Research Article

Proportionality of Administrative and Criminal Authority in Resolving State Financial Losses

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ABSTRACT

In Indonesia, vague definitions of "financial loss" and "loss to the state" frequently blur the distinction between administrative and criminal liability. This study examines the normative framework governing "loss to the state" and its implications for the scope and extent of administrative and criminal law. It employs a normative legal methodology, drawing particularly on statutory, conceptual, and case-based approaches and referring to Supreme Court rulings. The findings of this study provide a normative contribution by establishing operational parameters, including causality, the materiality of the loss, the status of restitution, and the nature of violations of the General Principles of Good Governance, to affirm that administrative review and restitution must precede criminal proceedings. This study recommends regulatory harmonization between state financial laws and government administration laws to ensure that criminal sanctions are applied proportionally as an ultimum remedium, thereby maintaining legal certainty and the rationality of anti-corruption efforts.

Keywords: Administrative Liability; Criminal Law; Legal Certainty; Loss to The State; Ultimum Remedium

A. INTRODUCTION

Indonesia's financial governance is caught between the principles of administrative accountability, which focus on correction, recovery and management, and the principles of the criminal law framework on corruption, which focus on punishment (Duran et al., 2023). Law enforcers commonly criminalise errors of state governance in the construction and interpretation of state finances and state financial losses (Parry & Yingling, 2023; Kartika et al., 2024). However, there are legal and regulatory frameworks for the management and auditing of state finances, which provide an architecture for recovery and administrative accountability. Examples include the Treasury and State Administration systems and Administration claims (Bastos, 2023). According to the State Finance Law, the definition of state finances encompasses any right or obligation of the state that can be expressed in monetary terms (De Bellis, 2021; Scholten et al., 2023). Since this definition is very broad, it extends the scope of the state's control. Conversely, the State Treasury Law defines state or regional loss as a real and precise shortage of money, securities, or goods caused by intentional or negligent unlawful acts (Kolain, 2025). In this regard, tangible and specific points are closer to the logic of state finance administration. The

definition of economic loss to the state in Articles 2 and 3 of the Corruption Criminal Act has also been the subject of extensive debate. Several different views have been expressed regarding the criteria for economic loss to the state and the threshold at which the state can invoke criminal sanctions (Craik et al., 2023; van Riet, 2023; Yulius & Utama, 2024).

The debate, as discussed in this study, reached a critical point when the Constitutional Court, in Decision No. 25/PUU-XIV/2016, granted the petition in part and declared the word 'may' in Article 2(1) and Article 3 of the Law on Corruption Crimes was contrary to the 1945 Constitution and had no binding legal force, which meant a shift from potential loss to the need for more measurable proof of loss (Barnes, 2021; Parry & Yingling, 2023; Follesdal, 2022).

At the same time, the administrative law framework introduced mechanisms to examine alleged abuse of authority and to protect officials in the administrative sphere (Gikay, 2023). Thus, by design, there should be an administrative channel that works before, or at least proportionally in parallel with, the use of criminal instruments. Meanwhile, the main issue is not simply the existence or absence of administrative mechanisms, but whether the norms that form the concept of state finances and state financial losses are explicit enough to guide the relationship between authorities, when a governance event must be resolved through administrative accountability for recovery or control, and when the state has grounds to use criminal sanctions as a last resort within the framework of the rule of law (Decanio, 2021; Muñoz et al., 2025; Arianto et al., 2026).

Furthermore, the complexity related to the architecture of audits and follow-ups by the State Audit Agency, in this case, audits of state financial management and accountability, which normatively links the realm of governance with the realm of enforcement, has the potential to influence how losses are produced as normative outputs and used across administrative and criminal realms (Kenny, 2022; Davies, 2022). This section highlights a major legal deficiency due to ambiguities in the legal framework pertaining to state finances and state financial losses, especially in the State Finance Law, the State Treasury Law, the Government Administration Law and the Corruption Eradication Law. Though the focus of this part is more descriptive. It does not explicitly show how previous academic studies have failed to elaborate the transformation of administrative liability to criminal liability. The authors should more clearly explain which aspects of this normative uncertainty remain unresolved in the previous literature.

The regulatory framework that blurs the boundaries between administrative and criminal authority in state financial governance consists of three overlapping regimes, including (1) a definitional and state financial governance regime that expands the scope of state financial objects and establishes accountability or recovery

mechanisms; (2) the audit and follow-up regime, which produces findings and encourages institutional consequences; and (3) the corruption punishment regime, which makes state/financial losses the basis for fulfilling the elements of a crime as well as the gateway to criminal jurisdiction (Kozak, 2024; Mavrouli, 2024). This intersection is further complicated by the fact that the State Finance Law, on the one hand, defines state finances very broadly. In contrast, the State Treasury Law defines state or regional losses as actual and definite shortfalls (Craik et al., 2023; Waluyo et al., 2025).

