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Repositioning Delegated Authority and Binding Power of Ministerial Regulations in Indonesia

Saiful Risky*

Faculty of law, University of Muhammadiyah Malang, Indonesia, saifulrisky@webmail.umm.ac.id, ORCID ID 0009-0001-7895-888X

Sholahuddin Al-Fatih

Faculty of Law, University of Muhammadiyah Malang, Indonesia, salfatih@umm.ac.id, ORCID ID 0000-0003-1166-5182

Fitria Esfandiari

Faculty of Law, University of Muhammadiyah Malang, Indonesia, fitesfan@umm.ac.id, ORCID ID 0000-0001-8516-4802

Surya Anoraga

Faculty of Law, University of Muhammadiyah Malang, Indonesia, anoragasurya@ymail.com

Abstract. This research examines the position and binding power of Ministerial Regulation (Permen) and Coordinating Ministerial Regulation (Permenko) in Indonesia, after the Job Creation Law (Law No. 6/2023). The formulation of the problem includes (1) how the legal construction of Permen as a form of delegated legislation is, and (2) how is the coordinative nature and normative position of Permenko in the hierarchy of national regulations. The method used doctrinal analysis of positive legal norms combined with legislative delegation theory and public administration theory on coordination. The main findings reveal that the effectiveness of Permen depends on the clarity of delegation clauses and enforcement mechanisms, while the effectiveness of Permenko is determined by (a) clarity of delegation, (b) inclusion of sanction provisions, (c) layering regulation through supporting government regulation/presidential regulation, (d) participatory drafting mechanisms, and (e) accountability mechanisms such as reporting clauses and judicial review. This research contributes by formulating an integrated normative blueprint for the design of Permenko that integrates legal and administrative elements, as well as recommendations for amending Law No. 12/2011 and issuing supporting regulations. The implications of the study include strengthening legal legitimacy, increasing bureaucratic compliance, and improving checks and balances mechanisms in the delegation of executive authority. With the implementation of this blueprint, Permenko are expected to become a strategic instrument to ensure the consistency of national public policies, strengthen the principle of constitutionalism, and realize good governance in Indonesia.

Keywords: Binding Power, Delegated Authority, Ministerial Regulations, Normative Hierarchy

Abstrak. *Penelitian ini mengkaji kedudukan dan daya ikat Peraturan Menteri (Permen) dan Peraturan Menteri Koordinator (Permenko) di Indonesia pasca UU Cipta Kerja (UU No. 6/2023). Rumusan masalah meliputi (1) bagaimana konstruksi hukum atas Permen sebagai salah satu bentuk delegasi peraturan perundang-undangan, dan (2) bagaimana sifat koordinatif dan kedudukan normatif Permenko dalam hierarki peraturan perundang-undangan nasional. Metode yang digunakan adalah analisis doktrinal norma hukum positif yang dipadukan dengan teori delegasi peraturan perundang-undangan dan teori administrasi publik tentang koordinasi. Temuan utama penelitian ini adalah, bahwa efektivitas Permen tergantung pada kejelasan klausul delegasi dan mekanisme penegakannya, sedangkan efektivitas Permenko ditentukan oleh (a) kejelasan delegasi, (b) pencantuman ketentuan sanksi, (c) pelapisan peraturan melalui peraturan pemerintah/peraturan presiden pendukung, (d) mekanisme penyusunan partisipatif, dan (e) mekanisme akuntabilitas seperti klausul pelaporan dan uji materiil. Penelitian ini memberikan kontribusi berupa penyusunan cetak biru normatif terpadu untuk perancangan Permenko yang mengintegrasikan unsur hukum dan unsur administratif, serta rekomendasi untuk melakukan amandemen terhadap UU No. 12/2011 dan penerbitan peraturan pendukung. Implikasi dari penelitian ini antara lain penguatan legitimasi hukum, peningkatan kepatuhan birokrasi, dan perbaikan mekanisme checks and balances dalam pendelegasian kewenangan eksekutif. Dengan diimplementasikannya cetak biru ini, Permenko diharapkan dapat menjadi instrumen strategis untuk menjamin konsistensi kebijakan publik nasional, memperkuat asas konstitusionalisme, dan mewujudkan tata pemerintahan yang baik di Indonesia.*

Kata kunci: *Kekuasaan Mengikat, Kewenangan yang Didelegasikan, Peraturan Menteri, Hirarki Normatif*

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INTRODUCTION

Within the framework of the Indonesian legal system, the hierarchy of norms mandated by Article 7, paragraph (1) of Law Number 12 of 2011 on the Establishment of Laws and Regulations (Law No. 12/2011) places the 1945 Constitution as the highest source, followed by laws, government regulations, and regional regulations.[1] However, a paradox arises when the Ministerial Regulation (Permen)—which is not formally included in the list in Article 7, paragraph (1)—is accommodated in Article 8 (1) as part of a series of national legal norms.[2] This phenomenon raises normative and constitutional questions: to what extent can the binding power of Permen—particularly those issued by Coordinating Ministers (Menteri Koordinator/Menko), who often perform a "coordinating" function—be positioned within the hierarchy of legislation?[3] This question becomes increasingly relevant following the enactment of Law Number 6 of 2023 on Stipulating Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law (Law No. 6/2023), which gave rise to a series of new Permen as a form of executive legislative delegation.

