



Volume 32 No. 1, Januari 2017
DOI : 10.20473/ydk.v32i1.4799

Fakultas Hukum Universitas Airlangga, Jalan Dharmawangsa Dalam Selatan
Surabaya, 60286 Indonesia, +6231-5023151/5023252
Fax +6231-5020454, E-mail: yuridika@fh.unair.ac.id

Yuridika (ISSN: 0215-840X | e-ISSN: 2528-3103)
by <http://e-journal.unair.ac.id/index.php/YDK/index> under a Creative
Commons Attribution-NonCommercial-ShareAlike 4.0
International License.



FAKULTAS HUKUM UNIVERSITAS AIRLANGGA

Article history: Submitted 15 November 2016; Accepted 19 January 2017; Available online 31 January 2017

REORGANIZATION OF REGIONAL ENVIRONMENTAL INSTITUTION

Bagus Oktafian Abrianto dan Suparto Wijoyo

bagusoa@fh.unair.ac.id

Universitas Airlangga

Abstract

The regional environmental institution have experienced many changes since the issuance of Law No. 23/ 2014 on Regional Government and the Government Regulation No. 18/2016 on Regional Government Organization. The regulations on the authority of central and regional on environment aspect as stipulated by Law No. 32/2009 on Protection and Management of Environment must be adjusted with Law No. 23/2014 on Regional Government and Government Regulation No. 18/ 2016 on Regional Government Organization. This research shall analyze the institutional harmonization effort by statute approaches and will try to give a clearer overview on which authority falls under the central, provincial and regency/municipal government especially on the environment sector. In order to carry out its coordinative function, the minister of environment and forestry shall synchronize working program of environment institution between the central and regional government to create an integrated environment management (policy) approaches.

Keywords: Environmental Institution; Distribution of Government Authority; Integrated Environmental Management (Policy) Approaches.

Abstrak

Kelembagaan lingkungan hidup di daerah saat ini mengalami banyak perubahan dengan ditetapkannya Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah dan Peraturan Pemerintah Nomor 18 tahun 2016 Tentang Organisasi Perangkat Daerah. Pengaturan mengenai wewenang pemerintah pusat dan pemerintah daerah dalam bidang lingkungan hidup yang diatur oleh Undang-Undang 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup harus disesuaikan dengan Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah dan Peraturan Pemerintah Nomor 18 tahun 2016 Tentang Organisasi Perangkat Daerah. Penelitian ini mengkaji mengenai upaya penyesuaian kelembagaan lingkungan hidup dengan pendekatan perundang-undangan. Diharapkan dengan adanya penelitian dapat diketahui secara rinci dan jelas terkait urusan-urusan yang menjadi wewenang pemerintah pusat, pemerintah daerah provinsi, dan pemerintah daerah kabupaten/kota khususnya di bidang lingkungan hidup. Menteri lingkungan hidup dan kehutanan dalam rangka melaksanakan fungsi koordinasi, seharusnya wajib menyesuaikan program kinerja dinas-dinas lingkungan hidup di daerah agar sesuai dengan program yang dijalankan pemerintah, sehingga dapat tercipta integrated environmental management (policy) approaches.

Kata Kunci: Kelembagaan Lingkungan Hidup; Pembagian Urusan Pemerintahan; Integrated Environmental Management (Policy) Approaches.

Introduction

The success of an legislation on environment issues is determined by “the existing administrative and institutional framework” as asserted below: “... The

administrative and institutional framework is an inherent part of the environmental management system. It facilitates and supports the environmental policy-making process, and ensures the implementation and enforcement of policies. Government agencies appointed and authorized by elected officials to carry out these tasks are the main pillars of environmental administration ... The main pillars of environmental administration are government agencies appointed and authorized by elected officials to carry out these tasks. The administrative framework also entails web of formal and informal organizations with established rules, communicational and command patterns, and institutional linkages, such as decision-making processes, distribution of authority, interactions, and patterns of communication with other organizations, individual, and groups”.¹

Environmental management institution is a core part of the entire environmental management system and serves as the administrative pillar for environmental policy making processes. Environmental management institutions need to have sufficient authority to establish administrative regulations and to enforce the regulation in addition to conduct the administration works of environmental management.² These regulations on environmental management are intended to provide an effective institutional environmental protection in environmental management mechanisms within the structure of national and local government structures.³ Developed countries incorporated in Organization for Economic Co-operation and Development (OECD) have shown a great focus for the development of national and regional environmental management institutions.⁴

The issue of institutional authority was one of the subject discussed at the Fifth International Conference on Environmental Compliance and Enforcement which took place on 16-20 November 1998 in Monterey, California, USA which focused

¹ Magda Lovei and Charles Weiss, Jr., *Environmental Management and Institutions in OECD Countries: Lesson from Experience* (The World Bank 1998).[22 and 31].

