

THEORETICAL DIFFERENCES BETWEEN THE FUND COORDINATION BODY (BKPM) AND THE REGIONAL GOVERNMENT REGARDING LICENSING

DIFERENÇAS TEÓRICAS ENTRE O ÓRGÃO DE COORDENAÇÃO DO FUNDO (BKPM) E O GOVERNO REGIONAL EM RELAÇÃO AO LICENCIAMENTO

Article received on: 8/8/2025

Article accepted on: 11/10/2025

Tommy Aditia Sinulingga*

*Faculty of Law, Universitas Sumatera Utara, Medan, Sumatera Utara, Indonesia

Orcid: <https://orcid.org/0009-0007-1878-0710>
tommyaditiasinulingga@gmail.com

Budiman Ginting*

*Faculty of Law, Universitas Sumatera Utara, Medan, Indonesia

Orcid: <https://orcid.org/0009-0001-3362-7753>
budimanginting@usu.ac.id

Ningrum Natasya Sirait*

*Faculty of Law, Universitas Sumatera Utara, Medan, Indonesia

Orcid: <https://orcid.org/0000-0002-0811-3523>
ningrum.sirait@gmail.com

Affila*

*Faculty of Law, Universitas Sumatera Utara, Medan, Indonesia

Orcid: <https://orcid.org/0009-0009-9761-6306>
afilla75@ymail.com

The authors declare that there is no conflict of interest

Abstract

A step in the capital planting and maintenance process is licensing. The regional government's ability to authorize capital raising permits as a necessary component of regional autonomy is based on Law No. 23 of 2014 on Regional Government. The research approach employs the normative jurisprudence technique, analyzing how applications are made and what leads to disputes of authority during the licensing procedure through a number of cases. Regarding the analysis's findings, deductions are made: 1). While the BKPM is derived from the Mandate under Law No. 25 of 2007 on Capital Plantations, the local government's authority under Act No. 23 of 2014 on Regional Government originates from the Delegation 2). Since the authority that the government of the region has been returned to the center through Online Single Submission, the responsibilities and liabilities of the local government are no longer the responsibility of the recipient of the delegation, but rather the responsibility of the central government to the regional government through the laws as autonomous regions. Therefore, absolute to the

Resumo

Licenciamento. A capacidade do governo regional de autorizar licenças para captação de recursos, como componente necessário da autonomia regional, baseia-se na Lei nº 23 de 2014 sobre Governo Regional. A abordagem da pesquisa emprega a técnica de jurisprudência normativa, analisando como as solicitações são feitas e o que leva a disputas de autoridade durante o processo de licenciamento por meio de diversos casos. Com base nas conclusões da análise, deduzem-se os seguintes pontos: 1) Enquanto o BKPM (Bureau of Kink Plantation and Mobility - Departamento de Planejamento e Gestão de Plantações) deriva do Mandato previsto na Lei nº 25 de 2007 sobre Plantações de Capital, a autoridade do governo local, nos termos da Lei nº 23 de 2014 sobre Governo Regional, origina-se da Delegação; 2) Uma vez que a autoridade do governo regional foi devolvida ao governo central por meio do Sistema Único de Submissão Online, as responsabilidades e obrigações do governo local não são mais de responsabilidade do destinatário da delegação, mas sim do governo



local government that makes the decision to grant a capital plantation license becomes the liability and liability of the regional government.

Keywords: Capital Plantation Permit. Regional Autonomy. Regional Authority.

central para com o governo regional, conforme previsto nas leis que regem as regiões autônomas. Portanto, a responsabilidade absoluta do governo local que toma a decisão de conceder uma licença para captação de recursos passa a ser do governo regional.

Palavras-chave: Licença para Plantação na Capital. Autonomia Regional. Autoridade Regional.

1 INTRODUCTION

It is not sufficient to comprehend Law No. 25 of 2007 on Capital Investment in isolation when it comes to direct investment in Indonesia. In the aftermath of Act No. 6 of 2023 on the Creation of Jobs ¹, there are numerous associated rules as well as derivative regulations that must be understood. Indonesia's Capital Enlargement laws address everything from licensing to investor rights and obligations, incentives, reporting and implementation monitoring, cooperation through international investigative roles, and methods for resolving investment disputes ².

One step in the maintenance of capital plantations is the licensing procedure. Foreign Capital Plantation (PMA) and Domestic Capital Planting (PMDN), which are consolidated under the federal government, are the licenses for maintaining investment plantations. Any agreement to raise capital issued by the Central Government, the Regional Government, the Special Economic Zone Administrator, the Free Trade Area and Free Harbour Enterprise Authority, or any other body with the authority under the laws and regulations is known as a permission. To be centralized, the center must have the authority granted to it by the local government ³.

¹ Aniek Tyaswati Wiji Lestari, "Implementation of Law Number 6 Of 2023 Concerning the Stipulation of PERPPU Number 2 of 2022 Concerning Job Creation into Law in Encouraging the Improvement of Micro, Small and Medium Enterprises (MSMEs) in The Field of E-Commerce," 2023, 197–208, https://doi.org/10.2991/978-2-38476-180-7_22.