Based on the theory of delegated legislation, norms arising from the delegation of authority should be subject to the principle that only the legislative body has the authority to establish "basic rules," while delegated norms fill in the technical details of implementation.[4] In this context, Permenko (Coordinating Ministerial Regulations), which have external binding power on the bureaucracy and internal coordinating power between ministries, should occupy a higher position than ordinary Permen and regional regulations. However, the constellation of normative practices in Indonesia is often different: Permen of the Coordinating Minister are sometimes viewed merely as administrative instruments, without the hierarchical recognition that is consistent

[1] Sholahuddin Al-Fatih et al., "The Hierarchical Model of Delegated Legislation in Indonesia," *Lex Scientia Law Review* 7, no. 2 (2023): 629–58, https://doi.org/10.15294/lesrev.v7i2.74651.

[2] Ni'matul Huda, "Kedudukan Dan Materi Muatan Peraturan Menteri Dalam Perspektif Sistem Presidensial," *Jurnal Hukum Ius Quia Iustum* 28, no. 3 (2021): 550–71, https://doi.org/10.20885/iustum.vol28.iss3.art5.

[3] See Law of the Republic of Indonesia Number 12 of 2011 concerning the Establishment of Laws and Regulations, Statute Book of the Republic of Indonesia Number 82 of 2011, Article 8 paragraph (1).

[4] Kenny Chng, "Re-Examining Judicial Review of Delegated Legislation," *Legal Studies* 44, no. 1 (2024): 81–98, https://doi.org/10.1017/lst.2023.7.

with delegation theory or the "scope" of public coordination as outlined in public administration science.

The position of ministerial regulations (Permen) has been the subject of theoretical debate and serves as the basis for prior research: Juwita Putri Pratama et al. and Ridwan recommend situating Permen within the regulatory hierarchy beneath presidential regulations in line with the presidential system.[5] Muhammad Nafi Uz Zaman contends that, since ministers function as second-tier organs, Permen are equivalent to regulations issued by high state bodies such as the General Election Commission (KPU) and the Election Supervisory Agency (Bawaslu).[6] Charles Simabura, in his dissertation on ministerial authority to issue Permen in Indonesia's post-amendment 1945 presidential government (2004–2019), argues that the content and scope of delegation in Permen must be limited, while emphasizing the necessity of oversight by the President and judicial institutions in their formation.[7] Consequently, these studies converge on the need to clarify the normative status of Permen, impose substantive limits on delegation, and establish robust administrative and judicial supervision mechanisms.

This article is divided into two main sections—in the following chapters. The first section outlines the normative and legal framework based on the theory of delegated legislation and the hierarchy of legislation according to Law No. 12/2011 for the analysis of several Permen post-Law No. 6/2023 as concrete evidence of the delegation of legislative authority. The second part discusses the public coordination dimension of coordination theory in public administration, which places the coordinating minister in a strategically higher position than the entities being coordinated, as well as the normative implications for the legal recognition of Permen

[5] Juwita Putri Pratama, Lita Tyesta ALW, and Sekar Anggun Gading Pinilih, "The Existence of the Position of Ministerial Regulations on Regional Regulations in the Hierarchy of Laws and Regulations," *Journal of the Constitution* 19, no. 4 (December 1, 2022): 865–85, https://doi.org/10.31078/jk1947. See also: Ridwan, "The Existence and Urgency of Ministerial Regulations in the Implementation of Presidential System Government," *Constitution Journal* 18, no. 4 (2021): 829–45.

[6] Nafi Uz Zaman, Saraswati, and Herawati, "Analysis and Evaluation of the Position of the Regulation of the Minister of Regional Regulation in the Indonesian System."

[7] Charles Simabura, "Ministerial Authority to Form Ministerial Regulations in the Indonesian Presidential Government System After the Amendment of the 1945 Constitution for the Period 2004-2019" (University of Indonesia, 2022); See also: Simabura et al., "Ministerial Authority in Formulating Regulations Related to Presidential Lawmaking Doctrine.", Op.Cit.

in the national legal system. With these two parts, the article aims to provide conceptual contributions and recommendations for improving the position of Permen in the Indonesian legal system.

METHODOLOGY

This study employs a doctrinal legal methodology with a constructive-analytical character, integrating statutory and conceptual approaches to examine Permen and Permenko as forms of delegated legislation within Indonesia's hierarchy, complemented by a limited comparative analysis of international models (e.g., EU comitology, U.S. non-delegation doctrine) and conceptual insights from public administration in a supportive, non-empirical role. Data are drawn from primary legal materials (the 1945 Constitution; Law No. 12 of 2011 on Law Formation; Law No. 6 of 2023 and related regulations; relevant Presidential Regulations, Government Regulations, Permen, and Permenko) and secondary sources (books, peer-reviewed articles on delegated legislation and coordination theory), collected via systematic literature review of official documents and legal databases. The research focuses on normative texts of Coordinating Ministerial regulations issued after Law No. 6 of 2023, selected through purposive sampling of ministries with at least three distinct regulations to ensure representativeness. Analysis uses juridical content analysis—codifying legal norms and classifying delegation and coordination elements according to positive law and administrative theory—and employs theoretical triangulation by synchronizing normative legal analysis, doctrinal theories of legislative delegation, and administrative coordination concepts to mitigate interpretive bias and enhance robustness. The results inform juridical implications and policy-oriented recommendations for reforming Indonesia's legislative framework on ministerial and coordinating-minister regulations.