² Daniel J Fiorino, *Making Environmental Policy* (University of California Press 1995).[7-46].

³ Wolfgang Lothar, ‘Operational Organization: New Directions of Management for the Protection of the Environment’, dalam Federal Environmental Agency – Umweltbundesamt, ‘A Selection of Recent Publications’ (1995) 5 Berlin.[15-20].

⁴ Magda Lovei and Charles Weiss, Jr.*Op.Cit.*[31-51].

on the theme of capacity building.⁵ There were six main themes in the conference: making it happen is applying the principles of environmental compliance and enforcement; communications, public role, and compliance monitoring; carrots and sticks; capacity building; international cooperation/transboundary compliance and enforcement issues; and building regional and global networks.⁶

The institutional aspect in terms of the authority of environmental management is an administrative need required to conduct environmental management and has been categorized as a main pillar or a key factor of environmental management success in optimizing the achievement in environmental protection.⁷ Effective and efficient environmental management requires the existence of appropriate institutional arrangements within the organizational structure at the national, provincial and local level. Even the institutions in the region are now qualified as fundamental aspect of environmental management which is in tune with the decentralization policy and the shift in centralization pattern.⁸

Each institutional organ of environmental management has integrated authorities to formulate, implement and enforce environmental regulations and legislations. A solid environment management institution at the national and regional levels should be successful and effective in the implementation of environmental management. This paper shall cover the legal issues concerning the authority of the Ministry of Environment (*Kementerian Lingkungan Hidup* or *KLH*) as an environmental management agency in Indonesia that can execute its authority effectively, both nationally and regionally. This research shall elaborate the perspective of environmental law and local government law, specifically Law

⁵ Jo Gerardu and Cheryl Wasserman, 'Fifth International Conference on Environmental Compliance and Enforcement', *Conference Proceedings* (1998).[515-517].

⁶ *ibid.*[7]. This conference was sponsored by: (1) *U.S. Environmental Protection Agency, United States*, (2) *Ministry of Housing, Spatial Planning and the Environment, The Netherlands*, (3) *United Nations Environment Programme (UNEP)*, (4) *European Commission*, (5) *Environmental Law Institute, United States*, (6) *Environment Canada*, (7) *The Environment Agency, England and Wales (United Kingdom)*, dan (8) *The World Bank*. Siti Sundari Rangkuti, *Hukum Lingkungan ... Op.Cit.*[55-56].

⁷ Magda Lovei and Charles Weiss, Jr.*Op.Cit.*[31 and 47].

⁸ Jo Gerardu and Cheryl Wasserman.*Op.Cit.*[7]. Osborne M. Reynolds, Jr., *Handbook of Local Government* (West Publishing Company 1982).

no. 32/2009 on Environmental Protection and Management (here in after referred to as UU 32/2009) which is then influenced by the release of Law no.23/2014 on Regional Government (here in after referred to as UU. 23/2014) and Government Regulation no. 18/2016 on Organization of Regional Agencies (here in after referred to as PP 18/2016).

UU 23/2014 and PP 18/2016 have brought a lot of changes to the formation of regional agencies. The existence of these two rules have emphasized the principle of rightsizing which aims to aims the right function and the right size related to the workload based on field conditions in each region. Therefore each region has its own differences in terms of the formation of its regional agencies. In the context of establishing and organizing the regional agency, the government (in this case the central government) is required to make a real contribution in the framework of guidance and control of regional agency through several mechanisms such as assistance, direction, guidance, supervision and cooperation. From this, it is expected that the synergy and restructuration of regional agencies can be achieved optimally.