On the other hand, the criminal norms on corruption, namely Articles 2 and 3 of the Anti-Corruption Law, link unlawful acts or abuse of authority with the phrase 'harming state finances', which was then reinterpreted by Constitutional Court Decision No. 25/PUU-XIV/2016 through the removal of the word 'may', thereby affecting the way losses are positioned as a threshold for criminal punishment (Bednar & Lewis, 2024; Purnhagen & Molitorisová, 2022). At the same time, the realm of government administration provides a pathway for testing and interpreting the abuse of authority within the relevant administrative sphere, thereby structuring criminal-administrative authority relations (Follesdal, 2022).

Examining the blurred boundaries between administrative and criminal authority, this study places government administration at the starting point of analysis, through four components that show how a governance event should be processed as a government matter but can then shift into a criminal case (Davies, 2022; Škrbić, 2021). First, at the level of action, acts that initially took the form of management decisions or policies, such as granting permits, procurement decisions, determining winners, signing contracts, or managerial decisions in resource management, are essentially governmental actions that arise from attribution, delegation, or mandate of authority (Decanio, 2021).

From an administrative perspective, the initial focus is not on criminalisation, but instead on whether the action meets the prerequisites of authority or competence, procedure, and purpose of use of authority in accordance with the principle of legality and the General Principles of Good Governance, including accuracy, non-abuse of authority, proportionality, and transparency (Blackham, 2023). This means that deviations at this stage are conceptually understood as administrative defects, namely defects in authority, procedure, or substance, the main consequences of which are administrative corrections in the form of cancellations, decision revisions, governance reforms, or the imposition of administrative sanctions, rather than immediate criminalisation (van Riet, 2023; Whelan, 2023).

Second, at the key output level, the administrative domain provides tools to produce corrective and restorative outputs (Andersson, 2022). These outputs can take the form of internal oversight results (APIP), recommendations for

improvement, determination of administrative responsibility, and recovery mechanisms, including the recovery of losses through compensation schemes or other relevant administrative enforcement (Kennedy, 2021; Dewi et al., 2025). Within this framework, audits should be viewed as instruments of control and correction that lead to system improvements and loss recovery (Ahmed, 2025). A problematic shift occurs when these administrative outputs are presented not as a basis for reform but as an automatic gateway to the criminal realm, thereby weakening the administrative function as the first line of response (Rogers, 2024).

Thirdly, in terms of loss measurement, the administrative approach focuses on measurability and recovery. Losses are understood as shortfalls that must be calculated and charged through state financial accountability mechanisms (Juarez-Garcia & Schmidtz, 2021). Therefore, the administrative focus is on not only whether a loss occurred, but also how it occurred within the governance chain, who is administratively responsible, whether there was negligence, whether the loss can be recovered and whether the correct recovery measures have been implemented (Nicholas, 2023).

Tensions often arise at this point: criminal proceedings treat losses as elements of a crime, whereas the administrative sphere treats them as a basis for restoration. This necessitates an assessment of causality, materiality and the possibility of proportional recovery (Moremen, 2024; Vlcek, 2022). Fourthly, in terms of implications, the administrative sphere prioritises improving governance and recovering losses in order to maintain the continuity of government functions (Choukroune & Nedumpara, 2021).

However, suppose every governance deviation is immediately transferred to the criminal sphere without clear administrative parameters (Yeung & Li, 2025). For example, without testing the quality of General Principles of Good Governance violations, without evaluating the good faith of officials, or without proving the failure of corrective mechanisms, the consequence will be a distortion of accountability, whereby officials tend to be defensive, decision-making slows down, and administrative recovery mechanisms lose their effectiveness (Bednar & Lewis, 2024; Decanio, 2021).

Building on these gaps in the literature and normative uncertainties, this study aims to offer a new conceptual framework in the form of operational parameters for resolving state financial losses. To guide this analysis, this study formulates two main research questions: (1) How does the normative construction of state financial losses in the State Finance Law, the State Treasury Law, the Government Administration Law, and the Anti-Corruption Law shape or obscure the transition between administrative accountability and criminal law enforcement? (2) How should proportional operational parameters be established to ensure that criminal sanctions serve only as a last resort after administrative

have recovery mechanisms failed? Addressing these questions is critical because the rationality of the rule of law in state financial management is primarily determined by the administrative sphere's ability to provide predictable, recovery-oriented corrective measures, rather than by prematurely relying on a penal approach (Bastos, 2023; Kolain, 2025; van Riet, 2023).