RESULT AND DISCUSSION

Ministerial and Permenko: Legal Authority and Normative Position

Cross-ministerial program implementation often fragments because technical ministries issue unharmonized operational regulations, creating a normative imperative to align bureaucratic perspectives; for example, Permenko Perekonomian No. 7/2021 on National Strategic Projects establishes an overarching priority list—complete with a preamble outlining infrastructure acceleration objectives, economic selection criteria, and a binding periodic evaluation mechanism—and Article 5 imposes budget-postponement sanctions on ministries that do not comply, thereby ensuring adherence by design. Similarly, Permenko Perekonomian No. 1/2024 on civil-service job classification simplification defines performance indicators and quarterly integration meetings to institutionalize internal coordination. These instances illustrate how targeted coordination norms effectively address practical governance needs when Law No. 12 of 2011's framework proves inadequate for ensuring national policy coherence.

The delegation of normative authority to both sectoral and coordinating ministers has engendered an Indonesian "legislating executive," wherein the executive issues substantive technical norms without prior House deliberation—mirroring developments in Europe and America where executive legislation became prevalent in modern administration. Although Law No. 12/2011 Article 8(1) implicitly recognizes Permen as delegated products, Article 7(1) does not explicitly mention them, while the emergence of Permenko via Presidential Regulations further illustrates normative coordination extending beyond mere administrative tools. Notably, this trend has accelerated post-enactment of the Job Creation Law (No. 6/2023), which empowers ministers to promulgate additional technical regulations, underscoring the growing scope of executive-driven norm-making in Indonesia.[8]

From the perspective of delegated legislation theory, delegation must comply with the intelligible principle: the parent law must establish objective limits, scope, and objectives for delegation before technical regulations are issued. In Coordinating Minister for Economic Affairs Regulation No. 7/2021, the preamble outlines the

[8] Ady Supriadi and Fitriani Amalia, "Kedudukan Peraturan Menteri Di Tinjau Dari Hierarki Peraturan Perundang Undangan Di Indonesia," *Unizar Law Review* 4, no. 2 (2021): 146–52.

objectives of accelerating the National Strategic Project and the limits of the project, thereby fulfilling the criteria of the intelligible principle even without further discussion by the DPR. The procedure for establishing Permen also refers to the Presidential Regulation on the establishment of coordinating ministries, which is referred to as the source of authority for "coordinating assignments." However, not all Permen contain such specific clauses, creating legal uncertainty for external parties. This situation highlights the need for clearer normative guidance in the parent law on delegation.

Table 1. Differences in Functional Position, Binding Force, Source of Authority of each Delegation Regulation

Types of Regulations	Functional Position	Binding Power	Authority Source
Government Regulation	Highest delegate of the law; executor of the law	Binding central and regional government officials and the general public	Directly delegated by the parent law; the President (Article 5 of the Constitution)
Permen	Technical implementer of laws in ministries	Binding within the ministry; limited external	Delegation from the parent law; Presidential Regulation on the implementation of P3 Law
Regulation of the Coordinating Minister	Inter-ministerial coordination (superior functional)	Internal ties between institutions; limited external potential	Presidential Regulation mandate for the establishment of the Coordinating Ministry; delegation of sectoral laws

Source: Compiled independently by the author

This table summarizes that Government Regulations has the broadest position and binding power, while Permen and Permenko are delegated products with a more focused scope. Permenko occupies a superior functional position in inter-ministerial coordination, although formal normative recognition is needed to strengthen the effectiveness and legitimacy of legislative delegation in Indonesia.

The three examples of Permenko reveal two patterns of binding power: external and internal.[9] This dual pattern signifies the flexibility of delegation, whereby the coordinating minister can issue norms for internal coordination purposes as well as for public policy. From a public administration perspective, this duality is consistent with the synchronization and control functions inherent in coordinating ministries.[10] However, without explicit normative standing, the effectiveness of coordination may be hampered by overlapping authorities.[11]

Permen—including Permenko—are products of delegated legislations from the parent law or Presidential Regulations, whose effectiveness depends on the clarity of the delegation mandate. If the parent law or presidential regulation specifies the objectives, scope, and limitations in detail, ministerial technical regulations will have strong legitimacy. Conversely, vague delegation leads to conflicting interpretations and potential horizontal conflicts between ministries. Thus, delegation norms need to be regulated more systematically within the formal hierarchy.

At this point, public administration theory on coordination offers a framework for understanding the strategic position of Permenko. According to Fayol and classical organizational theory, coordination is a structural element that ensures synergy between units.[12] In the context of coordinating ministries, this function is operationalized through Permenko norms that bind the technical units under them. Thus, Permenko functions as an internal "rule-maker" with higher authority than ordinary sectoral regulations.[13] This position shows that, although formally equivalent to Permen, Permenko bears a substantial coordinative burden.

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[9] The external pattern is seen in Coordinating Ministerial Regulation Perekonomian No. 7/2021, which binds investors and technical ministries related to PSN, while the internal pattern is seen in Coordinating Ministerial Regulation Economic Affairs No. 1/2024 and Coordinating Ministerial Regulation PMK No. 4/2024, which only regulate the organizational structure of Kemenko.

