



## Supervisory authority over environmental approval by the central government or regional government based on the principle of *Contrarius Actus*

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### Abstract

Environment life is one of the part from affairs government concurrent mandatory that is not related with service basic . In normative environment life arranged in Constitution Number 32 of 2009 concerning Protection and Management Environment , which as a number of chapter has changed with Constitution creation work . As implementation from Regulation Government In lieu of Law Number 2 of 2022 concerning Job Creation, Law Number 2 of 2022 concerning Job Creation was issued Regulation Government Number 5 of 2021, which then with walking time regulation the revoked with Regulation Government Number 28 of 2025. However formation regulation the No walk should and should be done harmonization as well as synchronization more continue , because Articles 263 to 285 have the potential occurrence confusion public in matter This entrepreneurs and passengers overlapping legal norms . Different with study previously discussed about institution executives who do revocation mass organizations in accordance with principle *Contrarius Actus*. Research This aim For know supervision to Agreement The environment in which the document is the environment published by the Regional Government , the Central Government also still have supervision as per in accordance with principle *Contrarius Actus* . Research methods the use juridical normative for formulate results study.

**Keywords:** Supervision, *Contrarius Actus*, overlapping overlap

### Introduction

The principle of *Contrarius Actus* proposed by William Livesey Buddick, principle This confirm that established obligations through a serious statement only can revoked with in a serious way too that is through a series of words or action formally equivalent with obligations created (Buddick, 2024). Principle of *Contrarius Actus* in law administration interpreted as something condition laws that arise from the actions of bodies/ officials government (with regulation or Decision) only can changed or canceled by the agency/ official the government that gave birth condition law the with the same action that is with regulation or the same Decision at the time give birth to condition the law that will changed or canceled. With Thus, the principle *Contrarius Actus* No only in law state administration , but also relevant with development regulations in Indonesia in particular after existence publishing Constitution creation Work .

In 2022 it was enacted A Regulation Government Replacement Constitution Number 2 of 2022 concerning Job Creation ( hereinafter called Perppu 2/2022) which was stipulated become Constitution Number 6 of 2023 concerning Determination Regulation Government Replacement Constitution Number 2 of 2022 concerning Job Creation becomes Law ( hereinafter referred to as Law 6/2023). Provisions Executor from One of regulation implementation from Law 11 of 2020 concerning Job Creation (next referred to as Law 11/2020) which is with moment This Still valid that is Regulation Government Number 22 of 2021<sup>[12]</sup> concerning Implementation Protection and Management Environment (hereinafter referred to as PP 22/2021) and Regulation Government Number 28 of 2025 concerning Implementation Licensing

Try Risk Based (hereinafter referred to as PP 28/2025). Transition period from Law 11/2020 to with Law 6/2023, p. This bring significant influence No only change about licensing try just but also change instrument law Permission Environment become Agreement Environment . Change the bring shift authority supervision between Central Government with The Regional Government, namely the Environmental Agency. The shift that occurred in the end No only cause administrative problems just in practice supervision , but also give rise to debate juridical that must be done mechanism testing law in the Court Constitution .

On August 25, 2025, the Court Constitution return roll out hearing with the agenda of submitting a judicial review a number of chapter among them namely Article 13 Letter B, Article 22 Number 1, Article 22 Number 3, Article 22 Number 5, Article 22 Number 8, Article 22 Number 9, Article 22 Number 10, Article 22 Number 14, Article 22 Number 15, Article 22 Number 16, Article 22 Number 17, Article 22 Number 18, and Article 22 Number 28 of Law 6/2023. Deputy Minister of Environment , Diaz Hendropriyono explain that many misunderstanding applicant related with existence change in terminology from Permission Environment become Environmental Approval , with objective as form prioritizing simplification investment on sustainability environment . Based on The provisions of PP 28/2025, specifically in Article 1 Number 29, are explained that, "Consent the next environment abbreviated as PL is Agreement Environment as arranged in regulation legislation in the field of protection and management environment live." This clarified return with statement delivered by Diaz Hendropriyono as Deputy Minister of Environment alive , he state that Agreement Environment only can published after plan activity stated worthy through

the AMDAL or UKL-UPL process without through the process licensing try No will Once Can published .