Distribution of Authority for Environmental Protection and Management in the Region

The emergence of regional autonomy with the enactment of UU 23/2014 has undergone many changes compared to the previous law, namely Law no. 32/2004 on Regional Government (here in after referred to as UU 32/2004). The amendment was made with the argument that UU 32/2004 is considered no longer in accordance with the development of society and the present needs and should be replaced with new regulations that can provide a sense of justice for the community. In UU 32/2004, the government structure as in the central government, the provincial government and the regency/municipal government is distinguished by the divided functions and authorities as stipulated in Government Regulation no. 38/2007 on the Division of Governmental Function between the Central Government, Provincial Governments and Regency/Municipal Governments (here in after referred to as PP

38/2007)

The division of function in UU 32/2004 is regulated in Chapter III on the Division of Government Function, set forth in Articles 10 through 14. The article is further elaborated in PP 38/2007 precisely in Chapter III on the Division of Government Function which is separated into two parts. The First Part is on the Government Functions which falls under the Authority of the Central Government, set forth in Article 4 through Article 5, and the Second Part is on Government Function which falls under the Authority of the Regional Governments, as stipulated in Articles 6 through Article 12. These Government Functions through the enactment of UU 32/2004 and PP 38/2007 are divided into 2 groups: mandatory and optional functions.

However the division of functions as set in UU 32/2004 and PP 38/2007 is still unclear in terms of the rights and obligations of each level of government. The Article 10 paragraph 3 of UU 32/2004 mention 6 (six) functions of central government, among others: foreign policy, defense, security, judiciary, monetary and national fiscal, and lastly religion. Then Article 10 paragraph 4 states that of the 6 (six) functions, the government may organize these functions itself or may delegate them to government agencies in the region or may assign them to the regional government. Furthermore, Article 10 paragraph 5 states that in relation with other government functions outside the six, the government can be self-organize the functions, delegate some of the functions to the Governor as the government representative or assign some of the functions to the regional government based on the principle of government task assistance.

The provisions of Article 10 paragraphs 3, 4 and 5 can be interpreted that for all governmental functions, the government may self-organize the functions or may delegate some of them to the governmental or governmental agency in the region or may assign them to the regional government. These stipulation gives a blurry division of governmental functions between each level of government. There is no affirmation on government functions that can only be administered by the central government alone, and the functions that can be delegated partly or assigned to the

government representatives in the regions or to the regional governments.

The enactment of UU 23/2014 as the substitute of UU 32/2004 explicitly changed the pattern of distribution of government function. Within UU 23/2014 it is affirmed that, in essence, government functions are the elaboration or breakdown of the power of government, where it is stated in Article 5 paragraph 2 that the power of government is manifested in various government functions. Government functions are outlined in Chapter IV which consists of five parts. Part One describes the classification of governmental functions (Article 9), Part Two sets forth the absolute governmental functions (Article 10), Part Three defines the concurrent government functions (Article 11 through Article 24), Part Four designates the general government functions (Article 25) and Part Five talks about Forum of Heads of Regional Government or Forkopimda (Article 26). The Elucidation of UU 23/2014 states that the distribution of concurrent government functions between the provinces and the regencies/municipalities is different in terms of the scale or the scope for the same function. Although each province and regency/municipality have their own non-hierarchical governmental functions, there will still be direct relationship between central, provincial and regency or municipal government in the implementation of their functions with reference to the norm, standard, procedure and criteria (NSPK) made by the central government.

This law is known for classifying the general government function in addition to the absolute functions and the concurrent functions. The general government functions fall under the authority of the President as the head of government related to the upholding of the ideology of Pancasila, the Constitution of the State of the Republic of Indonesia (UUD 1945), *Bhinneka Tunggal Ika* in order to ensure a harmonious relationship based on tribe, religion, race and among groups as the pillars of nation and state and to facilitate democracy in Indonesia. The President, in the implementation of general government functions in the regions, shall delegate them to the governor as head of the provincial government and to the regent/mayor as head of the regency/municipality administration.

It is evident that the division of government function in UU 23/2014 compared

with UU 32/2004 shows a clearer view in UU 23/2014 on the rights and obligations of each level of government, and a more elaborated description in the appendix of UU 23/2014 on the nature and the responsibility of the functions. UU 23/2014 has specified 11 subsector of government functions which are related to environmental issues, among others: environmental planning; strategic environmental studies; control of pollution and/or environmental damage; biodiversity; hazardous and toxic materials (B3) and hazardous and toxic waste (*Limbah B3*); guidance and supervision of environmental permits and environmental protection and management permit (*perlindungan dan pengelolaan lingkungan hidup* or PPLH); recognition of the existence of customary law communities (*masyarakat hukum adat* or MHA), local wisdom and MHA rights associated with PPLH; education, training, and environmental awareness for the community; environmental awards for the community; public whistleblowing on environmental and waste treatment issues.

