

A JURIDICAL REVIEW OF THE DISHARMONY BETWEEN CENTRAL AND REGIONAL GOVERNMENT REGULATIONS REGARDING SAILING PERMIT AUTHORITY: A VIEW FROM PRINCIPLES OF BALANCE AND PUBLIC INTEREST

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Abstract

The practice of sailing permits encounters challenges when the issuance of relevant sailing permits does not align with the designated jurisdictional authorities, as shown in the case involving KM Karya Indah. This study aims to identify the underlying causes of disharmony between Central and Regional Government Regulations regarding jurisdictional authority over sailing permits. Additionally, the study seeks to establish the proper approach to managing sailing permits based on the principles of balance and public interest. The research employed a normative legal research method, utilizing both the Statute Approach and the Conceptual Approach. Primary and secondary legal sources were employed as research materials. The findings indicate that within the domain of jurisdictional authority related to sailing permits, there is a lack of congruence between Central and Regional Government Regulations. In particular, the regional regulations necessitate that the processing of sailing permits should occur through the respective region first, under the jurisdiction of the Governor as the responsible authority. However, the practical application deviates from this structure, as the sailing permit processing is directly pursued at the central government level, and endorsed by relevant parties. The issuance of the pertinent sailing permits should align with the designated jurisdiction and the respective authorizing entities to avoid disharmony among regulations. Such harmonization is necessary to maintain balance and uphold the public interest, which serves both the permit applicants and the broader society.

Keywords: Disharmony of regulation, authority, Sailing Permit.

Introduction

Indonesia is the world's largest archipelagic country with the potential to serve as the global Maritime fulcrum. This presents one of the opportunities that Indonesia possesses to advance the nation, where maritime transportation holds a significant role in realizing its aspirations as outlined in the preamble of the 1945 Constitution's Fourth Paragraph – to advance the people's welfare. Considering Indonesia's favorable geographical position, situated between two continents and two oceans, the country holds

How to cite:	Demson Tiopan, Shelly Kurniawan, Marsya Shalviera Amanda (2023) A Juridical Review of the Disharmony Between Central and Regional Government Regulations Regarding Sailing Permit Authority: A View from Principles of Balance and Public Interest, <i>Syntax Literate</i> (8) 12, https://doi.org/10.36418/syntax-literate.v8i12
E-ISSN:	2548-1398
Published by:	Ridwan Institute

substantial potential for progress and the betterment of its people. This potential underscores the need to harness Indonesia's maritime resources, which serve as a fundamental asset in the national development endeavor. The sea is an undoubtedly beneficial natural resource that should be sustained and leveraged for optimizing the country's life.

To ensure sea sustainability and its potential for people's welfare, shipping activities should be optimized to support the dynamics of national development while improving the people's, goods, and service mobility. Shipping is a system comprising water transportation, port, safety and security, and maritime protection. As a part of the national transportation system, the potential and roles of shipping activities should be optimized to realize an efficient and effective transportation system that supports a robust, dynamic national distribution pattern.

Sea transportation serves as one of the means for improving the economic cycle. Considering its crucial roles, it should be properly managed to improve the demands of passenger and goods transportation service, both domestically and internationally. To be more specific, the sea transportation discussed in this study refers to a ship. A vessel represents a waterborne mode of transportation, displaying diverse variations in terms of type and configuration.

Vessels can be propelled by the forces of wind or mechanical power, enabling their mobility. Further classifications denote vessels as either buoyant vehicles at rest, navigating upon the water's surface, or submerged beneath its depths. Given its predominant function in fisheries, the majority of vessels not only must adhere to the general criteria applicable to vessels, similar to cargo and passenger ships, but also necessitate adherence to distinctive attributes (Axelius et al., 2022).

These attributes are designed to cultivate a secure maritime transportation service, characterized by high accessibility, integration, appropriate capacity, regularity, expeditiousness, orderliness, reasonable fare structures, and safety standards. Permit refers to one of the forms of regulatory and control functions of a government toward the activities carried out by the society.

A permit may take forms of registration, recommendation, certification, quota, and approval to conduct a business that typically should be obtained by a company or an individual before conducting the business (Sutedi, 2010). A permit is issued to control an activity, ensuring that it does not contradict the public interest. This licensing serves as one of the government's endeavors to minimize the occurrence of discrepancies in the execution of activities, ensuring that such endeavors adhere to existing regulations. Consequently, licenses become imperative for every applicant seeking to engage in activities, especially those that have implications for the public interest.