Management environment life according to Takdir Rahmadi, stated that about management environment life should more leading to effort prevention than recovery on every risks in the environment. Prevention efforts emergence problems environment is part from management environment life , which is the law environment own second very very function important that is function preventive and functional corrective that is not fulfil terms and conditions management to environment life . Regarding function supervision, if found existence violation to provisions law environment administration, officials who authorized can drop sanctions law administration to si offender.

If you see return to the back about changes that occurred in the Job Creation Law , in the regime previously , Permission Environment This is a State Administrative Decision (KTUN), in which the authorized official For publish permission , to do supervision , at the same time do enforcement law administrative . If the regime previously about authority issuance , supervision , and enforcement law be in one officials However with presence creation Work change on on system administration the environment in which it exists separation between Regional Government as such publish document environment and the Central Government which controls licensing try based risk . With Thus , the conditions that occur it is very contradictory with principle *Contrarius Actus* and trigger existence overlapping overlap regulation legislation in matter distribution authority between Central Government with Regional Government in enforcement law environment .

Different with previous research entitled “ Review Jurisprudence Regarding the Provisions of the Principle of *Contrarius Actus* According to Constitution Number 16 of 2017 Concerning Determination Regulation Government Replacement Constitution Number 2 of 2017 Concerning Changes to the Law Number 17 of 2013 concerning Community Organizations ”, which research the more aimed at the authority given in a way full to the Executive Board For do revocation against legal entities Mass organizations without through mechanism justice moreover formerly in accordance with principle *Contrarius Actus* . On research This different with previous research, focus study directed at the role Central Government or The Regional Government has authority in do supervision in the field environment . With Thus, research this give contribution new and expanding understanding about principle *Contrarius Actus* in distribution authority between Central Government with Local government.

From the introduction said, then study this about authority in do supervision to Agreement Environment become very important for reviewed more carry on again, especially in frame give protection and certainty law for perpetrator business and also answer all conflict authority between Central Government with Regional Government, namely the Environmental Service as implementers in the region. Based on description above, researchers interested for do study regarding the title “Authority” Supervision to Agreement Environment by the Central Government or Local Government Based on Principle *Contrarius Actus*.”

## Method

Study This use approach juridical normative which emphasizes the analysis of applicable legal norms about

regulation legislation creation work , but still notice phenomena that occur in close -knit community relation with the issues discussed . Approach This chosen Because study This focus For study authority supervision to Agreement Environment by the Central Government or The Regional Government , namely the Environmental Service (DLH) after change regulations licensing undertakings that are changed by regulations creation Work .

## Discussion

Constitution Number 23 of 2014 concerning Regional Government (hereinafter referred to as Law 23/2014) explains about affairs the government that then shared become three part among them affairs government absolute, business government concurrent, and affairs government general. In matter this, the environment life is one of the affairs government concurrent. Affairs government concurrent in Article 11 Paragraph (1) is distinguished into two parts consisting of on Affairs Mandatory Government and Affairs Government Choice, then clarified back to Article 12 Paragraph (2) letter e which is the problem government concurrent mandatory that is not related with service base inside it there is environment life .