[10] Avishai Benish et al., "Types of Administrative Burden Reduction Strategies: Who, What, and How," *Journal of Public Administration Research and Theory* 34, no. 3 (July 15, 2024): 349–58, https://doi.org/10.1093/jopart/muad028.

[11] Federica Fusi, "When Local Governments Request Access to Data: Power and Coordination Mechanisms across Stakeholders," *Public Administration Review* 81, no. 1 (2021), https://doi.org/10.1111/puar.13307. Marojahan JS Panjaitan, "The Legal Impacts And The Government'S Efforts To Respond To Electronic State Administrative Decisions Following The Enactment Of Law No. 11 Of 2020 On Job Creation", *Prophetic Law Review*, *4*(1) (2022), 110–130. https://doi.org/10.20885/PLR.vol4.iss1.art6

[12] See in Henri Fayol, "Planning, Organisation, Command , Coordination , Control," *Chatered Management Institute*, 2002.

[13] Tom Ginsburg, "Pitfalls of Measuring the Rule of Law," *Hague Journal on the Rule of Law* 3, no. 2 (2011): 269–80, https://doi.org/10.1017/S187640451120006X.

Administrative sanction provisions within coordination norms serve as enforcement mechanisms that ensure internal compliance. Article 5 of Permenko No. 7/2021, for example, stipulates budgetary delays for technical ministries that fail to adhere to the NSP list. Where such sanction clauses are omitted or vaguely drafted, coordination norms tend to be disregarded when confronted with entrenched sectoral interests. Thus, the inclusion of sanctions is not a mere procedural accessory but a core element in constructing legally binding coordination norms on par with statutory norms.

Despite its lack of formal status in the P3 Law, Permenko functions at a superior level—evident in its coordinative ministers' power to shape cross-ministerial policies—highlighting the need for P3 Law reform (via Presidential or Government Regulation) to formalize its position and prevent application inconsistencies. Delegated legislation also poses a separation-of-powers challenge: whereas the U.S. employs non-delegation principles and legislative vetoes (now weakened) and the EU uses comitology with delegated versus implementing acts, Indonesia lacks similar safeguards, leaving ministerial regulations vulnerable to criticism for insufficient legislative and judicial oversight.

The author argues that Coordinating Minister Regulation are technical implementing instruments of the parent law, with limited binding power on the relevant ministries. In contrast, coordinating minister regulation have the potential to have dual binding power: internally on the coordinating ministry and externally on cross-sectoral public policy. This difference stems from the source of authority: Permen are delegated directly by the law, while Coordinating Minister Regulation also receive their mandate through the Presidential Regulation establishing them. Thus, the urgency of formally recognizing Coordinating Minister Regulation becomes clear in order to close legal loopholes. This generalization leads to recommendations for normative reform.

The effectiveness of delegated norms critically hinges on the clarity of their mandate: when a law's preamble and delegating provisions specify concrete criteria, the resulting ministerial regulation (Permen) enjoys a robust legitimacy, whereas vague delegation frequently invites cross-interpretation and may precipitate judicial review,

as exemplified by the challenges to the Minister of Coordinating Economic Affairs Regulation No. 7/2021 concerning the delineation of internal versus external authority; this underscores the necessity of embedding specificity and a review mechanism in the legal framework.[14] Equally important is the legitimacy and trust fostered through inclusive drafting processes—Permen developed with input from experts and technical representatives across ministries tend to encounter less resistance, whereas those formulated in isolation often provoke pushback—highlighting the value of formal consultation mechanisms, for which models such as the European Union's comitology may offer instructive guidance.

The author posits that delegating regulatory authority to the coordinating minister demands two essential elements—first, a clearly defined delegation mandate enshrined in the law or a presidential regulation, and second, participatory control mechanisms during drafting—to counterbalance the risk of over-delegation; without such safeguards, Permenko remains legally fragile, hence reform of the P3 Law should mandate formal consultation and judicial review provisions. Empirically, Coordinating Minister for Economic Affairs Regulation No. 7/2021 includes a periodic evaluation clause involving technical ministries and stakeholders of National Strategic Projects, thereby instituting an internal review mechanism before any revision, whereas Coordinating Minister Regulations No. 1/2024 and No. 4/2024 lack external review mechanisms, permitting unilateral structural changes. This contrast underscores the linkage between participatory review mechanisms and the strength of external binding power, suggesting that embedding review clauses substantively enhances legitimacy and the effectiveness of implementation.

In comparison, Permen and Permenko are only binding on certain executive bodies.[15] The following flowchart illustrates the normative hierarchy and authority delegation pathways:

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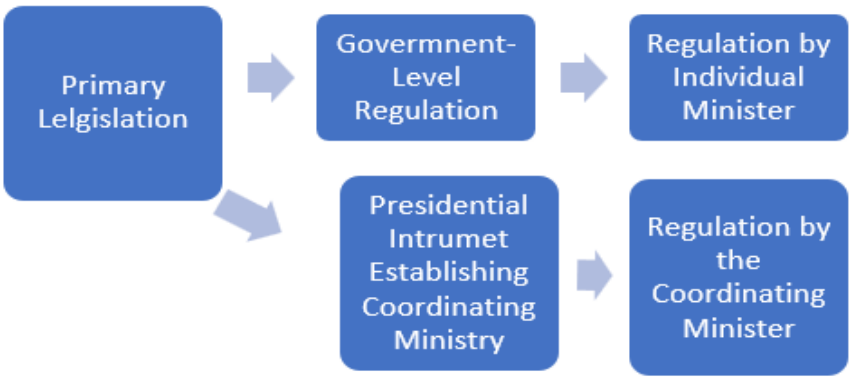
[14] Ran Hirschl, "Early Engagements with the Constitutive Laws of Others: Possible Lessons from Pre-Modern Religious Law," *Law and Ethics of Human Rights* 10, no. 1 (2016): 71–108, https://doi.org/10.1515/lehr-2016-0003.