However, Indonesia is still struggling with the issue of sailing permits. The sailing permit in this country sometimes is not compliant with the prevailing law, as the business actors disobey the government's call to manage the business permit before conducting their business activities. Permit holds a preventive function, as it details the do's and don'ts for the permit holders to avoid legal violation. One of the cases regarding authority

in granting sailing permits could be seen in a case involving KM Karya Indah. This case dealt with the authority in granting of sailing permit for KM Karya Indah, who applied for the permit directly to the central government.

The company did so by referring to the Regulation of the Minister of Transportation of the Republic of Indonesia no. KM 68/2020 on the Master Plan for Ternate/Ahmad Yani Port of North Maluku Province, and the Regulation of Minister of Transportation of the Republic of Indonesia no. PM 89/2018 on Norm, Standard, Procedure, and Criteria of the Integrated Electronic Business Permit for Sea Transportation Sector.

Regarding the jurisdiction of managing sailing permits carried out by KM Karya Indah, the process undertaken surpasses the authority of the local government in the relevant province. This authority is typically delegated to the governor. However, the licensing procedure is directed directly to the central government. This stance is consistently reaffirmed by the Head of the Harbor Master's Office and Port Authority, who explicitly states that the management of these permits does not fall within the jurisdiction of the corresponding local area.

As stipulated within Law Number 23 of 2014 concerning Regional Governments (as most recently amended by Law Number 6 of 2023 regarding the Enactment of Government Regulation instead of Law Number 2 of 2022 concerning Job Creation into Law) and Law Number 17 of 2008 concerning Shipping (as most recently amended by Law Number 6 of 2023 regarding the Enactment of Government Regulation instead of Law Number 2 of 2022 concerning Job Creation into Law), it is explicitly indicated that the management of permits concerning routes spanning across regencies/municipalities within a province falls under the jurisdiction of the governor.

Therefore, it can be inferred that in the case of KM Karya Indah, the authority of the governor was superseded, and the voyage proceeded directly from Bitung to Ternate and Ambon. This action is by the permit issued by the Directorate General. However, the facts showed that KM Karya Indah did not only sail through the North Maluku waters but also stopped and conducted passenger and goods loading and unloading activities in Ternate, Sanana, and Taliabu ports, which were in North Maluku regencies.

Such a provision deviates from the delineation of authority enshrined in Article 9, paragraph (1) of Law Number 23 of 2014 concerning Regional Governments (as most recently amended by Law Number 6 of 2023 regarding the Enactment of Government Regulation instead of Law Number 2 of 2022 concerning Job Creation into Law) which pertains to the division of governmental affairs encompassing absolute, concurrent, and general governance matters.

The issue of authority involving KM Karya Indah permit should be within the concurrent governmental affair (article 9 paragraph (3) of Law 23/2014 on Regional Government), which is defined as the governmental affairs that should be divided between the central and regional government (i.e., Provincial and regency/municipal governments). Law 23/2014 on Regional Government also stipulates the absolute

governmental affairs, which is divided into basic service and non-basic service affairs, further detailed in Article 12 paragraphs (1), (2), and (3).

To ensure good coordination between KM Karya Indah, the Harbormaster Office, and Port Authority, and the Governor, KM Karya Indah should report to the Regional Head (i.e., Governor) as it passes through and conducts the business activity in the province's autonomous territorial. The governor needs to know that the ship operates in its territory to take responsive measures should any unexpected accident occur.

This case indicates a disharmony between the central government and the regional government regulation regarding the authority to grant of sailing permit. On one hand, the central government finds it necessary to grant the sailing permit for KM Karya Indah because it is beyond the provincial government's authority. On the other hand, the ship still requires the provincial government's permit because it conducts business activities in the region. Furthermore, it is also important to apply for a permit from the regional government first before applying to the central government to ensure its compliance with the division of authority. This is important to prevent unexpected problems that hinder the ship's activities and as a report to the central government.

The potential issues that may arise from individuals with authorization to grant relevant permits are closely related to several principles of good governance, as outlined in Article 10 of Law No. 30 of 2014 on Government Administration. This article outlines the scope of General Principles of Good Governance (AUPB) within Government Administration, including the Principle of Balance and also stated in Article 10 paragraph (1) letter g of Law No. 30 of 2014 on Government Administration, which is the Principle of Public Interest.