Table 1. Illustration of the blurring of administrative and criminal boundaries in financial management

Administrative Components	Administrative (Available)	Criminal (Used)	Blurred Point
ACTIONS	Decisions/governance policies (permits, procurement, management)	Positioned as abuse of authority/unlawful act	Is this a governance error or corruption?
KEY OUTPUT	Correction and recovery mechanisms	Audit/findings of loss as a trigger for criminal elements	Losses serve as a gateway to criminal jurisdiction
EXTENT OF LOSS	Recovery (claims for compensation/collection/enforcement)	Loss as an element of crime	Real and definite parameters with construction in the criminal process
IMPLICATIONS	Improvement of governance	Punishment and deterrent effect	Rationality of the anti-corruption system with legal certainty

Source: Processed by the author based on the website https://peraturan.bpk.go.id/

Table 1 confirms that the blurring of administrative and criminal jurisdictional boundaries is not merely a matter of choice of enforcement instruments but rather a matter of jurisdictional relations, shaped by the ways in which norms produce and interpret actions, outputs, and losses (Harlow & Rawlings, 2021). When governance decisions with room for correction and recovery are immediately recast as unlawful acts or abuses of authority, and losses are presented as triggers for criminal offences without clear transitional parameters, the administrative channel loses its filtering function, and criminal law tends to become the primary response (Moremen, 2024).

Thus, Table 1 serves as the basis for introducing a new conceptual framework termed the Transitional Boundary Test for state financial management. Moving beyond general calls for proportionality and legal certainty, this study articulates specific normative criteria that must be met before criminal jurisdiction is invoked. These criteria include: (1) establishing malicious *mens rea* to distinguish it from mere administrative negligence; (2) proving the direct causality and materiality of actual loss; (3) demonstrating the exhaustion and failure of administrative recovery mechanisms; and (4) confirming substantial, rather than purely procedural, violations of the General Principles of Good Governance (GPGG). By operationalising these concrete parameters, this framework establishes a strict jurisdictional sequence in which criminal enforcement functions exclusively as an *ultimum remedium*, thereby preserving the rationality of the anti-corruption system within the rule of law (Finnane, 2022; Robinson et al., 2024; Roehl, 2023)

Furthermore, this study discusses the research question, namely, how the normative construction of the concept of state finances and state financial losses shapes the relationship between administrative accountability and criminal law enforcement within the framework of the rule of law, as well as its implications for the certainty and rationality of the system for eradicating criminal acts of corruption (McIntyre & Murphy, 2025). Focusing on authority and normative output, this study places state administrative law as the main framework for assessing how state financial management should be accounted for (Careel & Verbruggen, 2025).

Building on the normative uncertainties and the blurring of boundaries between administrative and criminal jurisdictions, this study formulates two precise research questions to guide the analysis: (1) How does the normative construction of state finances and state financial losses across key regulatory frameworks shape or obscure the transition between administrative accountability and criminal law enforcement? (2) How should concrete operational parameters be established to ensure that governance events such as permits, procurement, and managerial decisions are first resolved through administrative correction and recovery, leaving criminal sanctions exclusively as an ultimum remedium? Addressing these questions is critical to maintaining legal certainty and preserving the system's rationality in combating corruption within the rule-of-law framework.

The jurisdictional boundaries between administrative and criminal law in state financial governance have been extensively explored in discourses. However, most prior studies have focused on differentiating the resolution of state financial losses caused by the abuse of authority by government officials, examining this issue from the perspectives of both administrative and criminal law. This approach serves to avoid the criminalisation of officials' actions while simultaneously preventing any weakening of efforts to eradicate corruption (Akbar, 2023; Sa'adah & Wibawa, 2023). This research provides the foundation for differences in accountability systems that focus more on differentiating criminal and administrative perspectives and does not yet discuss how the principle of proportionality is used to measure the limits of authority, the intensity of sanctions, and the selection of appropriate settlement mechanisms. Furthermore, Rahman et al. (2024) analyse the prioritisation mechanisms to be applied when administrative violations and criminal offences overlap, particularly in cases where government officials exercise discretion resulting in state financial losses. Although this research is closely related to the present study, its approach emphasizes the prioritization of administrative resolution mechanisms, rather than the development of proportionality parameters that could be used to determine when an

administrative resolution is sufficient versus when an escalation to criminal proceedings is warranted. A similar limitation is evident in the publication by Pranoto and Ayu (2024), which focuses on institutional coordination between the Government Internal Supervisory Apparatus (APIP) and law enforcement agencies. However, this research is limited to procedural harmonisation under the Government Administration Law and provides no substantive parameters for assessing the severity of violations of the General Principles of Good Governance before penal sanctions are invoked. Hartati et al. (2024), on the other hand, examine the elements and authority involved in calculating state economic losses with the aim of achieving justice in corruption cases in Indonesia. While this study broadens the discourse on law enforcement authority to encompass the power to gather evidence and calculate losses, it does not specifically integrate administrative, audit and criminal law enforcement powers within a proportionality framework.