[15] Kirti Datla and Richard L. Revesz, "Deconstructing Independent Agencies (and Executive Agencies) Recommended Citation DECONSTRUCTING INDEPENDENT AGENCIES (AND EXECUTIVE AGENCIES)," *Cornell Law Review* 98, no. 4 (2013): 769.

Diagram 1. Normative Hierarchy and Authority Delegation



Source: Independently processed by the author

This diagram shows that both Permen and Permenko derive their authority from either statutes or presidential regulations, but Permenko carries a superior functional role in cross-sectoral coordination.

Permen prescribe *implementation rules* that regulate ministry-specific procedures—such as business-licensing protocols or project-administration specifications—whereas Permenko set forth *coordination rules* that integrate technical policies across ministries into a comprehensive framework of *policy coherence*. The internal binding effect of Permenko includes organizational harmonization. These specific differences stem from their distinct authority sources: statutory delegation for Permen and presidential mandate for Permenko. Precise terminology prevents *jurisdictional overlap* and facilitates judicial interpretation.

The comparative analysis of the EU comitology framework and the U.S. legislative veto underscores that embedding political safeguards into delegated legislation enhances accountability and closes normative gaps.[16] Accordingly, formal consultation procedures and a DPR interpellation mechanism concerning Permenko should be instituted to reinforce interbranch oversight and deter both abuse and neglect of cross-sectoral delegation. Given the elevated functional status of Permenko despite its formal equivalence to ordinary ministerial regulations, the P3 Law must

[16] See in Jozef Čapla et al., "Overview of the Milk and Dairy Products Legislation in the European Union," *Legestic* 1 (2023), https://doi.org/10.5219/legestic.1; See also in Nolan McCarty, "Presidential Vetoes in the Early Republic: Changing Constitutional Norms or Electoral Reform?," *Journal of Politics* 71, no. 2 (2009), https://doi.org/10.1017/S0022381609090331.

explicitly clarify this hierarchy to align delegation practice with legal doctrine. Moreover, the U.S. non-delegation principle—and its legislative veto practice, whereby Congress can annul administrative rules exceeding the original mandate—demonstrates the value of clear constraints on executive discretion; similarly, the EU's implementing acts regime, which requires notifying the European Parliament and Council before enactment, suggests that notifying or enabling DPR review of Permenko would provide a vital accountability layer, ensuring that coordinative delegation remains consistent with the separation-of-powers and the legitimacy of administrative governance.

The author emphasizes that the effectiveness of delegated legislation in Indonesia hinges on the integrated interplay of normative frameworks, control mechanisms, and bureaucratic culture—yet current practice remains narrowly focused on norms alone—thus necessitating comprehensive reform to embed binding power and legitimacy. Empirical and theoretical findings affirm that ministerial regulations (Permen) function as legitimate internal technical instruments, while coordinating minister regulations (Permenko) serve essential cross-ministerial roles with external ramifications. To fortify their legitimacy and accountability, the formal normative hierarchy must be recalibrated through amendments to the P3 Law and related regulations, coupled with mandatory participatory drafting procedures and judicial review mechanisms. Such holistic reform, grounded in the principles of good governance and constitutionalism, will ensure that delegated legislation remains effective, transparent, and consistent with separation of powers imperatives.

Coordinating Dimensions and Normative Implications of the Coordinating Minister's Regulation

Policy changes across ministries in recent years have highlighted the need to identify regulatory gaps that allow for overlapping authority, particularly when various technical units issue conflicting regulations in addressing national strategic issues.[17]

[17] See in Simabura et al., "Ministerial Authority in Formulating Regulations Related to Presidential Lawmaking Doctrine"Op.Cit; See also in Hilaire Tegnan, Charles Simabura, and Saldi Isra, "Indonesian National Development Planning System Based on State Policy Guidelines (GBHN) : A Return to the Future?," *International Journal of Law Reconstruction* 2, no. 1 (2018): 31, https://doi.org/10.26532/ijlr.v2i1.2976.

This has led to the emergence of Permenko as a normative umbrella designed to unify policy direction, thereby providing legal certainty for the implementation of joint programs across sectors.[18] In the context of the National Economic Recovery program, for example, differences in interpretation of project eligibility criteria among technical ministries led to implementation gaps, causing some projects to be halted due to a lack of synchronization.[19] The Coordinating Minister for Economic Affairs Regulation No. 7/2021 then established a binding framework for all relevant ministries to refer to the agreed list of National Strategic Projects, thereby overcoming the previous policy fragmentation. The existence of these coordination norms essentially clarifies the legal status of each technical unit in carrying out its duties, as all project evaluation and approval procedures are harmonized within a single legally binding instrument.[20]