Environment in general normative arranged in Constitution Number 32 of 2009 concerning Protection and Management Environment ( hereinafter called Law 32/2009). Constitution This published with the state's goal is to recognize and guarantee its people get environment good and healthy life as form fulfillment right basic human . In the state framework meets right basic man through right on environment good and healthy life, government need do existence protection and management environment life. Regarding protection and management environment as such arranged in Law 32/2009 which consists of from activity planning, utilization, control, maintenance, supervision, until with enforcement law. In matter This protection and management environment first life required planning and utilization which is then need existence control environment later life shared become three part prevention , response , and recovery . At this stage the prevention which is one of the prevention instruments that is licensing. The function licensing shared into 2 parts among them function permission as order and function permission regulator or control. Function permission as orderly the goal so that every form business No each other contradictory so that existence order society , whereas function permission as control the goal that every licensing can implemented in accordance needs and not existence abuse . Then at the stage furthermore required supervision carried out by the authorities supervisor.

Supervision environment life is something activities that must be done implemented in a way direct and No directly by the Official Supervisor Environment (PPLH) and Officials Supervisor Regional Environment Agency (PPLHD), the purpose of which is For knowing the level of obedience and awareness guarantor answer business to provision regulation legislation . According to Asep Warlan Yusuf, supervision environment life done to:

1. Perpetrator business and/ or activity both licensed and unlicensed licensed ;
2. Activity government impact on the environment ;
3. A or the group that gave rise to impact to environment.

Article 71 Paragraph (2) explains that:

"Minister, governor, or regent / mayor can delegate his authority in do supervision to officials / agencies responsible technician answer in the field protection and management environment life "

In context said , that the Minister of Environment must also get authority For coordinate implementation supervision environment life carried out by officials supervisor environment live . Therefore that , one of a very important breakthrough about supervision obedience person responsible such business as arranged in Law 32/2009 is giving authority oversight. In its development about supervision , must reflect principle *Contrarius Actus* .

The Principle of *Contrarius Actus* initially put forward by Gaius he state that obligations that arise from words that will also be later destroyed with legal words others . The *Contrarius* Principle can also interpreted as consequence law arising from a actions law must ended through actions other laws that follow identical formalities with the process when consequence law the born . The principle of *Contrarius Actus* is actions that must be taken carried out by the Agency or State Administrative Officials who have authority for publish a State Administrative Decision until with revocation of the State Administrative Decision. Asep Warlan Yusuf interprets oversight as supervision and/ or enforcement the law that is carried out in a way directly by the government center or government province as party the first one directly do action without depending on the authority held officials giver permission in matter supervision and/ or enforcement law .

According to JBJM Ten Berge, enforcement law environment can done in a way preventive and repressive in accordance with nature and effectiveness. Enforcement law of a legal nature preventive is supervision active activities carried out to compliance to regulation without incident directly related to the event concrete that can cause existence violation law enforcement law in a way preventive this is one of them done with method counseling, monitoring and use authority of a nature do supervision . Meanwhile enforcement law repressive done in matter violations regulations , which can prosecuted in a way criminal generally with effort avoid existence action crimes committed in a way repeatedly by the perpetrator pollution environment life . With Thus, enforcement law environment administrative No can released from the licensing instrument as referred to part from function control behavior public before occurrence violation. Permits taken from the word " permission " which has understanding of instruments or tool For arrange something behavior in demand society . Adrian Sutedi in his book entitled "Licensing Law " In the Public Service Sector" explains that permission is something consent given from the government as such own appropriate authority with provision in regulation legislation.

Licensing in a way normative arranged in Law 11/2020 which is in it explain about existence supervision to every activity business. With Thus, it is necessary existence regulation regulated implementer in Regulation Government Number 5 of 2021 concerning Implementation Licensing Try Risk Based ( hereinafter referred to as PP 5/2021), however in its development has revoked with PP 28/2025. Although occurrence change in regulation legislation licensing based on the risk, licensing about environment still referring to the provisions stipulated in Law 32/2009, specifically in Article 1 Number 35 it is explained that, "

Permission Environment is permission granted to everyone who does business and/ or activities that require AMDAL or UKL-UPL in frame protection and management environment life as prerequisite For get permission business and/ or activities ." Permission The environment then changed become Agreement The environment as such changed with presence regulation creation work whose purpose is For do simplification as reported from news The Court Indonesian Constitution . Based on provision Perppu 2/2022 as change a number of provision in Law 32/2009 concerning Protection and Management Environment , specifically in Article 1 Number 35, it states that , " Consent Environment is decision eligibility environment life or statement ability management environment life that has been get agreement from Central Government or Local government ."