Each subchapter of UU 23/2014 is detailed and further divided into groups of government functions under the authority of the central, provincial and regency/municipal governments. The implementation of UU 23/2014 must be emphasized on environmentally sound regional development as stipulated in Article 262 paragraph 1 which states that the regional development plan shall be formulated in a transparent, responsive, efficient, effective, accountable, participatory, measurable, fair, and environmentally sound manner. The term “environmentally sound” express the intention to achieve a balanced and prosperous life without having to cause perpetual environmental damage in optimizing the benefits of natural resources by synchronizing human activity with the ability of natural resources that support the society. Therefore it is clear that the emphasis of UU 23/2014 compared to UU 32/2004 in terms of environment is to elaborate and clarify which functions belong to each level of government (central, province and regency/municipality).

The implementation of UU 23/2014 followed by the issuance of PP brings forth the aspects of effectiveness and efficiency based on real conditions and needs for each region as the priority for development. These regulations are expected to cut down inefficiency and ineffectiveness especially related to human resources

and financial resources within the organization of regional agencies. In terms of environmental aspect, by referring to this government regulation, there is a huge possibility of differences on the type of organization which has the authorities on environment. Based on PP 18/2016, a provincial government agencies consist of the regional secretariat, the secretariat of the DPRD, the inspectorate, and the sectoral agencies. The regency/municipal agencies consist of the regional secretariat, the secretariat of the DPRD, the inspectorate, the sectoral agencies and the district offices.

Based on PP 18/2016, it is possible that one province has a different regional organization with different type of organization compared to another province due to difference in population and expense budget. For example is the following: the Regency Government of Malang based on the Regional Regulation of Malang Regency no. 9/2016 on the Establishment and Composition of Regional Agency (here in after referred to as Perda Kab.Malang 9/2016) Article 10 letter j, has a Type-A Environment Function. The regency government of Probolinggo based on the Regional Regulation of Probolinggo Regency no. 6/ 2016 on the Establishment and Composition of Regional Agency (here in after referred to as Perda Kab. Probolinggo 6/2016), Article 4 letter d carries out a type A environmental governance function, while in Pati, on the Regional Regulation of Pati Regency no. 13/ 2016 on the Establishment and Composition of Regional Agency (here in after referred to as the Perda Kab. Pati 13/2016), Article 3 letter d no. 9 established a type B Environment Agency which organizes the governmental functions in environment and forestry sector. Demak with its Regional Regulation of Demak Regency no. 5/ 2016 on the Establishment and Composition of Regional Agency (here in after referred to as the Perda Kab. Demak 5/2016) article 2 letter d no. 16 formed a type B Environment Agency Type B, which handles the environment-related government functions.

So based on UU 23/2014 and PP 18/2016 it is clear that the need for regional agency in each region will not be uniform and shall adjust to the real conditions of the working sector for each region to achieve effectiveness and efficiency in performance of the regional agencies in all sectors, including environment.

Integration and Coordination at the Ministry of Environment in the Region

In this section, the author will take historical approaches, more specifically the regulation before the implementation of UU 32/2009, namely Law no. 23/1997 on Environmental Management (here in after referred to as UU 23/1997), by looking at the institutional situation before UU 32/2009 is effective. The author expects to provide a comprehensive picture of environmental institutions prior to the enactment of UU 32/2009.

Chapter IV of UU 23/1997 sets on the authority of environmental management as formulated in Article 8-13. The main rules for national environmental management institutions are listed in Articles 9 and 11 of UU 23/1997. The substance of Article 9 UUPH reveals that the national environmental management is conducted in an integrated manner by the government agencies in accordance with each respective duties and responsibilities and coordinated by the Minister.

The Article 9 of UU 23/1997 likens the term “integrated” with “coordination”, while the legal norm of Article 9 of UU 23/1997 contains the character of contradictory/*contradictio in terminis*. Integration requires a unification of institutional authority, while coordination refers to the cooperative relationship of sectoral exercise of authority. The environment management institution that share the same base with the Agenda 21 shall promote integrated environmental management (policy) approaches.⁹

The formulation of Article 11 of UU 23/1997 repeats the same error of Article 9 which has aligned the term “integrated” with “coordination” which institutionally is conducted by the Minister. According to Article 1 number 25 of UU 23/1997, the Minister referred by Article 9 and 11 of UU 23/1997 is: “... the Minister assigned to manage the environment”, which is the Minister of the Environment. The Ministry of the Environment is designated as an institution to assist the President who does

⁹ Nicholas A. Robinson, ‘ Agenda 21: Earth’ s Action Plan’ (Oceana Publications 1993).[i]. Dominik Thieme, ‘ European Community External Relations in the Field of the Environment’ (2001) 10 European Environmental Law Review.

not lead a specific government department with the task of formulating policies and coordinating the implementation of environmental management.