In international scholarship, research on administrative accountability and law enforcement also reveals substantial gaps concerning their interaction with criminal jurisdiction (Bastos, 2023). This study examines doctrinal approaches in EU administrative law, with particular attention to the structure of state oversight. Although it comprehensively maps managerial compliance, it does not consider the overcriminalization of governance errors and the exercise of legitimate discretion, a pattern frequently observed in emerging legal systems. Likewise, research by (Craik, 2023), examines administrative accountability and the disregard of authority across international jurisdictions. While the study places considerable emphasis on restitution mechanisms, it does not establish a clear sequence of jurisdiction in cases where administrative recovery measures directly conflict with criminal enforcement principles.

Compared with the previous five publications, this study is fundamentally novel in that it formulates a new conceptual framework termed the 'Transitional Boundary Test'. Moving beyond abstract calls for proportionality in theory, the article successfully translates the ultimum remedium principle into four operational parameters: validating failed administrative recovery mechanisms through the APIP or Administrative Court; establishing malicious mens rea to definitively distinguish corruption from managerial negligence; establishing causality in cases of unrecoverable actual material loss; and identifying substantial violations of the General Principles of Good Governance. This normative construction provides a precise jurisdictional sequence that effectively prevents the premature criminalisation of government discretion, resolving an analytical and legal vacuum left unanswered by preceding studies.

B. RESEARCH METHODS

This study uses a normative legal methodology with a statutory, conceptual and case-based approach to examine the limits of administrative and criminal authority. This study utilises data from court rulings on public-sector corruption cases involving financial losses to the state, with the primary source being those published by the Supreme Court of the Republic of Indonesia through the Ruling Directory. Data collection was conducted by searching the website Supreme Court of the Republic of Indonesia for the period 2021-2026. From the search results, this study selected relevant verdicts for in-depth analysis, using a case-based approach in normative legal research to develop arguments regarding the limits of administrative authority under criminal law.

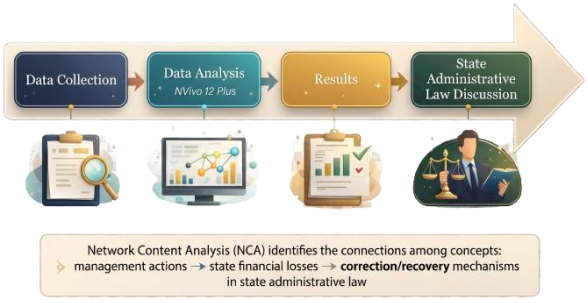
Table 2. List of Supreme Court decisions related to state financial losses

No	Supreme Court Decision	Year	Brief Relevance Description
1	Decision No. 2340 K/Pid.Sus/2021	2021	Corruption case involving state financial loss (basis for criminal conviction and interpretation of governance error).
2	Decision No. 2338 K/Pid.Sus/2021	2021	Corruption case involving state loss; used to analyze the rationality of the 'loss' threshold and its relation to governance and criminalization.
3	Decision No. 315 PK/Pid.Sus/2021	2021	Judicial review (PK) relevant to assessing consistency in reasoning on state loss and limits of authority.
4	Decision No. 3579 K/Pid.Sus/2020 (decided 13-12-2021)	2021	Corruption case involving state loss; relevant to examining how governance actions are framed as criminal offenses.
5	Decision No. 1056 K/Pid.Sus/2022	2022	Cassation decision classified under Corruption Causing State Financial Loss; an important example of Supreme Court reasoning format.

6	Decision No. 5003 K/Pid.Sus/2023		2023	Illustrates continuity in the Supreme Court's handling pattern of cases involving the element of state financial loss in 2023.
7	Decision No. 4028 K/Pid.Sus/2024		2024	Cassation decision in Corruption Causing State Financial Loss classification; used to assess consistency in the loss threshold and authority relations.
8	Decision No. 58 K/Pid.Sus/2024		2024	Decision determining the amount of state loss; relevant to testing the 'real and definite' requirement within criminal proceedings.
9	Surabaya Administrative Court Decision No. 9/P/PW/2018/PTUN.SBY		2018	An assessment of a decision or the findings of an audit conducted by the Government Internal Oversight Agency or the Financial and Development Audit Board regarding alleged abuse of authority in office before the initiation of criminal proceedings.
10	Surabaya Administrative Court Decision No. 1/P/PW/2025/PTUN.SBY		2025	Supreme Court decision concerning the investigation into Abuse of Authority.

