

The Implementation of Electronic Traffic Law Enforcement as Forms of Legal Development

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Abstract: *Destination in writing this is to study and analyze the juridical substance of the implementation of the Electronic Traffic Law Enforcement (ETLE) and the adjustment of Indonesian traffic law to the ETLE mechanism. In this writing, the writer uses a normative juridical method with research specifications in the form of descriptive analysis. Based on the discussion, it was concluded that the latest breakthrough from the Indonesian National Police in terms of law enforcement was the launch of an electronic ticketing program known as the Electronic Traffic Law Enforcement (ETLE) at 12 (twelve) POLDAs and will later follow throughout Indonesia at every Polres level. The current urgency of Electronic Traffic Law Enforcement (ETLE) can be seen in terms of benefits, namely transparency, empowerment, responsiveness, and equity. The existence of ETLE in the development and development of Indonesian road traffic law in the digital era and the compatibility of road traffic law in force in Indonesia responds to ETLE as a new mechanism for enforcing road traffic law. In positive law in Indonesia, especially Indonesian road traffic law, there are at least 2 (two) regulations relating to the existence of ETLE as a new mechanism for enforcing road traffic law, namely Act No. 22 of 2009 concerning Road Traffic and Transportation and Government Regulation Number 80 of 2012 concerning Procedures for Inspecting Motorized Vehicles on the Road and Enforcement of Traffic and Road Transportation Violations.*

Keywords: *Electronic; Enforcement; Traffic.*

1. Introduction

Sociologically, until now there has been no change in people's behavior with the operation of proof of violations (tickets) in traffic. This is a lot of road users who ignore traffic rules so that it becomes a trigger for accidents. Community behavior that should be towards the operation of proof of violations (tickets) in traffic

cannot only be interpreted as road users/humans, because road users/users can be individuals as well as individuals representing corporations.¹

The high number of traffic violations is one of the causes of the high number of traffic accidents that occur, by taking strict action against traffic violations, the police implement road traffic enforcement to minimize parties who commit traffic violations and to increase driving discipline in society.² Factors that influence law enforcement are the law itself, law enforcement officials, infrastructure, society, and cultural factors.³

The traffic police have an important role in traffic enforcement, whose job is to carry out traffic tours, service registration and identification of motorized vehicles or drivers, investigate traffic accidents and enforce law in the field of traffic.⁴ Regarding the latest breakthrough from the Indonesian National Police in terms of law enforcement, namely the launch of an electronic ticketing program or what is known as Electronic Traffic Law Enforcement (ETLE) at 12 (twelve) POLDAs and will later follow throughout Indonesia at every Polres level. National Police Chief Gen. Listyo Sigit Prabowo inaugurated the implementation of Phase I Electronic Traffic Law Enforcement (ETLE) or electronic ticketing on Tuesday 23 March 2021. During the inauguration there were 12 Regional Police (Polda) with 244 electronic ticket cameras being operated. The twelve Polda are Polda Metro Jaya, Polda West Java, Polda Central Java, Polda East Java, Polda Jambi, Polda North Sumatra, Polda Riau, Polda Banten, Polda DIY, Polda Lampung, Polda Sulsel, and Polda West Sumatra.⁵

In terms of legal certainty, this system provides certainty to violators, namely regarding how much the fine is and what has been violated, which has been included on the blue slip. In terms of justice, all violators who have committed the same offense will then receive the same punishment and fine. Because in this case the system has been regulated and determined by the authorities. So it is clear that the current Electronic Traffic Law Enforcement (ETLE) system, in addition to benefiting from convenience, is also a form of transparency and professionalism

¹Muhar Junef. Community Behavior Against Evidence of Violation Operations (Tickets) in Traffic. E-Journal Widya Yustisia Volume 1 No.1, (2014), p.52-60

²Agio V. Sangki. Criminal Responsibilities of Vehicle Drivers Causing Death in Traffic Accidents, Sam Ratulangi University, Journal of Law, Lex Crimen, Vol.I No.1, (2012), p.17

³Soerjono Soekanto, 2007, Factors Influencing Law Enforcement, Rajawali Press, Jakarta, p.8

⁴Kabib Nawawi. Police Progressivity Towards Professional, Innovative Police, Journal of Law Studies, Vol. 2, No. 3. (2010), p.177

⁵Noverdi Puja Saputra. Electronic Traffic Law Enforcement (ETLE) and its Problems. Brief Info: A Brief Study of Actual and Strategic Issues, Vol. XIII, No.7/1/Puslit, (2021). p. 1

of police officers in law enforcement.⁶

From the things described above, the author's intention arises to establish the purpose of writing, namely to study and analyze the juridical substance of the application of the Electronic Traffic Law Enforcement (ETLE) and the adjustment of Indonesian traffic law to the ETLE mechanism.

2. Research Methods

To conduct an assessment in this writing the authors use the normative juridical method. Writing specifications are carried out using a descriptive analytical approach. The data used for this writing is secondary data. To obtain the data in this writing, secondary data collection methods were used which were obtained from library books, laws and regulations, as well as the opinions of legal experts. The data that has been obtained is then analyzed with qualitative analysis.