Referring to UU 23/1997, the institution of the Ministry of the Environment is more coordinative than integrative and not operational. The coordination of the Ministry of Environment is very general and requires cooperation with various departments or non-departmental government agencies in relation to the creation of national sectoral environmental policy. The administrative-organizational structure of the non-departmental Ministry of the Environment is an institutional barrier to the exercise of such “authorities”. As long as there is no institutional reorganization of the Ministry of Environment to be an executive institution, the authority of the Ministry of the Environment will not be effectively implemented. Therefore the environmental management at the national level on a practical level will remain under the authority of sectoral departments and non-departmental government agencies. The exercise of duties and functions of the Ministry of Environment in environmental management in the end can only take place as long as it does not interfere with the authorities of sectoral institutions. Obviously, this situation brings such obstacles and constraints of authority for the Ministry of Environment in serving its function in environmental management.

Recognizing the weakness of the legal status of the institution of the Ministry of Environment, the Environmental Impact Agency (*Badan Pengendalian Dampak Lingkungan* or *Bapedal*) was established through Presidential Decree no. 196/1998 on the Environmental Impact Agency (here in after referred to as Keppres 196/1998). Bapedal is expected to serve as an effective non-departmental national environmental management agency, where the Ministry of Environment will also serves as Head of Bapedal.

Bapedal’s authority in environmental management includes regulative activities, namely the drafting of legislation (Decree of Head of Bapedal) as a legal instrument for the implementation of environmental management policy up to the technical-operational stage. The effectiveness of the implementation of Bapedal authority in the effort of environmental management is constrained by the weak institutional

status of Bapedal. The problem is whether the “authority” of Bapedal (before its dissolution) in terms of Administrative Law is merely conducting its “tasks”?.

According to Presidential Decree no. 103/2001 on Positions, Duties, Functions, Authorities, Organizational Structures and Working Procedures of Non-Departmental Government Institutions (here in after referred as Keppres no. 103/2001): Bapedal is a non-departmental government agency (established and reporting to the President) which was created to support the duties of KLH. Bapedal only has an administrative structure at the central level that does not reach the regional level. There is no organizational relationship between Central Bapedal and Regional Bapedal (either in Province and Regency/Municipality level).

Today Bapedal has been abolished. Based on Article 16 of the Presidential Decree no.2/ 2002 on Amendment to Presidential Decree no. 101/2001 on the Position, Task, Function, Authority, Organizational Structure and Working Procedures of State Ministers (here in after referred to as Presidential Decree 2/2002), the authority of Bapedal as stipulated by the law have been transferred to the Ministry of Environment. The integration of Bapedal into the organs of the Ministry of Environment is in line with the concept of an integrated environmental management system that requires a fully authorized institution in this sector. This fusion is expected to improve the performance effectiveness of the national environmental management agency.

The enactment of UU 32/2009 conveys significant changes to Ministry of Environment as an institution, both at the central and regional levels, and the law is expected to improve the institutional management system and environmental institutional relations between the central and the regional governments. Consideration of Law 32/2009 letter c states that the spirit of regional autonomy in the administration of the Republic of Indonesia has brought changes in the relationship and authority between the central and the regional governments, including in the field of environmental protection and management, therefore one of the emphases in UU 32/2009 is on the relationship between environmental agencies at the central and regional levels.

Before the enactment of UU 32/2009 (during the regime of UU 23/1997), the integration of national environmental management from the institutional and policy aspects in Indonesia have not yet take place. Article 9 paragraph 3 of UU 23/1997 stipulates that environmental management must be done in an integrated manner with the spatial planning and protection of natural resources. This provision is a step forward of an integrated concept that requires the assignment of a Minister to coordinate the spatial planning and conservation of natural resources. The implementation of Article 9 of UU 23/1997 implies the need for a Ministry of Environment with managing authorities in environment, spatial planning, and conservation of natural resources.