Given the background presented above, the researcher is motivated to conduct a study that addresses the questions regarding "How does the disharmony between regulations of the central and regional governments affect the jurisdiction of sailing permits?" and "What should be the proper approach to managing sailing permits from the perspective of the principles of balance and public interest?" The objectives of this research are to identify the factors causing disharmony between regulations issued by the Central and Regional Governments concerning jurisdiction over sailing permits, as well as to determine the appropriate approach for managing sailing permits, considering the principles of balance and public interest.

Research Methods

This normative legal study examined the implementation of principles and norms in the positive law. This study was categorized as an analytical descriptive legal study focusing on analyzing the disharmony between the central and regional government regulations regarding the sailing permit authority and its relationship with the general principles of good governance. It applied statute and conceptual approaches. Secondary data were collected through a literature review and analyzed qualitatively.

Results and Discussion

The case involving KM Karya Indah is closely linked to the concept of disharmony. This assertion is supported by the understanding of disharmony itself. Disharmony can be defined as a state of lacking overall alignment that is perceived to carry a negative connotation in several evaluative aspects (Suhartono, 2011). This disharmony arises due to conditions where issues give rise to inconsistencies among regulations. In this context, it can be observed that disharmony is deemed unfavorable, as it lacks efforts to establish conformity and congruence within legal regulations. The delineated understanding of disharmony elucidates that the management of sailing permits for KM Karya Indah was conducted by directly engaging with central authorities.

This assertion is reinforced by the fact that, according to the involved parties, the management of these permits adhered to the Minister of Transportation of the Republic of Indonesia Decision No. KM 68 of 2020 concerning the Master Plan of Ternate Port / Ahmad Yani in North Maluku Province, and Minister of Transportation of the Republic of Indonesia Regulation No. PM 89 of 2018 regarding Norms, Standards, Procedures, and Criteria for Electronically Integrated Business Licenses in the Transportation Sector, specifically within the maritime domain.

This situation inevitably engenders a legal predicament, as the direct submission of sailing permit management by KM Karya Indah to the central authorities implies the lack of enforcement of regional regulations within this sphere. This situation has led to inconsistencies among regulations, as evidenced by the central government regulations. In this case, the regulations in question are the Minister of Transportation of the Republic of Indonesia Decree No. KM 68 of 2020 concerning the Master Plan of Ternate Port / Ahmad Yani Port in North Maluku Province, and the Minister of Transportation of the Republic of Indonesia Regulation No. PM 89 of 2018 Regarding the Norms, Standards, Procedures, and Criteria for Integrated Electronic Business Licensing in the Maritime Sector.

The issuance of these regulations has rendered the sailing permit valid and applicable without the necessity of prior adherence to local regulations. Certainly, in this context, disharmony is regarded as a negative phenomenon due to the inconsistency among regulations. The central government, by directly authorizing and endorsing relevant permits, bypasses the need for prior regional regulations. Meanwhile, the regional regulations emphasize the necessity of obtaining permits issued by the region before those issued by the central authorities.

There are various types and hierarchies of legislation outlined in Law Number 13 of 2022 on the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation. This law delineates the following: a) The 1945 Constitution; b) Law/ Governmental Regulation instead of Law; c) Governmental Regulation; d) Presidential Decree; e) Provincial Government Regulation; f) Regency/Municipality Government Regulation

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From the exposition on the types and hierarchy of legislation, it can be asserted that the KM Karya Indah case disregards the prevailing hierarchy of legislation. Specifically, the need for sailing permits in this instance should follow the hierarchy, commencing with local regulations as the lowest level before advancing to higher-level regulations, namely central regulations. Regarding permits themselves, the term "Perizinan" derives from "izin," which, in the context of legal terminology, is defined as authorization or permission granted by the government, required for actions that generally necessitate special supervision. However, these actions are not inherently considered wholly undesirable (Hr, 2006).

Licensing serves as a government policy instrument aimed at controlling the negative externalities that may arise from social and economic activities. Essentially, the concept of a permit encompasses a highly complex notion, involving the permission granted to an individual or legal entity to engage in an activity that, according to legal regulations, requires authorization (Pudiyatmo, 2007). In the context of the KM Karya Indah case, particularly in the realm of sailing permits, they are of paramount importance to permit applicants as a form of control over potential negative outcomes that might arise from their respective activities.