3. Result and Discussion

3.1. Juridical Substance Implementation of Electronic Traffic Law Enforcement (ETLE)

ETLE has a difference with the E-Tilang system. The E-Tilang system only uses applications on Android. In a conventional ticket, the police use a ticket, while in an E-Tilang, the offense charged is entered into the application. Meanwhile, E-TLE is a system where the ticketing process is no longer carried out by officers in the field, but uses CCTV. At the E-TLE location, surveillance cameras are ready 24 hours to record all kinds of violations on the highway.

ETLE is not a juridical nomenclature whose definition is imperative, limited and has binding legal force because there is not a single law and regulation that explicitly mentions the word "Electronic Traffic Law Enforcement (ETLE)" so it becomes an interesting thing for us to analyze what the legal basis is. from the implementation of the ETIE. The traffic law enforcement mechanism using the ETLE system has changed the mechanism for enforcing traffic law which was previously carried out conventionally by officials directly at certain incidents with a visible eye catching violations that have occurred and directly by the apparatus taking action, be it a warning or issuing a ticket for the violation. that happened, With the ETLE system, the role of the apparatus is minimized where only with the help of technology/information systems, violations that occur can be caught automatically using the help of a camera, where the results of the violation will be the basis for issuing a ticket by the officer. So it can be concluded that in principle

⁶Wulandari Sacred Ambar. Innovation in the Application of the ETLE System in Indonesia. Journal of AlMasbut, Volume 12 Number 1, (2020). p. 1-10.

the ETLE system is optimizing the use of information technology/systems in assisting law enforcement officers.

As for the provisions in Article 249 of Act No. 22 of 2009 concerning Road Traffic and Transportation that the Road Traffic and Transportation Information and Communication System Control Center functions as a center:

- a. control;
- b. Coordination;
- c. Communication;
- d. Integrated data and information;
- e. Society service;
- f. Electronic track record for law enforcement.⁷

In Article 272 Paragraph (1) and Paragraph (2) of Act No. 22 of 2009 concerning Road Traffic and Transportation it stipulates that to support violation enforcement activities in the Road Traffic and Transportation sector, electronic equipment can be used. The results of the use of electronic equipment can be used as evidence in court.

Furthermore, if we look at the implementing regulations of the Road Traffic and Transportation Law, namely Government Regulation Number 80 of 2012 concerning Procedures for Inspecting Motorized Vehicles on the Road and Enforcement of Traffic and Road Transportation Violations in Article 14 Paragraph (3) stipulates that "An incidental examination due to being caught red-handed as referred to in Paragraph (1) letter b is carried out when a violation is visible by the senses or caught by law enforcement tools electronically."⁸

Then in Article 23 of Government Regulation Number 80 of 2012 concerning Procedures for Inspecting Motorized Vehicles on the Road and Enforcement of Traffic and Road Transportation Violations explains that the Enforcement of Road Traffic and Transportation violations is based on the results of:

- a. Findings in the process of inspecting motorized vehicles on the road;
- b. Report; and/or
- c. Electronic equipment recording.

Regarding the validity as a form of evidence of violations, Electronic Traffic Law

⁷Danrivanto Budhijanto. The Role of Telecommunications Law on the Implications of Information and Communication Technology Convergence, Journal of Legal Dynamics Volume 14 Number 1, (2014). p. 135

⁸Rahayu Nurfauziah, Traffic Violation Behavior by Teenagers Viewed from the Perspective of Social Construction. Journal of Collaborative Conflict Resolution. Volume 3. Number 1, (2021). p. 248

Enforcement (ETLE) in positive law in Indonesia, the application of electronic fines is based on Act No. 11/2008 ITE:

Article 5 paragraphs (1) and (2) namely:

- (1). Electronic Information and/or Electronic Documents and/or printouts are valid legal evidence.
- (2). Electronic Information and/or Electronic Documents and/or printouts as referred to in paragraph (1) are an extension of valid evidence in accordance with the applicable Law of Procedure in Indonesia.

3.2. Indonesian Traffic Law Adjustments to the ETLE Mechanism

Apart from being in line with the direction of national legal development, the application of ETLE is also in line with the development of Information and Communication Technology (ICT) which is currently causing the industrial revolution 4.0. The technological change factor known as digitalisation/digitalization technology is a process of transition from analog technology to digital technology and the delivery of information in analog format to binary format, in fact, has made all forms of information (voice, data and video) to be delivered across different network types.⁹These technological changes have encouraged the creation of new, interactive services, multimedia services, teleshopping, telebanking and interactive games, as well as the development of broadband, high-speed interactive communication and information systems (information superhighways).¹⁰

Indonesian road traffic law is compatible with the implementation of ETLE as a new mechanism for enforcing road traffic law in Indonesia. Furthermore, the stages in implementing ETLE are as follows with the legal bases that legitimize these stages:

1. Stage 1

ETLE Camera Equipment (in this case for the jurisdiction of the local Police), namely e-police cameras and checkpoint cameras, automatically captures traffic violations that have occurred (in the form of videos or screenshots) and sends media evidence of violations to the ETLE Back Office at the Ditlantas SUBITGAKKUM Polda.(implementation of Article 245 Paragraph (3), Article 249, Article 272 Paragraph (1) of the LLAJ Law Jo. Article 14

⁹David O'Donnell and Lars Bo Henriksen, Philosophical Foundations for Critical Evaluation of the Social Impact of ICT, *Journal of Information Technology* Volume 17 Number 2, (2002). p. 95

¹⁰Stephen M. McJohn, A New Tool for Analyzing Intellectual Property, *Northwestern Journal of Technology and Intellectual Property* Volume 5 Number 1, (2006). p.s. 101

Paragraph (3) and Article 23 PP 80/2012 concerning Procedures for Inspecting Motorized Vehicles on Roads and Enforcement of Traffic Violations and Road Transportation).