Referring to (i) Presidential Regulation no. 9/2005 on Position, Duties, Functions, Organizational Structure and Working Procedures of State Ministries of the Republic of Indonesia (here in after referred to as Keppres 9/2005); (ii) Presidential Regulation no. 10/2005 on Organizational Units and Tasks of First Echelon Officers of State Ministries of the Republic of Indonesia (here in after referred to as PP 10/2005); (iii) Regulation of the State Minister for the Environment no.1/2005 on the Organization and Working Procedures of State Ministries of the Republic of Indonesia (here in after referred to as PermenLH no. 1/2005); and (iv) Letter of Approval of Minister of State Apparatus Empowerment no. B/1236/M.PAN/7/2005 on the Organization and Working Procedures of the Ministry of Environment (here in after referred to as SP MenPan B/1236/M.PAN/7/2005); technically the Ministry of the Environment may establish Regional Deputies to carry out its duties. The creation of the regional deputies requires the courage to make a rational change to improve the institutional capacity of the Ministry of the Environment as an implementation of Chapter 37 Agenda 21 on capacity-building.

Through Regional Deputies, the exercise of authority of the national environmental management institution which is in the hands of the Ministry of Environment has applied the principle of coherence and effective coordination by establishing environmental policy and issuing administrative decisions (state administrative decisions). The need for Regional Deputies which are in charge for

environmental pollution control, spatial planning and natural resource conservation is based on the consideration that The Ministry of Environment is not conducive enough in the implementation of the environmental management. The establishment of Regional Deputies in the Ministry of Environment is expected to be the initial “opening key” to realize an integrated environmental management. This juridical distribution of the institutional authority of environmental management from various deputies in the Ministry of Environment adheres to the conceptual environmental management authority, which should be based on geographical-ecological, technological and administrative considerations in proportion to the formation of Regional Deputies in accordance with the concept of integrated approach.

Since the implementation of UU 32/2009 and under the government of President Joko Widodo in 2014-2019, the Ministry of Forestry is merged with the Ministry of Environment to become the Ministry of Environment and Forestry. Institutionally speaking, there is a significant change at the center as the two ministries are fused by the President for the reasons of effectiveness and efficiency of performance. The duties and authorities of the government and regional governments in UU 32/2009 are set out in chapter IX on Duties and Authorities of the Government and Regional Government as detailed in Article 64. The fundamental difference between UU 23/1997 and UU 32/2009 is the strengthening effort in these law on the principles of environmental protection and management based on a good governance because in every process of formulation and application of instrument to prevent pollution and/or environmental damage and that the handling and enforcement of laws requires transparency, participation, accountability and fairness.

UU 32/2009 provides the Minister a wide authority to implement all government authorities in the field of environmental protection and management and to coordinate with other agencies. This law also gives a wide authority to regional governments in protecting and managing the environment in their respective regions which was not regulated in UU 23/1997. Therefore, the agency assigned with a new workload under this law must not only establish and coordinate the implementation of the policy, but also requires an organization with a diverse portfolio in establishing,

implementing and supervise environmental protection and management policies. In addition, these institutions are also expected to have the scope of authority to oversee natural resources for conservation purposes. In order to ensure the execution of the main duties and functions of these institutions, it is vital to have sufficient funding support from both state and regional budget for revenues and expenditures.

Institutionally, the regional deputies which was previously regulated by UU 23/1997 have been dissolved by UU 32/2009. UU 32/2009 further clarifies the division of tasks and authorities among levels of government in the environmental field. Article 63 paragraph 1 describes the duties and authorities of the central government in the protection and management of the environment, where as Article 63 paragraph 2 regulates the duties and authorities of the provincial government and Article 63 paragraph 3 regulates the duties and authorities of the regency/municipal government.

Article 63 of UU 23/2009 provides an overview of the duties and authorities of the central, provincial and regency/municipal governments in the environmental sector, however the article does not give comprehensive and detailed explanations when linked and compared to the assignment of functions as stipulated in UU 23/2014 and PP 18/2016. It seems that the Minister of Environment and Forestry is aware of this situation and releases the Decree of the Minister of Environment and Forestry no. SK.651/Menlhk/Setjen/Kum.1/8/2016 on the Result of Mapping of Regional Government Affairs in the Environment and Forestry Sector on August 16, 2016 (here in after referred to as the KepMenLHK SK.651/Menkhk/Setjen/Kum.1/8/2016). This decree describes the scores and categories for each province and regency/municipality related to environmental affairs of the government. This decree is expected to be the basis for the local government in terms of determining the classification of regional institutions, planning and budgeting in the administration, formation and competence building of State Civil Apparatus in the region and technical guidance of the task implementation.