Source: (Supreme Court of the Republic of Indonesia, 2025)

Figure 1. Data Collection Process



Sources: Author processed (2026)

Figure 1 illustrates the methodological flow of the research, which moves sequentially from data collection to data analysis using NVivo 12 Plus, producing results that are then interpreted in the discussion stage of state administrative law. The core of the analysis process is illustrated by

the Network Content Analysis (NCA) approach, which maps meaning networks to identify connections among key concepts in the data. The methodology section requires clarification. Sometimes it confuses normative juridical research with empirical case analysis and NVivo coding. The authors should clarify the nature of this study, either doctrinal or socio-legal, and support their choice of qualitative legal research.

Through NCA, the study traces the conceptual relationship, starting with management actions carried out in the realm of state finances, their close relationship to state financial losses, and culminating in consequences in the form of recovery mechanisms that should operate within the framework of state administrative law. Thus, this picture confirms that the research results do not stop at the findings alone, but are directed at strengthening the normative argument for placing the issue of state financial losses in the administrative realm before entering the criminal realm.

C. RESULTS AND DISCUSSION

1. Inconsistencies in State Financial Losses in Administrative Accountability

The misalignment between the normative construction of state finances and state financial losses raises questions about the appropriate scope of accountability, so an administrative law approach must be placed at the forefront of the assessment. From an administrative perspective, state finances are an object of governance, inherent in the authority for budgeting, implementation, administration, reporting, and supervision, so the primary measure is compliance with the basis of authority, procedures, and the principles of good governance.

Furthermore, state financial losses should be understood as the outcome of an administrative accountability process, demonstrated in tangible, measurable terms through audit mechanisms and the determination of responsible parties. Not every procedural flaw or administrative violation automatically results in actual losses, as many irregularities can be resolved through corrective decisions/actions, recovery, and administrative sanctions. Accordingly, it is crucial to differentiate administrative errors, the legitimate exercise of discretion, and abuse of authority, ensuring that assessments first apply tests of authority and governance before determining any further accountability consequences.

Inconsistencies in the normative framework governing state finances and state financial losses are apparent at the internal control stage. Article 20 and Article 21 of Law No. 30 of 2014 concerning Government Administration place allegations of abuse of authority under the supervision of the Government Internal Supervisory Appellate, with the outcome being either no error or an administrative error that causes financial loss to the state, which can then be submitted for assessment at the State

Administrative Court through an abuse of authority assessment scheme.

Internal supervision is procedurally confirmed through Regulation of the Supreme Court of the Republic of Indonesia Number 4 of 2015 concerning Guidelines for Proceedings in the Assessment of Elements of Abuse of Authority. Within the framework of government administration, this construction positions state financial losses as outcomes of oversight findings and testing the legality of authority, procedures, and principles of good governance, so that losses are not treated as a preliminary premise that prematurely determines the form of accountability.

An in-depth analysis of the Supreme Court decisions listed in Table 2 shows how this normative inconsistency affects law enforcement. As a concrete example, in Supreme Court Decision No. 2340 K/Pid.Sus/2021 and Decision No. 3579 K/Pid.Sus/2020, governance failures related to public procurement and licensing were prematurely and directly prosecuted as acts of corruption. In those cases, findings of state losses were automatically treated as the basis for criminal charges without a comprehensive administrative review by the Government's Internal Oversight Agency, thereby disregarding the corrective mechanisms mandated by Law No. 30 of 2014. In contrast, Judgment No. 58 K/Pid.Sus/2024 and Rehearing Judgment No. 51 PK/Pid.Sus/2024 demonstrate the courts' efforts to establish stricter jurisdictional boundaries. These rulings underscore the need for a threshold of "real and certain" losses, as well as the importance of distinguishing between maladministration and corrupt intent mens rea.

Figure 2. Word cloud results based on Directory of Supreme Court Decisions



Source: Data processing by NVivo 12 (2026)

Figure 2: The word cloud in the figure above also consistently visualises the dynamics and jurisdictional tensions in these rulings. The dominance of terms such as 'oversight', 'mechanism', and 'authority' provides visual confirmation that the discourse on state financial losses is deeply rooted in the cycle of administrative law controls. However, this visual data only provides a preliminary indication. In order to prevent the overcriminalisation of administrative misconduct, the theoretical concept of administrative authority must be translated into clear legal criteria.

Furthermore, this study sets out three clear operational parameters that must be met before criminal proceedings can be initiated and jurisdiction transferred. The first of these is the exhaustion of administrative remedies, whereby every alleged governance irregularity must first be evaluated by the Government Internal Supervisory Apparatus in order to distinguish between procedural defects and abuse of

authority. A criminal investigation is only valid if these administrative mechanisms have failed or been intentionally obstructed. The second parameter focuses on the nature of the violation and mens rea. To qualify, the misconduct must involve a substantial violation of the General Principles of Good Governance and be accompanied by malicious intent, distinguishing it from mere managerial negligence or the legitimate exercise of official discretion.