In this case, KM Karya Indah is engaged not only in sailing but also in activities such as passenger and cargo handling. Consequently, the need for sailing permits is crucial in mitigating potential adverse impacts stemming from these activities. Permits also serve a regulatory function, intended to ensure that the granted permissions are exercised according to their intended purposes. This is crucial in preventing any misuse of the granted permits. In essence, this regulatory function can be seen as an essential role held by the government.

There are two types of permit, written and oral forms:

1. Written permit

A written permit is a form of authorization granted by the government through a relevant authority based on the requested permission. The granting of the permit is documented in writing and is signed by the authorized party within that institution.

2. Oral permit

An oral permit takes the form of verbal authorization and can be observed in situations involving public expression of opinions. This type of permit is generally employed by organizations to conduct their activities and subsequently report those activities to the relevant authorities. Oral permits primarily serve as a means of reporting (Hr, 2006).

Based on the exposition above, it is stated that a permit serves the function of regulating and overseeing activities carried out by KM Karya Indah to govern activities and prevent undesirable outcomes. It is also evident that the permit process for KM Karya Indah is managed at the central level, involving written permits that reference the Minister of Transportation of the Republic of Indonesia's Decision Number KM 68 of 2020 concerning the Master Plan of Ternate Port / Ahmad Yani in North Maluku Province, and the Minister of Transportation of the Republic of Indonesia Regulation Number PM 89

of 2018 regarding Norms, Standards, Procedures, and Criteria for Integrated Electronic Business Licensing in the Maritime Transportation Sector.

Shipping is defined following Law Number 17 of 2008 concerning Maritime Transportation (as amended by Law Number 6 of 2023 on the Enactment of Government Regulation instead of Law Number 2 of 2022 concerning Job Creation into Law), making it a benchmark for the existence of maritime transportation, aiming to ensure safe waterborne transportation and maritime protection (Aji et al., 1991).

To ensure safe transportation carried out through waterborne means and the provision of maritime protection, it is also mentioned that activities within the water environment are required to obtain permits. This requirement is stipulated in Law Number 17 of 2008 concerning Maritime Transportation (as amended by Law Number 6 of 2023 on the Enactment of Government Regulation instead of Law Number 2 of 2022 concerning Job Creation into Law). Article 27 of this law stipulates that "To conduct transportation activities in waters, individual persons who are Indonesian citizens or business entities must obtain a Business License."

Related to this matter, Article 28 paragraph (1) of Law Number 6 of 2023 on the Enactment of Government Regulation instead of Law Number 2 of 2022 concerning Job Creation into Law, states that Business Licenses for maritime transportation shall be granted by: a) A Regent/ Mayor, for a business entity whose domicile is within the Regency/Municipality territory and who operates across harbors within the Regency/Municipality. b) A Governor, for a business entity whose domicile is within the Provincial Government territory and who operates across harbors in different regencies/municipalities within the same province; c) Minister, for a business entity who conducts its activities across harbors in different provinces and internationally.

Regarding the jurisdiction of managing sailing permits carried out by KM Karya Indah, the process undertaken surpasses the authority of the local government in the relevant province. This authority is typically delegated to the governor. However, the permit was directly applied to the central government, which is reaffirmed by the Head of the Harbor Master's Office and Port Authority, who explicitly states that the management of these permits does not fall within the jurisdiction of the corresponding local area.

However, upon further investigation, it is revealed that KM Karya Indah not only traverses the waters of North Maluku, but also docks at the ports of Ternate, Sanana, and Taliabu. Subsequently, it engages in the loading and unloading of passengers and goods, activities that fall within the jurisdiction of districts in North Maluku. This indicates that the authority to issue permits for such activities should lie with the local government, particularly the governor who holds the authority for provincial permits. Nonetheless, the reality is that KM Karya Indah only sought sailing permits directly from the central government, falling under the jurisdiction of the national authorities.

The vessel's management focused solely on the direct route from Bitung to Ternate and Ambon, which aligns with the permit issued by the Directorate General (Dirjen). From this, it can be deduced that the permit application process neglected the

need for permits from the governor, who holds the authority for sailing permits within the province, especially for activities such as passenger and cargo loading and unloading conducted by KM Karya Indah within the province.