² D. Collins, "Alternative Dispute Resolution for Stakeholders in International Investment Law," *Journal of International Economic Law* 15, no. 2 (June 1, 2012): 673–700, <https://doi.org/10.1093/jiel/jgs019>.

³ Maria Teresa Balaguer-Coll, Diego Prior, and Emili Tortosa-Ausina, "Decentralization and Efficiency of Local Government," *The Annals of Regional Science* 45, no. 3 (December 12, 2010): 571–601, <https://doi.org/10.1007/s00168-009-0286-7>.

A decentralized paradigm for the upkeep of regional administration was adopted by Act No. 23 of 2014 on Regional administration⁴. The power of government maintenance, including direct capital raising, is changing fundamentally in the decentralized system. The local government's power is not separate from the region's autonomy; rather, the regional government's opposition to regional autonomy is primarily evident in the way local governments exercise their authority to maintain and regulate their communities, with no differentiation made between these functions. The terms "regulating" and "managing" have distinct definitions. Regulating something entails establishing an abstract, broadly applicable legal norm, whereas taking care of something entails establishing a specific, concrete legal norm; that is, having the authority to control the emergence of legal products that are decision-making in nature and the power to take control of a legal product that is regulatory in nature. The division of government into absolute government affairs, competitive government, and general government is regulated by Article 10 of Act No. 23 of 2014 on Regional Government⁵. The central government and the local government have a tight working connection in the implementation of the license authority since it is a component of competing government affairs.

The Capital Harvesting Co-ordination Agency (BKPM) was established by the central government of Indonesia, utilizing the framework designed to expedite capital harvesting which is responsible for coordinating the application of capital raising policies and services in accordance with the provisions of the legislation's regulations. With the advent of an electronic capital plantation licensing system to streamline capital planting licence administration, capital plantation licences have undergone a revolutionary metamorphosis. It is anticipated that it will offer facilities to investors and business owners. The Online Single Submission (OSS) electronic licensing system has been made available by the government for this purpose. The OSS system now supports risk-based licensing in accordance with the spirit of the Labour Creation Act. Licensing aims to be certain, simple, efficient, and transparent through the OSS system.

⁴ Samuel B. Biitir, Baslyd B. Nara, and Stephen Ameyaw, "Integrating Decentralised Land Administration Systems with Traditional Land Governance Institutions in Ghana: Policy and Praxis," *Land Use Policy* 68 (November 2017): 402–14, <https://doi.org/10.1016/j.landusepol.2017.08.007>.

⁵ Ahmad Saleh et al., "Mapping of Local Government Authorities in Creative Economy Sector to Encourage Tourism Industry Development," 2022, <https://doi.org/10.2991/assehr.k.220102.085>.

While the Regional Monitoring Committee for Autonomous Implementation (KPPOD) has criticised the OSS system for its perceived decentralization of licensing authority, many local governments still see the OSS system as a means of expediting and enhancing capital raising and facilitating business, both individual and non-individual. According to Bagir Manan, in a nation with a decentralized organizational structure, the issue of how authority is shared between the national government and local governments emerges from the fact that local governments are also responsible for handling matters of autonomy in addition to the national government.

With the Labour Creation Act coming into effect on November 2, 2020, there is reason to be concerned about the future of regional autonomy in Indonesia as well as to reinforce centralization ⁶. The considerable autonomy afforded to local governments at the province and district/city levels under article 18 ⁷, paragraph (5) of the Constitution of the Republic of Indonesia of 1945 (UUD NRI 1945) has been evidently curtailed by some of the materials contained in the Copyright Act. Government regulations, including those pertaining to licensing, are being implemented in sectoral areas where the autonomous authority of the region handles government matters ⁸. The Labour Creation Act has crushed and eliminated the spirit of regional autonomy since some of the district government's weaknesses have been returned to the central government. At least four governors, along with their constituents, vehemently opposed the Act's approval. These include spatial planning, licensing, life management, and other related fields ⁹.

The background information stated above raises questions with the division of competing government affairs premise. After the Labour Creation Act was passed, the government's jurisdiction over the spatial arrangements inside its borders was completely transferred to the Center, including the capital plantation permits. The existence of distinct central and regional authorities in each sector further restricts the regional

⁶ Tunggul Anshari Setia Negara, Syahriza Alkohir Anggoro, and Imam Koeswahyono, "Indonesian Job Creation Law: Neoliberal Legality, Authoritarianism and Executive Aggrandizement Under Joko Widodo," *Law and Development Review* 17, no. 1 (February 26, 2024): 155–97, <https://doi.org/10.1515/ldr-2023-0022>.

⁷ Hani Sri Mulyani, Dadang Sudirno, and Abdul Hakim, "Driving Factors For Local Government Self-Financing Ability," *IOP Conference Series: Earth and Environmental Science* 748, no. 1 (April 1, 2021): 012028, <https://doi.org/10.1088/1755-1315/748/1/012028>.

⁸ Daniel J. Fagnant and Kara Kockelman, "Preparing a Nation for Autonomous Vehicles: Opportunities, Barriers and Policy Recommendations," *Transportation Research Part A: Policy and Practice* 77 (July 2015): 167–81, <https://doi.org/10.1016/j.tra.2015.04.003>.

