

PEMBERIAN PERSETUJUAN PRESIDEN TERHADAP RANCANGAN PERATURAN MENTERI

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INTISARI

Penelitian ini bertujuan menganalisis pembentukan Peraturan Menteri (Permen) dalam jangka waktu sebelum dan sesudah adanya persetujuan Presiden dalam Peraturan Presiden Nomor 68 Tahun 2021 Tentang Pemberian Persetujuan Presiden Terhadap Rancangan Peraturan Menteri/Kepala Lembaga (Perpres No.68/2021). Kajian juga dilakukan terhadap latar belakang lahirnya Perpres No.68/2021, prosedur persetujuan Presiden sebagai mekanisme *executive preview* serta bagaimana penataan ideal dalam persetujuan Presiden sebagai mekanisme *executive preview*. Penelitian ini merupakan penelitian hukum normatif, bersifat deskriptif dan bentuk dari preskriptif dengan data sekunder. Analisis data yang digunakan adalah metode kualitatif dengan pendekatan perundang-undangan, pendekatan konseptual dan pendekatan historis.

Hasil penelitian menunjukkan *pertama*, sebagai peraturan pelaksana dari peraturan perundang-undangan yang lebih tinggi pada sistem Presidensial, pembentukan Permen sejatinya didasarkan atas kewenangan delegasi. *Kedua*, latar belakang Perpres No.68/2021 tidak menunjukkan landasan filosofis yang tepat dan didasarkan pada kewenangan atribusi (Pasal 4 (1) UUD NRI 1945) yang bertujuan menciptakan Permen berkualitas, harmonis, tidak sektoral, dan dapat diaplikasikan di masyarakat. Persetujuan Presiden dilakukan atas Rancangan Permen dengan kriteria tertentu, setelah proses harmonisasi, menghasilkan tiga keputusan alternatif Presiden dan dilakukan oleh Sekretariat Kabinet. Namun, ketentuan tersebut menimbulkan hal problematik seperti tidak adanya konsekuensi pelaksanaannya, menambah birokrasi pembentukan Permen hingga menempatkan lembaga pelaksana yang tidak sesuai kompetensinya. *Ketiga*, penataan ideal persetujuan Presiden dapat dilakukan melalui: persetujuan Presiden lebih tepat dalam pembentukan PP dan Perpres, pembentukan Permen lebih tepat memaksimalkan harmonisasi, melaksanakan ketentuan Instruksi Presiden mengenai pengambilan, pengawasan dan pengendalian pelaksanaan kebijakan di tingkat Kementerian dan menjadikan persetujuan Presiden sebagai mekanisme alternatif dengan mereformulasi ketentuan Rancangan Permen.

Kata Kunci: Persetujuan Presiden, *Executive Preview*, Pembentukan Peraturan Menteri

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GRANTING THE PRESIDENT'S APPROVAL OF THE DRAFT MINISTERIAL REGULATION

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ABSTRACT

This research aims to analyze the formation of Ministerial Regulation within the scope of before and after the approval of the President which is accommodated in Presidential Regulation No.68/2021 concerning the Granting of Presidential Approval to the Draft Regulation of Ministers/Heads of Institution (Perpres No.68/2021). The study was also conducted on the background of the issuance of Perpres No.68/2021, the presidential approval procedure as an executive preview mechanism and how the appropriate ideal arrangement should be arranged in the President's approval as an executive preview mechanism. This research is a type of normative legal research descriptive and prescriptive with secondary data. Data analysis used is a qualitative method with a statute approach, a conceptual approach and a historical approach.

The results of the study showed first, by taking into account the position of the Ministerial Regulation as the implementing regulation of the higher laws and regulations in the Presidential system, the formation of Ministerial Regulation was actually based on the authority of the delegation. Second, the background of Perpres No.68/2021 does not show the right philosophical foundation. The emphasis of Perpres No. 68/2021 is based on the attribution authority (Article 4 (1) 1945's Constitution) to create a quality, harmonious, non-sectoral regulations and can be applied in society. The Presidential approval procedure is carried out on the Draft Ministerial Regulation with certain criteria, after the harmonization process, produce three alternative presidential decisions and carried out by the Cabinet Secretariat. These provisions cause problematic issues such as there are no consequences for their implementation, adding to the wilderness of the bureaucracy and placing implementing agencies that are not in accordance with their competence. Third, the ideal arrangement of the President's approval policy can be done by applying it in the formation of Governance Ordinance and President Ordinance, maximizing harmonization, implementing the provisions of the Presidential Instruction regarding the adoption, supervision and control of policy implementation at the Ministry level, and making the President's approval as an alternative mechanism by reformulating the provisions of the Draft Ministerial Regulation.

Keywords: Presidential Approval, Executive Preview, Formation of Ministerial Regulations.

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