2. Stage 2

The Back Office officer identifies the Vehicle Data using the Electronic Registration & Identification (ERI) system as the vehicle data source, where the officer will validate the real data/physical data of the vehicle such as the type/brand and color of the violating vehicle with the registration and identification data of motorized vehicles in the system ERI (Electronic Registration & Identification). If the real data/physical data with the vehicle data in the ERI are in accordance, the officer prints and sends a confirmation letter to the motorized vehicle's public address to confirm the violation that occurred by the vehicle owner. The confirmation letter is the first step of prosecution. Where the vehicle owner is obliged to confirm the ownership of the vehicle and the driver of the vehicle at the time of the violation. If it turns out that the vehicle is no longer owned by the person who received the confirmation letter, then this must be confirmed immediately. (implementation of Article 64 Paragraph (3) letter c, Article 245 Paragraph (3), Article 249, Article 260, Article 272 Paragraph (1) of the LLAJ Law Jo. Article 14 Paragraph (3) and Article 23 PP 80/2012 concerning Governance Methods of Inspecting Motorized Vehicles on the Road and Enforcement of Traffic and Road Transportation Violations Jo. Article 2 letter c of the Chief of Police Regulation Number 5 of 2012 concerning Registration and Identification of Motorized Vehicles).

3. Stage 3

Recipients of the letter have a deadline of up to 8 days from the occurrence of a violation to confirm via the website or come directly to the Polda Ditlantas Polda SUBDITGAKKUM office. If the Violator does not confirm by the specified time limit, the STNK and/or Tax Assessment Letter will be blocked automatically (implementation of Article 115 Paragraph (3) Regulation of the Chief of Police Number 5 of 2012 concerning Registration and Identification of Motorized Vehicles). If the violator comes to the SUBDITGAKKUM Ditlantas Polda office to confirm, the officer will ask for a SIM and/or STNK to be confiscated and the officer will give the violator a choice. a blank ticket will be issued in red.¹¹

However, if the violator does not want to attend the trial and wants to immediately take the confiscated SIM and/or STNK, the violator can choose the e-

¹¹Dian Agung Wicaksono and Chryshnanda Dwilaksana. Electronic Road Traffic Law Enforcement as a Form of Legal Development in the Digital Age. *Rechtsvinding Journal*, Vol. 9. No. 2. (2020), p.316

ticket option integrated into the ETLE system where a blue ticket blank will be given attached with a payment code via BRI Virtual Account (BRIVA) which its function is to deposit fines (implementation of Article 267 to Article 269 of the LLAJ Law Jo. Article 7 Supreme Court Regulation Number 12 of 2016 concerning Procedures for Settlement of Traffic Violations Cases) after the violator makes payment and shows evidence to the officer, the officer will return the driver's license and/or the previously confiscated STNK of the violator.

Based on this, it can be seen that the application of Electronic Traffic Law Enforcement (ETLE) is a form of legal development in the form of a legal breakthrough for law enforcement on traffic and road transport in Indonesia which was originally carried out manually and partially by members of the Police, especially the Traffic Police by switching to a digital system. or electronic ones which are more comprehensive because they involve data on other sectors within the scope of Polri.

In this case the author implies the essence of the Electronic Traffic Law Enforcement (ETLE) policy in realizing the effectiveness and efficiency of law enforcement. If we reflect on the spirit of the birth of the ETLE system, namely so that traffic law enforcement can operate in a transparent and accountable manner so that the practice of extortion which has become an open secret is carried out by officers, it can be minimized by reducing the interaction between offenders and officers with the help of information technology. policy makers to change the formulation of provisions in the Road Traffic and Transportation Law so that the breakthroughs in law enforcement that are made do not conflict with the applicable laws and regulations.

4. Conclusion

ETLE is not a juridical nomenclature whose definition is imperative, limited and has binding legal force because there is not a single law and regulation that explicitly mentions the word "Electronic Traffic Law Enforcement" so it becomes an interesting thing for us to examine what the legal basis for implementing ETLE is. In positive law in Indonesia, especially Indonesian road traffic law, there are at least 2 regulations related to the existence of ETLE as a new mechanism for enforcing road traffic law, namely Act No. 22 of 2009 concerning Road Traffic and Transportation and Government Regulation Number 80 of 2012 concerning Procedures for Inspecting Motorized Vehicles on the Road and Enforcement of Road Traffic and Transportation Violations.

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