⁹ Agung Indrajit et al., "Developing a Spatial Planning Information Package in ISO 19152 Land Administration Domain Model," *Land Use Policy* 98 (November 2020): 104111, <https://doi.org/10.1016/j.landusepol.2019.104111>.

authority with respect to the sectoral authorization authority. It agrees with Herman's assessment that there has been a narrowing, particularly in the mining and manufacturing sectors¹⁰. As a problem formula, how is the scope of the local government's affairs and the Coordination Authority for Capital Plantations in capital planting licences? This chapter will address the theoretical disagreements regarding authority related to capital plantation licences between the Regional Government and the Capital Plantation Coordination Agency (BKPM). Second, how do the local government and BKPM carry out their respective roles in putting the Capital Plantation License into effect?

2 METHOD

The literature that follows is the outcome of normative study using a conceptual and statutory framework. The Capital Plantation Coordination Agency (BKPM) and regional authority in capital plantation licenses are the subjects of this strategy, which is utilized to address concerns of scope of government affairs. We first make an inventory of the legal materials before organizing the ones we have collected in order to assess them. Finally, we analyze the systematized legal materials to produce a summary that addresses the issue of regional power in the capital plantation license.

3 DISCUSSION

3.1 When it comes to capital plantations licensing, regional government authority and capital plantation coordination authority

The state administration derives its ability to administer government from three sources: attribution, delegation, and mandate. Due to their connections to the concepts of aid, decentralization, and decentralization, those three actions are carried out in tandem. In line with the mandate of Articles 18, 18A, and 18B of the NRI UUD of 1945, government affairs become both the right and the obligation to update the autonomy of the region. Article 30 (2), which declares that "the local government organizes the

¹⁰ Chrysa Lamprinopoulou et al., "Application of an Integrated Systemic Framework for Analysing Agricultural Innovation Systems and Informing Innovation Policies: Comparing the Dutch and Scottish Agrifood Sectors," *Agricultural Systems* 129 (July 2014): 40–54, <https://doi.org/10.1016/j.agsy.2014.05.001>.

business of capital Crops which is in its jurisdiction, except for the affairs of the organization of capital grows which is a matter of the government," demonstrates the local government's authority to maintain capital crops ¹¹. Additionally, the province government is in charge of managing capital crops whose reach spans many districts or cities ¹², while the district or city administration is in charge of maintaining capital groves whose spread is limited to a single district or town.

The area of government affairs that falls under the purview of capital cultivation is :

- a. Capital planting is associated with a high risk of environmental damage and non-renewable natural resource depletion;
- b. Putting money into a sector of the economy that receives a lot of national attention;
- c. Capital support for the purpose of bringing together and tying together areas that are cross-provincial or cross-territorial;
- d. Obtaining funding for the execution of national security and defense plans;
- e. foreign capital plants and capital investors that use foreign capital that comes from the government of another state according to agreements that the governments of those two states have concluded; and
- f. Other areas where capital planting occurs that, by law, are government affairs ¹³.

The rules and regulations must be in line with the principles guiding the behavior of both the national and regional governments. Both central and regional government agencies have certain powers and responsibilities when it comes to managing the region. Absolute government, competitive government, and general government are the three categories of government concerns listed in Article 9 (1) of Act No. 23 of 2014 on Regional Government. However, in the case of competing governments, these governments are split between the national government, the province, and the district/city area where the region receives the competing government as the foundation for implementing regional autonomy. However, the issue of the general government is the government itself, namely the President's authority as head of state.

¹¹ Saitiel Kulaba, "Local Government and the Management of Urban Services in Tanzania," in *African Cities in Crisis* (Routledge, 2019), 203–45, <https://doi.org/10.4324/9780429048227-8>.

¹² Henry W. Morton, "The Contemporary Soviet City," in *The Contemporary Soviet City* (Routledge, 2017), 3–24, <https://doi.org/10.4324/9781315495934-2>.

¹³ Loet Leydesdorff, "Triple Helix of University-Industry-Government Relations," in *Encyclopedia of Creativity, Invention, Innovation and Entrepreneurship* (Cham: Springer International Publishing, 2020), 2356–64, https://doi.org/10.1007/978-3-319-15347-6_452.

Article 10 (1) of Law No. 23 of 2014 specifies that the following domains fall under the purview of the government's absolute authority¹⁴: a. foreign policy; b. security defense; c. justice; d. monetary and national fiscal; and e. religion. According to article 10's requirements, the central government's authority is limited to the five (five) items mentioned above. Complementary and elective government affairs are the competing government affairs that fall under the jurisdiction of the local government, according to Law No. 23 of 2014 on Regional Governance, Article 11. In this instance, the following are the areas under local government jurisdiction that are referred to as obligatory government affairs and are related to basic services: a. education; b. health; c. public work and space planning; d. residential areas and people's housing; e. peace, order, and public protection; and f. social.