That matter show existence change regime law environment post the subsequent enactment of Law 11/2020 updated through Law 6/2023. With existence change the bring application in aspects authority to carry out supervision between Central Government with Regional Government. Authority supervision environment life arranged in Law 32/2009 as has amended by the Job Creation Law. On terms the show existence The Central Government and Regional Governments have equal authority for do supervision obedience guarantor answer business and/ or to activity Agreement Environment. However matter This show existence problem consequence Constitution creation work, which determines the limits of authority the when AMDAL or UKL-UPL as document environment published by the region .

Lon Fuller in his book entitled "The Morality of Law" explains that formation regulation good legislation as law positive must fulfil eight elements that include regulation must published , of a nature general , no valid receding , formulated in a way clear , no each other contradictory or overlapping tumpang , can implemented , no often changed , and consistent between rules and practices implementation . If you look at return to the back about changes that occurred in the Job Creation Law , in the regime previously , Permission Environment This is a State Administrative Decision (KTUN), in which the authorized official For publish permission , to do supervision , at the same time do enforcement law administrative . While about Agreement Environment This experience Lots confusion that arises problem about who has authority For do supervision until with existence enforcement law administrative . However , regarding document environment like Analysis Environmental Impact Assessment (AMDAL) or Management Efforts Environment and Monitoring Efforts Environmental Management Plan (UKL-UPL) is issued by the Environmental Service , while licensing try Already fully withdrawn to Central Government through system Online Single Submission , p This as arranged in Article 1 number 35 and Article 24 Law 11/2020 jo. Law -UU 6/2023.

The theory put forward by Lon Fuller No solely walk in accordance with what is expected, in practice formation regulation legislation in Indonesia has not yet fully implemented even that which is reflected from existence overlapping overlapping norms in PP 28/2025. There is a number of articles that can indicated overlapping tumpang occurs as well as confusion in distribution authority supervision including Articles 263 to with Article 285

PP28/2025. From the articles the explained that existence supervision between Central Government with Regional Government in the sector environment life, which is one of the the example in Article 263 Paragraph (1) is explained that:

Supervision towards KKPRL, recommendations utilization islands small with area under 100 km<sup>2</sup> (one hundred kilometers square), PB, and/ or PB UMKU in the sector maritime affairs and fisheries done by:

- a. minister who organizes affairs government in the field of maritime affairs and fisheries ;
- b. governor ;
- c. regent / mayor ;
- d. Chief KEK Administrator; and/ or
- e. Head of the KPBPB Business Agency, in accordance with respective authorities based on provision regulation legislation.

This matter when juxtaposed with principle *Contrarius Actus* is very contradictory with existence change to Agreement Environment, because about document environment Regional Government in general theoretical also has authority for do supervision. Meanwhile in in practice matter the can potential occurrence overlapping overlap with The Central Government which also has authority for do supervision to all over activity risky venture tall.

Ambiguity about distribution authority for do publishing, supervision until imposition sanctions If found existence violation to environment this has great potential cause disharmony in enforcement law environment. If you look at conditions that occur in the field, the Regional Government, namely the Environmental Service, really understands condition environment and society around so that more effective in do supervision, however on the other hand the Central Government also has authority in matter licensing Risk - based business. More further, that supervision to Agreement Environment according to JBJM Ten Berge in matter supervision the can done with supervision in a way repressive and also preventive. Supervision in a way preventive This done with method review routinely to obedience holder Agreement Environment said , whereas supervision in a way repressive can done If in monitoring happen violation can charged sanctions administrative until revocation Agreement Environment but also must in accordance principle *Contrarius Actus* which requires officials the issuing authority agreement the .