When discussing the KM Karya Indah case, it is closely tied to the principles of good governance. If viewed through the lens of these principles, the case can be analyzed in the context of two principles: the Balance Principle outlined in Article 10 of Law Number 30 of 2014 concerning Government Administration, and the Public Interest Principle stipulated in Article 10 paragraph (1) letter g of the same law (as amended by Law Number 6 of 2023 on the Enactment of Government Regulation instead of Law Number 2 of 2022 concerning Job Creation into Law).

According to the Kamus Besar Bahasa Indonesia (Indonesian Dictionary), the term "Keseimbangan" holds the following meanings: (a) The state of equilibrium, equal weight or strength, proportionate, balanced; (b) The state that arises when all forces and tendencies are precisely counterbalanced or neutralized by opposing forces or tendencies (Poerwadarminta, 1985).

The principle of balance entails achieving equilibrium between the penalties for officeholders' actions and their negligence or lapses. This principle also necessitates clear qualifications regarding the types or nature of violations or oversights committed by an individual to ensure consistent application across different cases and legal certainty (Solechan, 2019). Furthermore, the principle of balance mandates that individuals committing similar violations or oversights should face identical sanctions, by the criteria outlined in the prevailing laws and regulations (Herman, 2016). In Indonesia, this principle is exemplified in positive law, including the criteria for violations and the imposition of sanctions, as evidenced in Article 6 of Government Regulation Number 30 of 1980 concerning Employee Discipline Regulations (Rumokoy, 2010).

By effectively adhering to the principle of balance, the interests of various parties are harmonized, an ideal legal framework is established for all parties involved, and justice is duly served (Irayadi, 2021). In the case of KM Karya Indah, it can be observed that there is a lack of effort to align the implementation of regulations created by both the central and regional governments in the management of sailing permits. This is also linked to the absence of coherence in authority corresponding to specific regions, resulting in ambiguity regarding the enforcement and clarification of applicable laws in ensuring the smooth conduct of activities, particularly related to maritime transportation within the community.

Therefore, the principle of balance is necessary to establish harmonization and equilibrium between regulations issued by the central and regional governments concerning the management of sailing permits. It is crucial to obtain permits that correspond to the regions traversed by sailing activities, with the involved parties holding authority over those specific areas. For instance, in the case of KM Karya Indah, the required permit needs to be acquired and issued by the governor, who is the authority of the respective provincial region being traversed.

Subsequently, the process would continue with further permit processing at the central level, which pertains to the same route and is issued by the Directorate General based on the obtained permit for KM Karya Indah. This approach facilitates the establishment of harmonization, ensuring reasonable and just sailing activities while promoting the goal of harmony among laws and regulations. Furthermore, it ensures a clear and proportionate distribution of authority under rights, obligations, and well-directed permit management. In this manner, a well-defined and equitable arrangement is achieved, ultimately fulfilling the objective of justice.

Through the harmonization of regulations between the central and regional governments, a clear framework is established, assuring principles and sanctions for law enforcement against the public. In this context, in the event of future violations concerning the management of sailing permits committed by irresponsible individuals, a well-defined and resolute legal enforcement mechanism can be applied. Consequently, the creation of explicit norms, sanctions, and stringent law enforcement also ensures certainty for the public.

The principle of balance not only offers passive protection but also active safeguards for the public, particularly in the context of sailing permits. It safeguards the activities carried out by the respective permit applicants engaging in sailing activities that typically span different regions. In addition to the principle of balance, another principle closely associated with the KM Karya Indah case is the principle of public interest.

According to Sumardjono, the public interest must not only meet its designated purpose but also deliver perceived benefits or social profitability (Harjanti, 2011). According to the explanation of Article 5 letter d of Law Number 30 of 2002 concerning the Corruption Eradication Commission, the principle of public interest prioritizes the welfare of the general public through aspirational, accommodative, and selective means. Furthermore, as outlined in Law Number 25 of 2009 concerning Public Services, the principle of public interest denotes that service provision should not prioritize personal and/or group interests.

Three principles can be employed as criteria to determine whether an action is genuinely aimed at the public interest. These encompass government ownership of the activity, sole governmental execution and management, and the absence of profit-seeking motives (Agustalita & Yuherawan, 2022). In the context of the KM Karya Indah case, an examination of the situation through the lens of the principle of public interest reveals a noticeable absence of its application. In KM Karya Indah's case, the process of managing sailing permits primarily benefits the applicant, KM Karya Indah. The procedure for acquiring sailing permits, wherein the application is directly submitted and approved at the central level under the authority of the Directorate General, without prior engagement of local governing bodies, indicates a preference for swift and convenient permit issuance, thereby bypassing the regional pathway.