Article 12, paragraph (2), governs the local government's rights referred to as compulsory government affairs unrelated to fundamental services. The labor force, women's empowerment and child protection, food, land, habitat, f. population administration and civil registration, g. community and village empowerment, h. population control and family planning, i. connections, j. communications and informatics, k. cooperation, small and medium enterprises, l. capital cultivation, m. youth and sports, n. statistics, o. temple, p. culture, q. library, and r. archives are among the things mentioned. Government affairs encompass a range of areas, such as maritime and fishing, tourism, agriculture, forestry, energy and mineral resources, trade, industry, and transmigration. According to Law No. 23 Year 2014 on the Regional Government, which states that the provincial government can provide services for the administration of capital harvesting, including cross-district/city, and that the district/town government is responsible for providing administrative capital harboring based on accountability, efficiency, and externality principles as well as national statistical interests, the conclusion of the maintenance of capital harvesting has been delegated to the local government in matters of competitive government.

Due to this, there is legal ambiguity in the allocation of authority; the local government also has authority in capital plantation by Law No. 23 of 2014 on Regional Government, but the central government has authority under Act No. 25 of 2007 on

¹⁴ Matthijs Bogaards, "De-Democratization in Hungary: Diffusely Defective Democracy," *Democratization* 25, no. 8 (November 17, 2018): 1481–99, <https://doi.org/10.1080/13510347.2018.1485015>.

Capital Plantation. According to the theory of authorities, if the powers to be carried out are disregarded, this can lead to issues later on when the authorization granted by the central government and the regional government is broken down. The gaps in the Act between the Act of Regional Government and the Law on Capital Plantations result in a lack of legal certainty regarding the purpose of capital planting. Other issues could arise if the central government has granted its authority but the regional government is unwilling to do so. This can be problematic because it takes a long time to resolve and can.

The Capital Plantation Coordination Agency (BKPM) receives the division of authority for the upkeep of capital investors. The BKPM also takes on the role of coordinator of capital plantation policy, facilitating coordination between government agencies, government and the Bank of Indonesia, government and local government, and local government and regional government. Additionally, BKPM is required to act as an investor advocate group, ensuring, for example, a high-cost economy. The President is the direct boss of BKPM, an Indonesian non-departmental government agency (LPND) entrusted with creating policies for capital raising both domestically and internationally. However, BKPM gets daily technical instructions from the Minister of Finance and Industry Economic Coordinator, and the Minister or Secretary of State coordinates financial administration (Mensesneg). The Capital Plantation Coordination Agency is empowered to: a. perform duties and oversee the application of policies pertaining to capital plantations; b. research and recommend a policy for capital planting services; c. Create guidelines, standards, and practices for carrying out capital cultivation services and activities. d. expand the opportunities and potential for capital-planting in the area by giving businesses more power; e. create a map of Indonesia's capital planning; f. encourage capital planning; g. grow the sector of capital-planting businesses through capital plantations, among other things, by strengthening partnerships, boosting competitiveness, and encouraging healthy enterprise competition; h. assist in resolving various issues and providing consultation for capital investors carrying out capital conservation activities; i. organize domestic capital-investors who carry out contemporary capital activities outside of Indonesia; and adopt a single-door and integrated service.

The Capital Plantation Coordination Body would incorporate direct representatives from every sector and region related to authorities with competence and

authority in the performance of its tasks and functions as well as the integrated one-door service. The laws empower BKPM to carry out its duties more easily by designating representatives at the ¹⁵ local, regional, and provincial levels; the government creates BKPM. Presidential Decree No. 20 of 1973 on the Establishment of the Institution of BKPM serves as the foundation for this decision. The governor of the representative province appoints the chairman of the regional investment coordination council (BKPM).

The government has the legal authority to prepare and issue capital plantation permits. For an act to be considered lawful, it must possess power granted by the rule of law or be grounded in legality. The act is nullified in the absence of authority consequently ¹⁶, the authority granted by the rules of the applicable laws must be the foundation for creating and issuing the authorization of capital plantations, as the absence of such authority renders the authorization's provisions null and void. In terms of legal authority, Indonesian statehood has been dominated by two systems throughout its history: the decentralized system and the centralization system. From birth to death, the state has always been an empirical organization that has adhered to a centralized structure or foundation. An organization as big and intricate as the Indonesian State Organization cannot be reduced to a single core name.

The upkeep of some government functions would not be entirely effective if it were solely based on this ¹⁷. Decentralization is therefore also necessary, even though this does not imply giving up on the centralization's foundation. Decentralization cannot occur without centralization, in the words of Herbert H. Werlin. Centralization is the foundation of every organization. In an organization, centralization is a fundamental concept. A main source of authority, direction, command, and responsibility must exist inside an organization. Centralization is organized or adopted by the State from its inception as an entity. Since the declaration of independence on August 17, 1945, centralization has only been carried out by the Union State of the Republic of Indonesia, a nation-state structure.

¹⁵ Muhammad Insa Ansari, "Electronic Business Licensing in Indonesia," *Jurnal Penelitian Pos Dan Informatika* 9, no. 2 (December 30, 2019): 105–24, <https://doi.org/10.17933/jppi.v9i2.273>.

¹⁶ Michael Zürn, Martin Binder, and Matthias Ecker-Ehrhardt, "International Authority and Its Politicization," *International Theory* 4, no. 1 (March 15, 2012): 69–106, <https://doi.org/10.1017/S1752971912000012>.