Figure 2 shows the predominance of the terms 'loss', 'administration', 'oversight', 'authority', and 'accountability'. This not only reflects linguistic patterns in the rulings, but also reveals a conceptual framework that is consistent with the theory of authority in public administrative law. From the perspective of the theory of authority, namely attribution, delegation and mandate, every act of state financial management essentially manifests the exercise of public authority, which is subject to the principle of legality and the General Principles of Good Governance Therefore, before an act is deemed a criminal offense, the quality of the exercise of authority must first be examined to determine whether there are defects in authority, procedure, or substance.

This is normatively based on Article 2 (1) of Supreme Court Regulation (PERMA) No. 4 of 2015 concerning Guidelines for Proceedings in the Assessment of the Element of Abuse of Authority. Procedurally, after an alleged irregularity has been assessed by the Government Internal Oversight Agency, government officials have the right and opportunity to file a petition with the Administrative Court to determine whether or not the elements of abuse of authority are present. The Administrative Court has up to 21 working days to review and rule on the petition once it is filed.

On account of PERMA No. 4 of 2015, investigations conducted by law enforcement agencies must also respect administrative jurisdiction. So, criminal investigations carried out by the police or the prosecutor's office should be temporarily suspended or postponed, as the case may be, while a petition for review is filed with the Administrative Court by the concerned official, unless the investigations have already begun. Until such a time as the Administrative Court makes a ruling on the petition, law enforcement agencies must not criminalize the actions of an official who is exercising their discretion. This is the Administrative Court ruling which eventually determines whether the matter should be referred to the criminal courts. As long as the prosecutor or the police do not have a ruling of the Administrative Court, they cannot determine the merits of the case filed by the official and thus should not act to criminalize the actions of the official.

Accordingly, synthesizing the findings through word clouds and this theoretical framework reinforces the case for defining administrative and criminal boundaries through explicit normative criteria. This requires assessing

the legality of authority at the initial administrative stage and treating criminalisation as a residual subsequent stage. The approach both upholds the consistency of the ultimum remedium doctrine and safeguards the rational allocation of authority within a state governed by the rule of law, enabling the anti-corruption system to operate without compromising legal certainty or proportionality

a. Normative Implications and Policy Reform

This study shows that the blurring of boundaries between administrative and criminal jurisdiction in state financial management is not merely a matter of law enforcement practice but a normative design problem that affects the distribution of authority in a state governed by the rule of law. When state financial losses are produced and utilised without clear transitional parameters, there is a premature shift from a regime of administrative accountability to a penal regime.

This shift directly affects legal certainty, proportionality, and the rationality of the anti-corruption system. Normatively speaking, for the principles of legality and the differentiation of functional authorities to be applied in practice, administrative law must translate theoretical claims into operational criteria that precisely distinguish governance errors from criminal acts of corruption. Actions related to the management of state finances, as part of governmental actions, are now subject to tests of authority, procedure, and substance based on three concrete legal parameters: (1) the requirement to comply with administrative instruments through an evaluation by the Government Internal Supervisory Apparatus as the first step; (2) proof of a substantial violation of Good Governance, aggravated by the presence of mens rea; and (3) the materiality of state losses, proven to be unrecoverable through administrative channels. The establishment of these measurable parameters means that recommendations for improvement can be implemented directly in the drafting of legislative norms or used as guidelines for judicial deliberation, rather than remaining abstract.

This study's novelty lies in formulating a new conceptual framework, known as the 'Transitional Boundary Test', to resolve the issue of overlapping jurisdictions when settling financial losses to the state. Unlike previous studies, which generally stopped at theoretical arguments regarding the importance of proportionality and the ultimum remedium principle, this study successfully translates these abstract concepts into concrete legal parameters that can be applied in practice. It establishes a strict jurisdictional sequence that includes an administrative corrective test, proof of mens rea to distinguish corruption from managerial negligence and the validation of loss recovery status as a mandatory filter before criminal sanctions can be imposed. The study's primary contribution is its provision of measurable tools for judicial and legislative evaluation, which prevent the premature

criminalisation of public officials' discretion while restoring rationality and legal certainty within the anti-corruption ecosystem.

The first normative implication of this study is therefore the need to affirm the primacy of administrative review. Any alleged governance irregularities must first be addressed through internal oversight and administrative corrective mechanisms. Using criminal instruments without going through these stages can undermine the accountability framework established by administrative and public finance law. The importance of this administrative primacy is demonstrated by the mechanism for testing elements of abuse of authority in the State Administrative Court. For example, in the Surabaya case.