Nevertheless, when viewed from the principle of public interest, this approach appears inconsistent. The central governing body responsible for handling the sailing

permit for KM Karya Indah has displayed a lack of uniformity in permit processing, seemingly affording priority to the interests of individuals or specific groups.

This stems from the fact that the principle of public interest necessitates that the state (its agents) consistently prioritize the collective welfare over the interests of individuals or specific groups when executing its national duties. This means that the public interest takes precedence over personal interests.

However, within this context, there are limitations on individual interests, as the public interest encompasses societal and national concerns based on the principles of social justice for the entire Indonesian population. Consequently, in the case of KM Karya Indah, where the sailing permit process was expedited and streamlined directly through central channels, effectively bypassing regional authority in permit management, due consideration should have been given to the principle of public interest.

The principle of public interest is vital for government entities acting as public servants, where governmental bodies and officials serve as agents of the state and are required to prioritize the public interest. By comprehensively understanding and weighing the expectations and desires of the populace, these officials work towards the realization of the people's welfare. Speaking of the welfare of the people, it's worth noting that the theory of the welfare state is considered the most suitable response to the state's involvement in promoting the welfare of its citizens (Sukmana, 2016).

The concept of the welfare state entails a democratic governance approach in which the government holds the responsibility of ensuring the well-being of its population (Fadlia, 2022). This theory guarantees that every citizen receives their rights regardless of their differences in status, economic class, or other distinctions (Elviandri et al., 2019). From the case of KM Karya Indah, it becomes evident that there is a need for clear regulation issued both by the central and local governments, by their respective roles and authorities, to avoid overlapping regulations.

Starting from both the central and regional governments should collectively adhere to the prevailing legal regulations by implementing processes or steps in the management of sailing permits. This should begin at the regional level, followed by processing at the central level, with such actions being carried out by the designated authorities. In this context, there should also be no differentiation or discriminatory nature in the permit processing process.

This aligns with the welfare state theory, where every citizen receives their rights regardless of differences in status, economic class, or other distinctions. Through this approach, the activities or endeavors of permit applicants can proceed smoothly following the issued permits. Other permit applicants can also follow the permit process as per the applicable regulations. Consequently, the public interest can be effectively fulfilled, as all members of society will understand the prevailing laws and regulations. This aligns with the aspirations of the public, which include upholding the value of social justice for all citizens of Indonesia. The government, as the bearer of responsibilities and as a form of state involvement, will contribute to realizing the welfare of its citizens.

The principles of good governance are of paramount importance in the administration of government, as the application of these principles, particularly the principles of balance and public interest, can lead to the establishment of security, well-being, and happiness within society. Moreover, it can contribute to the realization of Indonesia's aspirations, as outlined in the Preamble of the 1945 Constitution, particularly the fourth paragraph

Conclusion

The complexity of the permit issuance process, particularly concerning sailing activities, is evident in the multitude of regulations at both the central and regional government levels. Consequently, in the implementation of permit procedures, especially in sailing activities, applicants often disregard regulations issued by local authorities, or what can be termed as "lower-level" regulations. Instead, they directly pursue permits from central authorities, bypassing existing regional regulations. This practice is incongruent with the hierarchical structure of legislation, as demonstrated in the case of KM Karya Indah.

This situation leads to disharmony among regulations, as seen in the case of KM Karya Indah. The company pursued its sailing permit directly from the central authority, referencing the Minister of Transportation of the Republic of Indonesia's Decision No. KM 68 of 2020 regarding the Master Plan of Ternate Port / Ahmad Yani Port in the North Maluku Province, as well as Minister of Transportation of the Republic of Indonesia Regulation No. PM 89 of 2018 concerning Norms, Standards, Procedures, and Criteria for Integrated Electronic Business Licensing in the Transportation Sector in the maritime domain. Notably, the sailing permit for KM Karya Indah took the form of written documentation.

However, on the other hand, neglecting the regulations of local governments means disregarding the need for permit processing related to maritime activities within the jurisdiction of those local areas. This stems from the fact that KM Karya Indah not only traverses areas falling under the purview of the central government for sailing permit processing but also crosses through regions under the jurisdiction of local governments for the same purpose.