¹⁷ Michal Kalecki, "Political Aspects of Full Employment," in *The Political Economy* (Routledge, 2021), 27–31, <https://doi.org/10.4324/9781315495811-4>.

Bagir Manan posits that there are several benefits associated with centralization:

- a. it establishes the basis for the political unity of the populace (depolitieke eenheid van de gemneenshap);
- b. it can serve as a tool to reinforce the sense of unity among the people (versteking van het saamharigheidsgevoel);
- c. it fosters unity in the application of the law (de eeheid can rechtbeding);
- d. centralization leads to the consolidation of power (bundeling can krachen);
- e. in some situations, centralization may prove to be more effective ¹⁸.

Generally speaking, the legal rules that underpin these licenses clearly establish the government's authority to grant such permissions. However, Marcus Luckman claims that in practice, the government's jurisdiction over licenses is discretionary power or freedom, meaning that the government has the capacity to independently assess things pertaining to permits, such as the following:

- a. Under what circumstances can the applicant be granted a permit;
- b. How to take these circumstances into account;
- c. The limitations imposed by the relevant laws' provisions can give rise to legal ramifications that emerge from giving or declining permission;
- d. What protocols ought to be adhered to or ready when the decision is made, whether permission is granted or denied ¹⁹.

Decentralization, from the perspective of statehood, is the shift of political authority from the national center to the regions that manage their own affairs. Only when there is a surrender or Ionverdragen of governmental authority and dispersed autonomy and assistance tasks can decentralization be accomplished. (zelfsbestuur). C.V. Van Der Pot categorizes statehood's decentralization into two categories : (a) The dominance of territorial decentralization, or territoriale decentralisatie, to manage and care for the households in their particular regions. (b) Functional decentralization, or functionale décentralisatie, is the domination of authority over certain matters and the pursuit of particular objectives. Decentralization, as defined by C.V. Van Der Pot and Philipus M. Hadjon, is the process by which lower levels of government territorial and functional units alike acquire the authority to control and oversee governmental matters in addition to the central government. Rondinelli defines decentralization as devolution, delegations

¹⁸ Horst Treiblmaier, "Optimal Levels of (de)Centralization for Resilient Supply Chains," *The International Journal of Logistics Management* 29, no. 1 (February 12, 2018): 435–55, <https://doi.org/10.1108/IJLM-01-2017-0013>.

¹⁹ Damiano Di Francesco Maesa, Paolo Mori, and Laura Ricci, "Blockchain Based Access Control," 2017, 206–20, https://doi.org/10.1007/978-3-319-59665-5_15.

to institutions with some degree of autonomy, subordinations to non-governmental organizations, and privatization:

- a. The division of labor from the central ministry to its local representatives is known as decentralization. There is no decision-making power or discretion to implement this transfer.
- b. Devolution is the transfer of some central government responsibilities to newly independent governmental entities.
- c. Delegation is the transfer of administrative and decision-making power to groups of entities not directly under the central ministry's jurisdiction. Organizations that carry out certain tasks with a degree of autonomy, such as: BUMN.
- d. The act of shifting power from the government to private entities is known as privatization, or the expropriation of non-governmental organizations, LSM, cooperatives ²⁰, BUMN and BUMD, which merged to form the PT. Chamber of Commerce and Industry, and other associations.

The Capital Plantation Act establishes the government's jurisdiction over capital plantations, meaning that the central government's centralization power is: (a) capital planning concerning non-renewable natural resources that pose a significant risk of environmental harm; (b) capital building in sectors of the economy that are highly prioritized nationally; (c) capital planting concerning the role of uniting and connecting inter-territorial or cross-provincial scope; (d) capital building concerning the execution of national defense and security strategies; (e) foreign capital planning and capital planning using foreign capital, which originates from the Government of another State, according to agreements reached between the Government and Government of other State; and (f) other areas of capital planning that fall within the purview of the Government. By organizing it internally, assigning it to the governor as deputy government, or entrusting the district/city government, the government is able to exercise its jurisdiction centrally. In this instance, the government gives the local government specific legal permission to transfer jurisdiction, and the region is then given credit for the federal government's enclosure of that authority.

²⁰ Alvin A. Camba, "The Politics of Resistance in the Neoliberal Mining Regime," in *Handbook of the International Political Economy of Energy and Natural Resources* (Edward Elgar Publishing, 2018), <https://doi.org/10.4337/9781783475636.00026>.

3.2 Liabilities and obligations of BKPM and the District Government in carrying out the fashion plantation license's authority

Article 87 of the Government Administration Act states that a written decision and a concrete action can also be the subject of a dispute in the form of a decision. Decisions that could have legal ramifications are included in permissions. The decision specified in article 1, paragraph 9 of Law No. 51 of 2009 on the Second Amendment of Act No. 5 of 1986 on the State Court of Commerce (henceforth referred to as the TUN Court Act) is the subject of controversy. It can be addressed in the following ways: A written decision that is: a) issued by the Body or Office of TUN; b) comprises TUN legal action; c) based on the rules of the relevant laws; d) concrete, specific, and final; e) has legal ramifications for an individual or civil legal body ²¹.