Even so, a very essential problem is the presence of the Coordinating Minister in the Ministry in Indonesia. As mentioned in the background of the problem in the chapter above, the author assumes that the Coordinating Minister has a higher position than other Ministers. The establishment of coordinating authority through a Permenko requires the formulation of specific and measurable authority, so that the norm does not merely become an appeal, but contains provisions on administrative sanctions for ministries or institutions that ignore coordination instructions.[21] This can be seen in Article 5 of the Coordinating Minister for Economic Affairs Regulation No. 7/2021, which explicitly regulates the mechanism for periodic evaluation and sanctions for budget delays for technical ministries that do not comply with the list of National Strategic Projects. The clarity of this sanction clause plays an important role in strengthening internal binding power, as ministries are bound by legal consequences if they deviate from the common policy.[22] If such clauses are omitted or vaguely

[18] See Article 14 of Law 39/2008 on State Ministries which reads: "In the interest of synchronization and coordination of the affairs of the Ministry, the President may establish a Coordinating Ministry."

[19] See in Budi Ispriyarso and Kadek Cahya Susila Wibawa, "Reconstruction of the National Economy Post-Covid-19 Pandemic: Critical Study of Tax Reforms in Indonesia," *Cogent Social Sciences* 9, no. 1 (2023), https://doi.org/10.1080/23311886.2023.2174517.

[20] Ahmad Wijaya, "Mekanisme Koordinasi Dan Singkronisasi Lembaga Kementerian Negara Suatu Praksis Menuju Kabinet Yang Efektif," *Al-Ahkam* 15, no. 2 (December 27, 2019): 69, https://doi.org/10.37035/ajh.v15i2.2191.

[21] Eleonora Herrera-Medina and Antoni Riera Font, "A Multiagent Game Theoretic Simulation of Public Policy Coordination through Collaboration," *Sustainability (Switzerland)* 15, no. 15 (2023), https://doi.org/10.3390/su151511887.

[22] See Lu Ning, "The Central Leadership, Supraministry Coordinating Bodies, State Council Ministries, and Party Departments," in *The Making of Chinese Foreign and Security Policy in the Era of Reform* (Stanford University Press, 2002), 39–60, https://doi.org/10.1515/9780804764490-006.

formulated, the effectiveness of coordinative norms is likely to decline due to the emergence of stronger sectoral interests. Therefore, the inclusion of sanction clause is a key element in the design of Permenko to ensure that compliance is not only voluntary. With a strict enforcement mechanism in place, coordinative norms gain the same practical legitimacy as statutory norms.

The participation of relevant actors in the formulation process of the Permenko also determines the level of compliance with the coordination norm, because when stakeholders engage substantively during drafting the regulation, they will have a sense of ownership which increases the willingness to comply.[23] Consultation forums involving technical ministries, academics, and civil society representatives produce more comprehensive considerations and delegation articles, so that coordination norms have broader applicability.[24] In contrast, a closed drafting process often creates resistance when the norm is implemented, as happened in the drafting of the Permenko PMK No. 4/2024, which was postponed due to the technical unit's objection to the task division clause. This participatory drafting practice reflects the principle of procedural fairness in administrative rulemaking, where the legitimacy of the process has a direct impact on the legitimacy of the output.[25] Therefore, formal consultation mechanisms should be made an absolute requirement in every drafting of Permenko.

A clear example is when the coordinating minister's regulation on Economic Affairs No. 7/2021 is supported by a Presidential Regulation on National Strategic Project, so that the coordination norms get a solid political and legal backing. Without a layer of supporting Presidential Regulations or Government Regulations, the norms of the coordinating minister's regulations are vulnerable to being viewed as mere internal guidelines and can be ignored when they intersect with sectoral regulations that have

[23] Eko Nursetiawan and Riris Ardhanariswari, "Meaningful Participation in Legislative Drafting as a Manifestation of a Democratic Rule of Law," *Jambe Law Journal* 5, no. 2 (December 3, 2023): 251–70, https://doi.org/10.22437/jlj.5.2.251-270.

[24] Alda Rifada Rizqi, "Meaningful Participation in Local Regulation Making in Indonesia: A Study of Legislative Law," *Rechtsidee* 10, no. 2 (2022), https://doi.org/10.21070/jihr.v11i0.801.

[25] Ahmad Ahmad and Novendri M. Nggilu, "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution," *Jurnal Konstitusi* 16, no. 4 (January 28, 2020): 785, https://doi.org/10.31078/jk1646.

a clearer legal framework.[26] This layering strategy is in line with multi-level governance practices in the European Union, where delegated acts and implementing acts always have endorsement from the highest executive level.[27] Thus, the stipulation of supporting government regulations or presidential regulations is not just a formality, but a critical instrument to close the legitimacy gap.[28] Therefore, every Permenko should ideally be accompanied by a supporting Presidential Regulation that explains its hierarchical position and scope.

Clarity of content of command in coordination norms has been shown to influence implementation effectiveness, as norms that specify tasks, limits of authority, and reporting procedures will make it easier for apparatus to adjust sectoral technical policies with cross-ministerial policies; this is evident in the Coordinating Minister for Economic Affairs' regulation No. 1/2024 on simplifying the class of State Civil Apparatus positions, where technical articles contain measurable performance indicators and reporting mechanisms. The absence of similar formulations in several other Permenko has led to different interpretations between units, potentially delaying implementation until official clarification occurs. Therefore, precision in drafting is an absolute aspect so that coordination norms do not cause ambiguity in authority.[29] Norms that contain performance indicators and reporting timelines facilitate monitoring and evaluation and strengthen internal accountability. As a consequence, clarity of command contributes greatly to the practical legitimacy of Permenko in the bureaucracy.