Moreover, KM Karya Indah engages not only in transit but also in cargo and passenger loading/unloading activities within the provincial territory. Given the activities conducted by KM Karya Indah within the boundaries of the provincial area, the necessity of sailing permits becomes apparent. This facilitates the documentation and reporting of KM Karya Indah's maritime activities within the confines of that specific province. About this, examining the provisions of Article 28 paragraph (1) of Law No. 6 of 2023 regarding the Enactment of Government Regulation instead of Law No. 2 of 2022 concerning Job Creation, which outlines the authority of sailing permit issuers, indicates the importance of aligning permit issuance with the jurisdiction of the respective authority.

Since KM Karya Indah traverses through provincial territories, it follows that the initial permit issuance falls within the authority of the Provincial Governor before the

central government authority comes into play as the issuer of interprovincial permits, in line with the permit already obtained by KM Karya Indah. This measure is implemented to establish a clear division of authority and facilitate harmonization between central and local regulations, ultimately leading to the creation of alignment and conformity among regulations.

The principle of balance seeks alignment, harmony, suitability, equivalence, uniformity, and equilibrium in rights and obligations proportionally. When applied to the case of KM Karya Indah, it becomes evident that there has been a lack of effort to harmonize the implementation of regulations issued by the central and local governments in managing sailing permits.

BIBLIOGRAPHY

- Agustalita, D. H., & Yuherawan, D. S. B. (2022). Makna Kepentingan Umum Pada Kewenangan Deponering Dalam Perspektif Kepastian Hukum. *Jurnal Suara Hukum*, 4(1), 160–189.
- Aji, S. U., Prakoso, D., & Pramono, H. (1991). *Hukum Pengangkutan di Indonesia*. Rineka Cipta.
- Axelius, B., Kumara, I. N. S., & Ariastina, W. G. (2022). Review Ragam Jenis Kapal Perikanan Indonesia. *Jurnal Spektrum Vol*, 9(3).
- Elviandri, E., Dimiyati, K., & Absori, A. (2019). *Quo vadis negara kesejahteraan: meneguhkan ideologi welfare state negara hukum kesejahteraan indonesia*.
- Fadlia, F. (2022). Analisis teori Welfare State Dalam kajian Kesejahteraan Masyarakat kabupaten pida Jaya. *Jurnal Ilmiah Mahasiswa Fakultas Ilmu Sosial & Ilmu Politik*, 7(1).
- Harjanti, W. (2011). Pengaruh Perkembangan Konsep Kepentingan Umum terhadap Pelaksanaan Pembangunan di Indonesia. *Risalah Hukum*, 92–101.
- Herman, H. (2016). Pelaksanaan Azas-Azas Umum Pemerintahan Yang Baik Dalam Lingkup Pemerintah Daerah Kabupaten Bulukumba (Studi Kasus Perkara Tata Usaha Negara No. 02/G//2014/Ptun-Mks). *PETITUM*, 4(1 April), 45–56.
- Hr, R. (2006). *Hukum administrasi negara*. Jakarta: Raja Grafindo Persada.
- Irayadi, M. (2021). Asas Keseimbangan Dalam Hukum Perjanjian. *HERMENEUTIKA: Jurnal Ilmu Hukum*, 5(1).
- Poerwadarminta, W. J. S. (1985). *Kamus Bahasa Indonesia*. Jakarta: PN Balai Pustaka.
- Pudiyatmo, S. (2007). *Perizinan Problem dan Upaya Pembinaan*. Bandung: Rezki Press.

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Rumokoy, N. K. (2010). Tinjauan Terhadap Asas-Asas Umum Pemerintahan Yang Baik Dalam Penyelenggaraan Kekuasaan Pemerintahan. *Jurnal Hukum Unsrat*, 18(3), 86–95.

Solechan, S. (2019). Asas-asas umum pemerintahan yang baik dalam pelayanan publik. *Administrative Law and Governance Journal*, 2(3), 541–557.

Suhartono, H. P. P.-U. D. (2011). *Pelaksanaan Anggaran Belanja Negara (Solusi Penyerapan Anggaran Belanja Negara Yang Efisien, Efektif Dan Akuntabel)*. Tesis, Jakarta: Universitas Indonesia.

Sukmana, O. (2016). Konsep dan Desain Negara Kesejahteraan (Welfare State). *Sospol: Jurnal Sosial Politik*, 2(1), 103–122.

Sutedi, A. (2010). Hukum perizinan dalam sektor pelayanan publik. (*No Title*).

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