It can be categorized as significant points for evaluating the dispute's object based on the article. A statement in writing, not restricted to the formal format of a decision but meant for the ease of proof. The term "determination" refers, in addition to the need for written form, to the terms of the legal relationship established in the pertinent TUN decision. These terms may include duties to do or not do something, to permit something, to provide a subsidy or assistance, to grant permission, or to grant a status ²². Second, it is given out by a State enterprise agency or official to assess how well the State enterprise act is being implemented based on how well the agency or official is doing its duties. Furthermore, it encompasses not just government-affiliated official institutions but also non-executive and private entities. Thirdly, a legal act taken by a body or official of the state company is based on the regulations of the laws that are now in effect; that is, the decision was made based on the rules that were in effect at the time the decision was made. One of the pillars supporting the government's upkeep, the legal basis, is congruent with the TUN legal action clause that is put into effect based on legislative rules (also the bestuur's wetmatigheid). Fourthly, a decision needs to be observable and quantifiable since it is specific, unique, and final. As a result of a particular legislation, the ultimate interpretation that should not be carried out with subsequent decisions and the

²¹ John R. Commons, *Legal Foundations of Capitalism*, ed. John R. Commons (Routledge, 2017), <https://doi.org/10.4324/9780203787373>.

²² Gerilyn Slicker and Jason T. Hustedt, "Predicting Participation in the Child Care Subsidy System from Provider Features, Community Characteristics, and Use of Funding Streams," *Children and Youth Services Review* 136 (May 2022): 106392, <https://doi.org/10.1016/j.childyouth.2022.106392>.

consequences of the law emerging and intended by issuing a written provision must already be true. Fifth, the law's effects on the populace and the civil law body alter the dynamic of the current legal relationships²³.

As a guideline for carrying out the court's duties, the Supreme Court issued Edaran No. 4 Year 2016 on the Implementation of the Formulars of the Outcome of the Plenary Meeting of the Chamber of the High Court in 2016 and declared that a decision made by a state enterprise is considered "final in the broad sense" if it has legal implications despite requiring approval from a higher authority or other authority (e.g. permission on capital-planting facilities by the Capital Plantation Coordination Agency (BKPM), capital-plantation permission, etc.).

According to Philipus M. Hadjon, granting permission establishes a specific legal relationship, and permission itself is presented as a decision that makes a law. Adrian Sutedi who groups authorization as a constitutive provision, a provision that creates a new right²⁴ that previously was not owned by someone whose name is stated in the provision. (Remarks that something was present but not geoorloofd at the time). The Capital Plantation Act's Chapter XII governs the coordination and implementation of the capital planting policy. Article 27, paragraph 1, specifies that the government is in charge of coordinating the capital plantation policy, including between government agencies and the Bank of Indonesia, local governments, and other government agencies²⁵. The Coordinating Agency for Capital Plantations oversees the capital planting policy's execution, and in this instance, the president has direct authority over the head of BKPM. It is evident from the aforementioned clause that the BKPM is given authority by mandate²⁶.

The Work Creation Act, which was previously governed by the OSS Government Regulation No. 24 of 2018, has resulted in significant changes to the system for issuing

²³ Pitirim Sorokin and Michel P. Richard, *Social and Cultural Dynamics* (Routledge, 2017), <https://doi.org/10.4324/9781315129433>.

²⁴ Anis Mashdurohatun and Gunarto, "Trademark Legal Protection against SMEs in Enhancing Global Competitiveness Based on the Values of Pancasila," in *Proceedings of the 2nd International Conference on Indonesian Legal Studies (ICILS 2019)* (Paris, France: Atlantis Press, 2019), <https://doi.org/10.2991/icils-19.2019.17>.

²⁵ Monir Mir and Wahyu Sutiyono, "Public Sector Financial Management Reform: A Case Study of Local Government Agencies in Indonesia," *Australasian Accounting, Business and Finance Journal* 7, no. 4 (2013): 97–117, <https://doi.org/10.14453/aabfj.v7i4.7>.

²⁶ Mahdiah Aulia, Aulia Fitria Yustiardi, and Reni Oktavia Permatasari, "An Overview of Indonesian Regulatory Framework on Islamic Financial Technology (Fintech)," *Jurnal Ekonomi & Keuangan Islam* 6, no. 1 (January 1, 2020): 64–75, <https://doi.org/10.20885/jeki.vol6.iss1.art7>.

capital plantation permits in Indonesia. BKPM is also subject to regulations under Presidential Regulations No. 64 of 2021 on the Capital Plantation Coordination Agency. Based on these regulations, BKPM issued Regulations of Capital Planting Coordination Board No. 3 of 2021 concerning the Electronic Enterprise Risk-Based Licensing System on Online Single Submission. Drawing on the notion of the division of central government and provisions pertaining to regional affairs Trade and industry are classified as competitive government affairs, or government of choice matters, under Article 12 paragraph (3) of Law No. 23 Year 2014 on the Regional Government. While article 13 of the Act No. 23 of 2014 on Regional Government divides competitive government affairs between the central and local governments based on the principles of accountability of efficiency, externality, and national strategic interests, online single submission gives the central government the authority to issue capital plantation permits ²⁷.