Technical policies derived from Permenko often undergo dynamic changes in line with field requirements, making adaptive regulation a fundamental necessity. In the case of National Strategic Projects, the list of projects regulated through Permenko is revised several times over a two-year period to align with national priorities and

[26] Wijaya, "Mekanisme Koordinasi Dan Singkronisasi Lembaga Kementerian Negara Suatu Praksis Menuju Kabinet Yang Efektif."Op.Cit.

[27] Chunbo Zhang et al., "An Overview of the Waste Hierarchy Framework for Analyzing the Circularity in Construction and Demolition Waste Management in Europe," *Science of the Total Environment*, 2022, https://doi.org/10.1016/j.scitotenv.2021.149892.

[28] Jamaludin Ghafur, "Demokratisasi Internal Partai Politik Era Reformasi: Antara Das Sollen Dan Das Sein," *Jurnal Hukum Ius Quia Iustum* 30, no. 1 (January 1, 2023): 1–25, https://doi.org/10.20885/iustum.vol30.iss1.art1.

[29] Jimly Asshiddiqie, *Perihal Undang-Undang* (Jakarta: Rajwali Pers, 2020).

implementation conditions in the regions. This frequency of revision reflects the responsiveness of coordination norms to contextual changes, while also demonstrating the capacity of the coordinating bureaucracy to engage in policy learning. Meanwhile, internal and structural coordination norms are relatively rarely revised because their scope is limited to the coordinating ministry organization. This pattern underscores that the design of regulations must account for issue complexity: multi-dimensional issues require periodic review mechanisms, while structural issues can be regulated statically.[30] In other words, tailoring the revision mechanism to the nature of the issue enhances both flexibility and stability in regulatory governance. The following are some aspects that need to be considered in the formulation of such policies:

1. Standardization

The efficacy of coordination norms is contingent upon both robust digital infrastructure and adequate human-capital development: absent an integrated information system,[31] disparate digital platforms across technical ministries impede comprehensive data aggregation and accurate evaluation of program achievements, underscoring the necessity of standardization and interoperability to operationalize coordination norms via reliable digital mechanisms and prevent siloed information.[32] Concurrently, capacity building for technical officials—through intensive training and multi-stakeholder workshops led by the coordinating ministry—enhances comprehension of substantive policies and procedural requirements, thereby mitigating bureaucratic resistance and avoiding the perception of regulations as mere administrative burdens. Consequently, each Coordinating Minister Regulation must prioritize IT architecture integration alongside clear command structures and systematic capacity development, ensuring that normative prescriptions align with supportive digital tools and skilled personnel to realize a cohesive, effective policy ecosystem.

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[30] Muhammad Mutawalli Mukhlis et al., "Narrating Recruitment Model for Legislator Candidates: Is It Fair?," *Jambe Law Journal* 7, no. 1 (2024): 91–126, https://doi.org/10.22437/home.v7i1.345.

[31] Frank H Easterbrook, "Presidential Lawmaking Powers," *Washington University Law Quarterly* 536 (1990).

[32] Margaret A. Young, "Implementing International Law: Capacitybuilding, Coordination and Control," *Cambridge International Law Journal* 12, no. 1 (2023), https://doi.org/10.4337/cilj.2023.01.01.

2. Accountability

Public participation in formulating coordination norms remains minimal due to the absence of a formal notice-and-comment phase, which precludes civil society from providing substantive input before a Permenko is enacted. Adopting a U.S.-style mechanism via an open public consultation portal could enhance regulatory quality, reveal unintended consequences, and bolster external legitimacy while reducing post-promulgation resistance. Embedding external accountability through mandatory periodic reporting clauses to the President and the House of Representatives would enable continuous oversight by political and public institutions, optimizing checks and balances and reinforcing transparency in cross-sectoral policy implementation. At the same time, instituting a special judicial review for Permenko—beyond mere procedural scrutiny—would authorize courts to assess the legitimacy of coordination authority provisions, resolve inter-ministerial interpretive disputes, and mitigate risks of delegated-power abuse; comparative models (e.g., Australia's express legislative mandate for its coordinating department) show that dedicated statutory frameworks can delineate authority boundaries, prescribe legislative oversight and judicial participation in drafting Permenko, reduce normative ambiguity, and enhance legal certainty in cross-sectoral governance.[33]

Political shifts within the cabinet can undermine coordination norms when incoming administrations allow existing Permenko to lapse or demand revisions to reflect new priorities, thereby disrupting regulatory continuity; embedding transitional clauses to keep norms in force until successors are adopted safeguards policy coherence across terms without protracted legislative processes. Equally important is terminological precision—incorporating a definitions section with clear, unambiguous concepts such as "macro policy synchronization" or "technical implementation control" minimizes interpretive disputes, enhances measurability in judicial review, and strengthens the coherence and resilience of coordination norms. Finally, integrating fiscal instruments with coordination norms—by explicitly regulating budgetary support and

[33] Lucas Flath, Jörg Kemmerzell, and Michèle Knodt, "Hydrogen Governance in Germany: A Challenge for Federal Coordination," *Regional and Federal Studies*, 2023, https://doi.org/10.1080/13597566.2023.2232735; Diana Perche, "Recalibrating the Machinery of Government for Indigenous Affairs: Towards a New Policy Design for Self-Determination," *Australian Journal of Public Administration* 77 (2018), https://doi.org/10.1111/1467-8500.12356.

establishing clear fiscal transfer mechanisms—ensures that financial enforcement is operational rather than theoretical, while external monitoring through independent bodies (e.g., Supreme Audit Agency or Ombudsman) provides objective audit reports on compliance and effectiveness; when their recommendations prompt normative revisions or administrative measures, a dynamic feedback loop emerges, embedding accountability and translating coordination norms into tangible outcomes.