From the discussion said, the principle *Contrarius Actus* became very important in determine policy authority supervision between Central Government with Regional Government towards Agreement Environment. In general normative explained in Perppu 2/2022 and PP 28/2025 as regulation implementer , authority the of course attached to the issuing official agreement the However in in practice need done harmonization as well as synchronization about regulation legislation . This matter need done with objective avoid existence conflict authority between Central Government with Regional Government and No there is overlap in the regulations legislation that can confusing perpetrator business environment life .

## Conclusion

Change licensing law environment from Permission Environment become Agreement Environment after its

validity Job Creation Law, p This bring very significant impact in matter distribution authority between Central Government with Regional Government. Changes the No solely change system administrative licensing just but also gives rise to problem juridical related authority supervision at every activity impactful business to environment live . Basically principle *Contrarius Actus* means that authority For publish , supervise , until with existence revocation something decision state administration must attached to officials or the institution that publishes decision said . Therefore that , in matter the authority supervision to Agreement The rightful environment do supervision should is on the issuing party Agreement Environment the Good Central Government or Regional Government . In general normative about distribution authority supervision arranged in PP 28/2025, however in regulation the show existence overlapping overlap authority government in do potential oversight will cause disharmony as well as uncertainty law . The Regional Government through the Environmental Service has proximity in a way fact with conditions that occur in the environment and society local so that effective in do supervision, while on the other hand The Central Government also remains own authority do supervision as function from control licensing try Risk- based. Conditions the result in existence dualism authority that is not walk in accordance with principle *Contrarius Actus*. Therefore that , it is necessary harmonization and synchronization regulation legislation environment a better life comprehensive and thorough post existence Constitution creation work . The goal clarify the existence of limits to authority between Central Government and Regional Government in do supervision to Agreement Environment , as well as give certainty law for perpetrator business in frame protection and management environment life term long.

## References

1. Sutedi A. Licensing Law In the Public Service Sector, ed. Tarmizi, 1st ed. Jakarta: Sinar Grafika, 2017.
2. Yusuf AW. Administrative Law Enforcement Environment.
3. Yusuf AW. Aspects of Administrative Law In Environmental Law Enforcement.
4. Ankum H. Was an Acceptilatio on Informal Act in Classical Roman Law?, in Cairn JW and Olivia .
5. Hadjon PM. Administrative Law Enforcement In relation with provisions of Article 20 paragraphs (3) and (4) of the Law Number 4 of 1982 concerning Provision Main Point Management Environment , Jurisprudence Magazine Faculty of Law, Airlangga University, 1996, 11(1).
6. Hadjon PM. Introduction to Licensing Law , Surabaya: Yuridika , 1993, 2.
7. Hadjon PM. "Introduction to Indonesian Administrative Law". Yogyakarta: Gajahmada University, 2019.
8. Ridwan HR. State Administrative Law. Jakarta: RajaGrafindo Persada, 2016.
9. Robinson (ed). Critical Studies in Ancient Law, Comparative Law and Legal History, (Oxford-Portland Oregon: Hart Publishing), 2011.
10. Pujiarti S. "Government: Change Permission Environment Becomes Agreement Environment for Pruning Overlapping Bureaucracy", Makamah Constitution of the Republic of Indonesia, <https://www.mkri.id/berita/pemerintah-->

perubahan-”izin-lingkungan%22-jadi-%22persetujuan-lingkungan%22-demi-pangkas-birokrasi-yang-tumpang-tindih-23656, accessed on May 20, 2026.

11. Soekanto S. Normative Legal Research (A Short Review), Rajawali Publisher, Jakarta, 1990.
12. Rahmadi T. Environmental Law in Indonesia, Edition Third, RajaGrafindo Persada, Depok, 2021.
13. Buddick WL. The Principles of Roman law and Their Relation to Modern Law, (Clark, New Jersey: The Lawbook Exchange, Ltd.), 2004.