The delegation of responsibilities to mandataris, or those who receive mandates, to carry out decisions on behalf of the State administration, is known as a mandate. The mandate still bears responsibility. This mandate is the transfer of authority from higher government bodies and/or officials to lower government agencies and/or officials with the responsibility, as stated in article 1, paragraph 24 of Act No. 30 of 2014 on Government Administration. The plaintiff's responsibility is retained by the mandator. A mandate is obtained by government officials and/or agencies when: (a) tasks delegated to them by higher-ranking government officials or agencies; and (b) carrying out regular duties. Unless otherwise specified in the requirements of the laws and regulations, government bodies and/or officials may assign mandates to other government bodies or officials under them. The name of the authority and/or government official who issued the mandates must be mentioned by the authorities and/or officials who receive them. Except as otherwise provided by the laws and regulations, the body and/or government officials who issue mandates may exercise the authority vested in them. When bodies or government officials obtain authority through an unauthorized mandate, they may make strategic decisions and/or take actions that impact changes in the legal status of various aspects of the government, such as organization, staffing, and budget allocation. This can lead to ineffectiveness in maintaining the government.

²⁷ Paul K. Gellert and Andiko, "The Quest for Legal Certainty and the Reorganization of Power: Struggles over Forest Law, Permits, and Rights in Indonesia," *The Journal of Asian Studies* 74, no. 3 (August 18, 2015): 639–66, <https://doi.org/10.1017/S0021911815000613>.

4 CONCLUSION

Two inferences can be made from the talks that were previously announced: 1) The Mandate grants the BKPM jurisdiction under Act No. 25 of 2007 on Capital Plantations, whereas the Delegation grants the local government authority under Law No. 23 of 2014 on Regional Government; 2. The authority that the local government has over the region is obtained through laws designating autonomous regions, and as a result, absolute authority over the local government that grants a capital plantation license becomes the liability and liability of the regional government. However, since the authority of the region has been returned to the center through Online Single Submission, the responsibility for the recipient of the delegation has replaced the local government's obligations. While the BKPM's responsibilities and liabilities serve as the source of authority by mandate, the mandate also suggests that government agencies, officials, and/or government administration are ineffective in carrying out their duties, which gives the mandator permanent authority.

REFERENCES

- Ansari, Muhammad Insa. "Electronic Business Licensing in Indonesia." *Jurnal Penelitian Pos Dan Informatika* 9, no. 2 (December 30, 2019): 105–24. <https://doi.org/10.17933/jppi.v9i2.273>.
- Aulia, Mahdiah, Aulia Fitria Yustiardi, and Reni Oktavia Permatasari. "An Overview of Indonesian Regulatory Framework on Islamic Financial Technology (Fintech)." *Jurnal Ekonomi & Keuangan Islam* 6, no. 1 (January 1, 2020): 64–75. <https://doi.org/10.20885/jeki.vol6.iss1.art7>.
- Balaguer-Coll, Maria Teresa, Diego Prior, and Emili Tortosa-Ausina. "Decentralization and Efficiency of Local Government." *The Annals of Regional Science* 45, no. 3 (December 12, 2010): 571–601. <https://doi.org/10.1007/s00168-009-0286-7>.
- Biitir, Samuel B., Baslyd B. Nara, and Stephen Ameyaw. "Integrating Decentralised Land Administration Systems with Traditional Land Governance Institutions in Ghana: Policy and Praxis." *Land Use Policy* 68 (November 2017): 402–14. <https://doi.org/10.1016/j.landusepol.2017.08.007>.
- Bogaards, Matthijs. "De-Democratization in Hungary: Diffusely Defective Democracy." *Democratization* 25, no. 8 (November 17, 2018): 1481–99. <https://doi.org/10.1080/13510347.2018.1485015>.
- Camba, Alvin A. "The Politics of Resistance in the Neoliberal Mining Regime." In *Handbook of the International Political Economy of Energy and Natural Resources*.