Administrative Court Decision No. 9/P/PW/2018/PTUN.SBY, the PTUN judge granted the petitioner's request, ruling that the actions of the relevant government official did not meet the elements of abuse of authority but rather constituted pure maladministration that must be resolved through internal mechanisms. Conversely, in cases such as the Surabaya Administrative Court Decision No.1/P/PW/2025/PTUN SBY, the judge expressly dismissed the petition and found that an abuse of authority had in fact taken place, thereby confirming the appropriateness of referring the case to the criminal justice system. The existence of these Administrative Court decisions highlights the capacity and obligation of administrative courts to serve as an impartial jurisdictional filter before criminal penalties are imposed as a last resort.

The second normative implication concerns how losses to state finances are defined. Under the state financial administration framework, such losses are regarded as actual and certain amounts that must be calculated, established, and recovered through accountability procedures. However, in practice, losses often serve as a threshold for criminalisation without adequate analysis of administrative causality, the materiality of losses, and the possibility of recovery (Congost et al., 2023). This condition calls for a reformulation of Policy that emphasises that losses must first be treated as objects of administrative recovery before being qualified as elements of a crime. Thus, the restorative logic in administrative law is maintained, while criminalisation works residually (Choi et al., 2021).

The third normative implication concerns the protection of the use of governmental discretion (Gabrielli, 2025). The lack of clarity between administrative and criminal boundaries can create a defensive effect in public decision-making. Officials tend to avoid innovative policies or strategic decisions that entail fiscal risks, for fear that any mismanagement could be interpreted as a criminal act. From a rule-of-law perspective, this condition is contrary to the objectives of effective and responsive public administration. Therefore, policy reforms need to

strengthen legal certainty in the exercise of discretion, including by clarifying indicators of corruption-related abuse of authority and distinguishing them from ordinary administrative errors.

From a legislative policy perspective, regulatory harmonization is an urgent need that must be addressed through proposed amendments and specific draft regulations. The State Finance Law, State Treasury Law, Government Administration Law, Law on the Eradication of Corruption, and Administrative Court Law require systematic review and harmonization. Enacting Law No. 51 of 2009, the Second Amendment to Law No. 5 of 1986 on Administrative Courts, is essential to integration because these courts have exclusive jurisdiction to examine and adjudicate claims of abuse of authority.

Therefore, policy reform must establish transitional provisions that explicitly require law enforcement officials to suspend or halt criminal proceedings if a dispute involving state losses is in the administrative recovery phase or under review in the Administrative Court. This proposed detailed transitional mechanism will ensure that the principles of the rule of law regarding the rational distribution of authority, as well as the principles of proportionality and ultimum remedium, are operationalised in practice to prevent premature criminalisation.

Furthermore, policy reform should strengthen internal oversight mechanisms and ensure that audit results are followed up, providing greater procedural certainty and clarity. Predictable and adequate oversight will reduce the need for penal intervention and strengthen the legitimacy of the administrative accountability system. In this context, eradicating corruption is not weakened, but rather placed within a more rational and measurable framework. The main normative implication of this study is ultimately the need to rebuild the relationship between administrative and criminal authority based on the rule of law, emphasising legality, proportionality and differentiated functions. A system that prioritises administration for correction and recovery and criminal law as a last resort for serious corruption will better maintain a balance between combatting corruption effectively and ensuring legal certainty in state financial management.

As demonstrated in this study, the blurring of the boundaries between administrative and criminal authority in state financial management is not merely a technical law enforcement problem, but a fundamental issue in the construction of the rule of law.In the rechtsstaat tradition, state power is limited and in accordance with the law, with authority distributed in a rational, proportional, and accountable manner. Therefore, the relationship between the administrative and criminal spheres cannot be understood as an overlapping, boundaryless relationship, but rather as a functional relationship distinguished by its

objectives, character, and level of intervention into rights and freedoms.

With the goal of fulfilling the requirements of the rechtsstaat, the principle of legality ought to be translated into concrete procedure. Above and beyond abstract formulae. This research ends the vicious cycle of demands for 'clearer boundaries of legal certainty' through the use of a new normative tool, the Transitional Boundary Test. In this regard, each and every instance of financial management by the state should be subjected to an assessment of legitimate authority and to the General Principles of Good Governance. The jurisdictional requirement should be rigorously examined and exhausted by an administration review, in the first instance, through the Government Internal Supervisory Apparatus and the Administrative Court, prior to the initiation of any criminal investigation. It follows therefore that the first and most important normative conclusion of this study is to establish an effective legal barrier for administrative primacy. Taking this administrative threshold to be satisfied would not only vindicate the rule of law, but would provide the legal filters of mens rea and loss recovery and rationally allocate the powers of the state.