3. Key Performance Indicators

The integration of quantitative benchmarks, such as clearly defined KPIs in the implementation section of each Permenko, is essential to transform coordination evaluations from subjective assessments into measurable outcomes—facilitating timely realization of inter-ministerial programs and enabling linkage to reward-and-punishment systems for civil servants—while harmonization with regional regulations must be explicitly addressed through coordinating clauses that clarify the normative relationship between national coordination policies and local implementation to prevent divergent interpretations; collectively, these elements—alongside standardized information systems, capacity-building initiatives, public participation mechanisms, fiscal alignment provisions, external monitoring arrangements, and legislative and judicial control safeguards—constitute an integrated coordination framework which,[34] when embedded through comprehensive reform of the P3 Law and its supporting regulations and informed by international best practices, will ensure that Minister of Coordination Regulations function as effective, accountable, and legitimate instruments that align delegation theory with the practical complexities of cross-sectoral governance.

The proposed integrated normative framework for the Permenko—covering the strengthening of the legal umbrella, legislative and judicial control mechanisms, standardization of information systems, bureaucratic capacity building, public participation, fiscal alignment, external monitoring, performance measurement, regional harmonization, and research partnerships—addresses the challenges of fragmentation

[34] Zainal Arifin Mochtar and Idul Rishan, "Autocratic Legalism: The Making of Indonesian Omnibus Law," *Yustisia* 11, no. 1 (2022), https://doi.org/10.20961/yustisia.v11i1.59296.

and inconsistency in cross-sectoral policies within Indonesia's legal system. By integrating these ten elements synergistically, the effectiveness, accountability, and legitimacy of coordination norms can be enhanced in accordance with the principles of good governance and constitutionalism, ensuring that the Minister of Coordinating Affairs Regulation is not merely an administrative instrument but a fundamental pillar in ensuring the unity of vision and implementation of national public policy.

To make the conceptual framework more practical, this article recommends explicitly enshrining the norm of executive delegation in statute or through a progressive interpretation of the 1945 Constitution of the Republic of Indonesia. That norm could be formulated as follows:

> "*The President may delegate the authority to coordinate cross-sectoral policies to the Coordinating Minister through laws or regulations binding on ministries and agencies, provided that it does not conflict with the Constitution, sectoral autonomy, and public accountability.*"

This formulation could be incorporated into an amendment to—or a systematic reinterpretation of—Article 4 (1) and Article 17 of the 1945 Constitution, which define the powers of the President and their aides. Thus, the Coordinating Minister would no longer be positioned merely as a sectoral liaison, but as the President's lawful delegate mandated to harmonize policy substantively. Consequently, any regulations issued by the Coordinating Minister would be required to satisfy formal-legal criteria and be accompanied by appropriate checks-and-balances in accordance with the principles of a democratic rule of law.

In the context of implementing regulations, this norm could be institutionalized—either through a new law on Integrated Government Governance or by amending Law No. 39 of 2008 on State Ministries—to include a dedicated chapter on the President's Coordinative Delegation to the Coordinating Minister, specifying the delegation mechanism, normative limitations, procedures for drafting coordinative regulations, and accountability and public-participation mechanisms for any cross-sectoral policy, thereby granting the previously fragmented coordination framework a strong constitutional and statutory basis subject to constitutional and administrative oversight. Codifying this executive delegation norm would underscore the

Coordinating Minister's strategic role in ensuring policy coherence, facilitate inter-agency synergy, mitigate overlapping authority, bolster public legitimacy of policies, and position Coordinating Minister regulations not merely as administrative tools but as constitutional pillars upholding an integrated governance model adaptive to developmental dynamics, marking a milestone in the renewal of executive-regulation studies in Indonesia.

CONCLUSION

This study has outlined how Permen are inherently valid products of legislative delegation but require clarity of delegation mandates and enforcement clauses, and how Permenko occupy a superior functional role in inter-ministerial policy synchronization despite their formal status not being explicitly recognized in Law No. 12/2011. Findings indicate that elements such as clarity of delegation, inclusion of sanctions, layering regulation, participatory drafting, and accountability mechanisms significantly determine the legitimacy and effectiveness of delegated norms at the executive level.

This article argues that: first, reinforced by an analysis of several Permen issued after the enactment of Law No. 6/2023, which shows a pattern of delegation of authority to formulate technical norms—confirming its status as "delegated legislation." The second argument is explored by referring to coordination theory in public administration, which views coordinating actors as having organizational and hierarchical legitimacy to control cross-ministerial policy processes. The main focus of the study lies on the concept of the binding power of delegated norms in Permen and the nature of coordination in Permenko within the framework of the Indonesian legal system.

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COMPETING INTEREST

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