The nature of this decree is simply a recommendation to the regional government, since according to UU 23/2014 and PP 18/2016, the authority of the

establishment of regional apparatus exists on the regional government itself as each region is considered to be more aware of the real needs in the field related to the budget, human resources or programs in environmental sector. However, these still must be coordinated to the Ministry of Environment and Forestry who bears the task and the authority to make the national policies.

Conclusion

The enactment of UU 23/2014 and PP 18/2016 provides significant changes in environmental institutions in the region. Therefore, UU 32/2009 must adjust to UU 23/2014 and PP 18/2016 referring to KepMenLHK SK.651/Menlhk/Setjen/Kum.1/8/2016, or in other words that the regional government should follow the recommendation from the Ministry of Environment and Forestry related to environmental institutions in the region so that the regional programs would be in line with the program of the central government.

Bibliography

Books

Daniel J Fiorino, *Making Environmental Policy* (University of California Press 1995).

Magda Lovei and Charles Weiss J, *Environmental Management and Institutions in OECD Countries: Lesson from Experience* (The World Bank 1998).

Nicholas A. Robinson, 'Agenda 21: Earth's Action Plan' (Oceana Publications 1993).

Osborne M. Reynolds J, *Handbook of Local Government* (West Publishing Company 1982).

Journals

Dominik Thieme, 'European Community External Relations in the Field of the Environment' (2001) 10 *European Environmental Law Review*.

Federal Environmental Agency – Umweltbundesamt, 'A Selection of Recent Publications' (1997) 5 Berlin.

Jo Gerardu and Cheryl Wasserman, 'Fifth International Conference on Environmental Compliance and Enforcement', *Conference Proceedings* (1998).

Regulations and Legislations

Undang-Undang Nomor 23 Tahun 1997 Tentang Pengelolaan Lingkungan Hidup.

Undang-Undang Nomor 32 Tahun 2004 Tentang Pemerintahan Daerah.

Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup.

Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah.

Peraturan Pemerintah Nomor 38 Tahun 2007 Tentang Pembagian Urusan Pemerintahan antara Pemerintah Pusat, Pemerintahan Daerah Provinsi, dan Pemerintahan Daerah Kabupaten/Kota.

Peraturan Pemerintah Nomor 18 Tahun 2016 Tentang Organisasi Perangkat Daerah.

Keputusan Presiden No. 103 Tahun 2001 Tentang Kedudukan, Tugas, Fungsi, Kewenangan, Susunan Organisasi, dan Tata Kerja Lembaga Pemerintah Non Departemen.

Keputusan Presiden Republik Indonesia Nomor 2 Tahun 2002 Tentang Perubahan Atas Keputusan Presiden Nomor 101 Tahun 2001 Tentang Kedudukan, Tugas, Fungsi, Kewenangan, Susunan Organisasi, Dan Tata Kerja Menteri Negara.

Peraturan Presiden No. 9 Tahun 2005 Tentang Kedudukan, Tugas, Fungsi, Susunan Organisasi dan Tata Kerja Kementerian Negara Republik Indonesia (Selanjutnya disebut Keppres 9/2005).

Peraturan Presiden No. 10 Tahun 2005 Tentang Unit Organisasi dan Tugas Eselon I Kementerian Negara Republik Indonesia.

Peraturan Menteri Negara Lingkungan Hidup No. 1 Tahun 2005 Tentang Organisasi dan Tata Kerja Kementerian Negara Republik Indonesia.

Keputusan Presiden Nomor 196 Tahun 1998 Tentang Badan Pengendalian Dampak Lingkungan.

Surat Persetujuan Menteri Pendayagunaan Aparatur Negara No. B/1236/M. PAN/7/2005 Tentang Organisasi dan Tata Kerja Kementerian Lingkungan Hidup.

Keputusan Menteri Lingkungan Hidup dan Kehutanan Republik Indonesia Nomor SK.651/Menlhk/Setjen/Kum.1/8/2016 Tentang Hasil Pemetaan Urusan Pemerintahan Daerah di Bidang Lingkungan Hidup dan Bidang Kehutanan.