviction and considering legal values comprehensively mandates the improvement of Law Number 11 of 2020 concerning Job Creation, both regarding material substance and formal provisions in the form of formation mechanisms and formation methods that must be based on the provisions of positive legislation/law so that harmony is formed between job creation policies and established policies.

Due to laws and regulations that do not meet the formal provisions in their preparation as stipulated in Law No. 12 of 2011 concerning the formation of laws and regulations or formal defects in their making, they can be declared null and void (Riewanto, 2020).

In preparing laws and regulations, harmonization and synchronization of laws and regulations are known. These two things cannot be separated, especially related to the content material of laws and regulations. Both are efforts to realize reasonable regulations and avoid overlapping content material, avoiding contradictions in norms between one regulation and another regulation or provisions/norms regulated in one legislation.

Synchronization is an absorption of the word synchronized in English. In the Big Indonesian Dictionary, synchronization means aligning ( Search Results - KBBI Online, no date), legal synchronization is an effort to harmonize and harmonize various regulations that have been promulgated with regulations that are in the process of being formed with the substance of certain regulatory materials to produce arrangements that support each other, do not overlap in their arrangements, connect, and regulations that are at the lower regulatory level are increasingly detailed and increasingly operational as (Sayuna, 2016).

Legal synchronization is divided into 2 (two) types, namely vertical synchronization and horizontal synchronization. Vertical synchronization is always related to the hierarchy/tracing of laws and regulations and identification in terms of chronological numbers and years of enactment of laws and regulations (Sayuna, 2016). In this case, if viewed from positive law, it is covered in article 7 of Law No. 12 of 2011 concerning the formation of laws and regulations as amended by Law No. 15 of 2019 concerning amendments to Law No. 12 of 2011 concerning the of construction of laws and regulations which include: (1) The 1945 Constitution of the Republic of Indonesia; (2) Decree of the People's Consultative Assembly; (3) Law/Government Regulation in Lieu of Law; (4) Government Regulation; (5) Presidential Regulation; (6) Provincial Regional Regulation; and (7) Regency/City Regional Regulation.

In addition to the above, several legal experts also expressed their opinions related to the synchronization of laws and regulations, including Endang Sumiarni defining synchronization as a review of the



harmony and conformity of one law and regulations with other laws and regulations based on the level between higher-level regulations and laws and regulations based on the order of laws and regulations or better known as vertical synchronization. This opinion is in line with the opinion of Peter Mahmud Marzuki to apply the provisions of laws and regulations using the principle of *lex superiori derogat legi inferiori*, which explains that in the event of a conflict between laws and regulations, it must be seen hierarchically, on the basis that laws and regulations that are in a lower stratum must be overruled by laws and regulations that are higher in strata.

In addition to vertical synchronization, the preparation or analysis of the implementation of laws and regulations is carried out with a horizontal synchronization approach as an effort to harmonize and adjust the content material that juxtaposes regulations that are hierarchically at the same level in one field of substance, or there is a link between the substance of one regulation and other existing regulations (Sayuna, 2016).

As for horizontal synchronization, it is expected that there is conformity and harmony of content material regulated in regulations with the same strata, and there is no regulatory dualism so that the regulations formed can follow the principles of the formation of laws and regulations and be on implementation in their implementation.

In general, it can be understood that synchronization is a step in realizing legal certainty from regulation in a particular field efficiently and effectively, as well as an effort to avoid failure in the formation of legal products. In this case, the suitability of the content material in the same level of legislation is important because it will have implications for the application of the main legal address..(Ahmad Redi, 2018)

## Conclusion

The implementation of regional spatial planning policies after the enactment of the work copyright policy to date hasn't been effective because there's no data integration in the OSS system, and there's no regional involvement in the verification process of licensing issuance which causes difficulties in supervision, so adjustments to the regional detailed spatial planning policy are needed.

Ideal efforts in the formulation of spatial planning policies after the issuance of the work copyright policy can be done through; harmonization of the provisions

of the substance of the material for regulating regional spatial planning, withdrawal of central intervention in regional spatial planning in accordance with the limits of its authority, assistance in the preparation of regional spatial plans, more massive public participation, coordination between related institutions and institutions, synchronization of arrangements with positive laws at one level of preparation guided by standards, methods, and principles in the formation of laws and regulations.

### Suggestion

The future, the need for the Regulatory Impact Assessment method is noted in the preparation stage until the review of policies in regulations or review of formal provisions in the formation of laws and regulations and information disclosure and public involvement in the formulation, discussion, and determination of policies.

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