Incorporating the principle of proportionality further defines these limits. Under this principle, every state intervention must satisfy three core requirements: suitability, necessity, and proportionality in the strict sense. When the state exercises financial governance, the use of criminal law as an intervention must be assessed in light of all three. First, is criminalisation a suitable way to protect state finances? Second, are less restrictive and more effective alternatives available, such as administrative correction and recovery mechanisms? Third, are the penalties proportionate to the degree of error and the resulting loss?.

Research findings show that, in practice, state financial loss is often used directly as a threshold for criminal punishment without adequate evaluation of the necessity and proportionality of penal intervention. From a proportionality perspective, this approach risks exceeding the necessary limits of intervention, particularly when losses can be recovered through administrative mechanisms or when irregularities are due to managerial negligence. Therefore, policy reform must emphasise that criminal law should be a last resort, not an automatic response to every loss.

The rechtsstaat idea assumes that the separation of functions between administrative and criminal law is to protect the legal certainty and public trust. If every policy risk in state financial management was deemed a crime, uncertainty would be created for public officials when exercising their discretion. Such uncertainty would violate the legal certainty that is essential to a state governed by the rule of law. As a result, public administration would lose effectiveness. Decision-makers would become defensive and self-protective, causing a dysfunctional unwillingness to respond to the public's needs.

The policy implications of integrating the rule of law and proportionality are that there must be harmonised regulations which explicitly affirm the normative order of accountability. Firstly, the legality of government actions must be assessed within the framework of administrative law, including through internal oversight mechanisms to examine abuse of authority. Secondly, financial losses to the state should be treated as objects of tangible and measurable administrative recovery. Thirdly, criminal prosecution should only be initiated if it is proven that administrative mechanisms are inadequate or that the irregularities constitute serious, deliberate corruption.

By this approach, the anti-corruption system is strengthened without compromising principle of the rule of law. More emphasis on the administrative side of the system as the first line of defense against corruption will increase the overall effectiveness of the system. The rule of law is equally assessed by the balance maintained between the interest of state finances, legal certainty, and the continuous function of the government.

Ultimately, combining the rule-of-law theory with the principle of proportionality confirms that the division between administrative and criminal authority must rest on a rational allocation of powers. Proportionate punishment, following sufficient administrative review, concretely expresses the rule of law: it both enforces legal requirements and constrains power in a balanced and just way (Moremen, 2024).

The increasingly indistinct boundaries between administrative and criminal authority in public financial management should be understood as an issue of legitimacy within the rule-of-law framework. Under the German rule-of-law tradition, state power is governed by legality, legal certainty, and proportionality. Legal certainty requires the allocation of authority between administrative and criminal systems to be foreseeable and clearly delineated (Robinson et al., 2024). When every finding of state financial loss is immediately used as a threshold for criminal prosecution without first undergoing an administrative review of authority, procedures, and General Principles of Good Governance, the structure of functional differentiation in the rule of law becomes distorted (Finnane, 2022).

Also, according to the principle of Verhältnismäßigkeit, every state intervention must meet the requirements of appropriateness, necessity and proportionality. In the theory of proportionality of Robert Alexy, the use of criminal sanctions is to be considered a severe restriction of human rights (Enayat & Künkler, 2025). Therefore, if no lighter means are available, and the offender cannot otherwise be punished, it may be justifiable to use a criminal sanction. However, if the same result could be achieved by use of an appropriate order, or if the irregularity is due to lack of administration, or maladministration, then the use of criminal law would be unjustified and a

violation of the principle of proportionality (Lindsey & Brennan, 2024). Therefore, the place of criminal law as the ultima ratio is based more on logic and the rule of law than on any philosophical or practical doctrine (Veenbrink et al., 2022).

D. CONCLUSION

This study verifies that the blending of the boundaries between the administration and the criminal side of finance management by the state is attributed to the incongruence of normative structures of state finance and state financial losses. From the perspective of state administrative law, the management of state finances is a governmental action, subject to the principles of legality, and authority, procedure and good governance. Consequently, financial losses suffered by the state should be regarded as the outcome of an administrative process that is capable of being fully examined and measured. Prematurely fixing losses as a breach of the law deters a state from administering due process of law and, thus, weaken the rule of law.

With the rule-of-law framework, distinction between the functions of administrative and criminal law must be observed, particularly in light of legal certainty and proportionality. Administration law is mostly of a restorative and corrective nature and is aimed at assisting the continuance of government. Criminal law, on the other hand, is purely residual and is aimed at combating grave intentional breaches of the law. More efforts on internal oversight mechanisms, precise definition of the limits of abuse of authority, and more uniform state financial regulations and government administration are requirements for a rational administrative-criminal differentiation. This would help establish greater order, structure and proportionality in the framework of state financial administration. This does not lessen the effort to combat corruption.

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