- Edward Elgar Publishing, 2018. <https://doi.org/10.4337/9781783475636.00026>.
- Collins, D. “Alternative Dispute Resolution for Stakeholders in International Investment Law.” *Journal of International Economic Law* 15, no. 2 (June 1, 2012): 673–700. <https://doi.org/10.1093/jiel/jgs019>.
- Commons, John R. *Legal Foundations of Capitalism*. Edited by John R. Commons. Routledge, 2017. <https://doi.org/10.4324/9780203787373>.
- Fagnant, Daniel J., and Kara Kockelman. “Preparing a Nation for Autonomous Vehicles: Opportunities, Barriers and Policy Recommendations.” *Transportation Research Part A: Policy and Practice* 77 (July 2015): 167–81. <https://doi.org/10.1016/j.tra.2015.04.003>.
- Francesco Maesa, Damiano Di, Paolo Mori, and Laura Ricci. “Blockchain Based Access Control,” 206–20, 2017. https://doi.org/10.1007/978-3-319-59665-5_15.
- Gellert, Paul K., and Andiko. “The Quest for Legal Certainty and the Reorganization of Power: Struggles over Forest Law, Permits, and Rights in Indonesia.” *The Journal of Asian Studies* 74, no. 3 (August 18, 2015): 639–66. <https://doi.org/10.1017/S0021911815000613>.
- Indrajit, Agung, Bastiaan van Loenen, Hendrik Ploeger, and Peter van Oosterom. “Developing a Spatial Planning Information Package in ISO 19152 Land Administration Domain Model.” *Land Use Policy* 98 (November 2020): 104111. <https://doi.org/10.1016/j.landusepol.2019.104111>.
- Kalecki, Michal. “Political Aspects of Full Employment.” In *The Political Economy*, 27–31. Routledge, 2021. <https://doi.org/10.4324/9781315495811-4>.
- Kulaba, Saitiel. “Local Government and the Management of Urban Services in Tanzania.” In *African Cities in Crisis*, 203–45. Routledge, 2019. <https://doi.org/10.4324/9780429048227-8>.
- Lamprinopoulou, Chrysa, Alan Renwick, Laurens Klerkx, Frans Hermans, and Dirk Roep. “Application of an Integrated Systemic Framework for Analysing Agricultural Innovation Systems and Informing Innovation Policies: Comparing the Dutch and Scottish Agrifood Sectors.” *Agricultural Systems* 129 (July 2014): 40–54. <https://doi.org/10.1016/j.agsy.2014.05.001>.
- Lestari, Aniek Tyaswati Wiji. “Implementation of Law Number 6 Of 2023 Concerning the Stipulation of PERPPU Number 2 of 2022 Concerning Job Creation into Law in Encouraging the Improvement of Micro, Small and Medium Enterprises (MSMEs) in The Field of E-Commerce,” 197–208, 2023. https://doi.org/10.2991/978-2-38476-180-7_22.
- Leydesdorff, Loet. “Triple Helix of University-Industry-Government Relations.” In *Encyclopedia of Creativity, Invention, Innovation and Entrepreneurship*, 2356–64. Cham: Springer International Publishing, 2020. https://doi.org/10.1007/978-3-319-15347-6_452.

- Mashdurohatun, Anis, and Gunarto. “Trademark Legal Protection against SMEs in Enhancing Global Competitiveness Based on the Values of Pancasila.” In *Proceedings of the 2nd International Conference on Indonesian Legal Studies (ICILS 2019)*. Paris, France: Atlantis Press, 2019. <https://doi.org/10.2991/icils-19.2019.17>.
- Mir, Monir, and Wahyu Sutyono. “Public Sector Financial Management Reform: A Case Study of Local Government Agencies in Indonesia.” *Australasian Accounting, Business and Finance Journal* 7, no. 4 (2013): 97–117. <https://doi.org/10.14453/aabfj.v7i4.7>.
- Morton, Henry W. “The Contemporary Soviet City.” In *The Contemporary Soviet City*, 3–24. Routledge, 2017. <https://doi.org/10.4324/9781315495934-2>.
- Mulyani, Hani Sri, Dadang Sudirno, and Abdul Hakim. “Driving Factors For Local Government Self-Financing Ability.” *IOP Conference Series: Earth and Environmental Science* 748, no. 1 (April 1, 2021): 012028. <https://doi.org/10.1088/1755-1315/748/1/012028>.
- Saleh, Ahmad, Candra Perbawati, Malicia Evendia, and Martha Riananda. “Mapping of Local Government Authorities in Creative Economy Sector to Encourage Tourism Industry Development,” 2022. <https://doi.org/10.2991/assehr.k.220102.085>.
- Setia Negara, Tunggul Anshari, Syahriza Alkohir Anggoro, and Imam Koeswahyono. “Indonesian Job Creation Law: Neoliberal Legality, Authoritarianism and Executive Aggrandizement Under Joko Widodo.” *Law and Development Review* 17, no. 1 (February 26, 2024): 155–97. <https://doi.org/10.1515/ldr-2023-0022>.
- Slicker, Gerilyn, and Jason T. Hustedt. “Predicting Participation in the Child Care Subsidy System from Provider Features, Community Characteristics, and Use of Funding Streams.” *Children and Youth Services Review* 136 (May 2022): 106392. <https://doi.org/10.1016/j.childyouth.2022.106392>.
- Sorokin, Pitirim, and Michel P. Richard. *Social and Cultural Dynamics*. Routledge, 2017. <https://doi.org/10.4324/9781315129433>.
- Treiblmaier, Horst. “Optimal Levels of (de)Centralization for Resilient Supply Chains.” *The International Journal of Logistics Management* 29, no. 1 (February 12, 2018): 435–55. <https://doi.org/10.1108/IJLM-01-2017-0013>.
- Zürn, Michael, Martin Binder, and Matthias Ecker-Ehrhardt. “International Authority and Its Politicization.” *International Theory* 4, no. 1 (March 15, 2012): 69–106. <https://doi.org/10.1017/S1752971912000012>.

Authors' Contribution

All authors contributed equally to the development of this article.

Data availability

All datasets relevant to this study's findings are fully available within the article.

How to cite this article (APA)

Sinulingga, T. A., Ginting, B., Sirait, N. N., & Affila. (2025). THEORETICAL DIFFERENCES BETWEEN THE FUND COORDINATION BODY (BKPM) AND THE REGIONAL GOVERNMENT REGARDING LICENSING. *Veredas Do Direito*, 22(7), e223656. <https://doi.org/10.18623/rvd.v22.n7.3656>