

The Legal Effectiveness of Application of E-Tiring (E-Tilang) Methods in Criminal Enforcement of Traffic Violations

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Abstract.

This research aims to analyze the juridical substance of formulative policies for traffic violations criminal law enforcement using E-Tiring. This research used a normative juridical method with research specifications in the form of descriptive analysis. Based on the discussion, it was concluded that the arrangement of infrastructure or the arrangement of the governance system for handling traffic violations based on technology and the National Police Grand Strategy 2005-2025 policy (Public Trust Building, Partnership Building, and Strive For Excellence) which was strengthened by the 2015-2019 Police Strategic Plan which includes among others: First, the fulfillment of the Alpalkam/Almatsus Polri to support strengthening the main tasks and functions of the National Police. Second, the establishment of a professional, moral, modern and superior Polri posture through changing the mindset and culture set. Third, development of police technology and information systems in a sustainable manner that is integrated through research and scientific studies to support optimal Polri performance. The National Police has made various efforts to improve performance standards in a sustainable manner by rolling out creative breakthroughs and service systems in line with the current National Police Strategic Plan, particularly in the implementation of handling violations through the E-Tiring system.

Keywords: Effectiveness; Electronic; Tiring; Traffic; Violation.

1. Introduction

Indonesia is a legal state in which the administration of government power is based on law. In a state of law, the power to run the government is based on the rule of law (rule of law) and aims to carry out law and order.¹ Another opinion states that in a state of law, law as the basis is embodied in legislation culminating in the constitution or the basic law of the state. The state constitution must also contain ideas or ideas about constitutionalism, namely the existence of limitations on power and guarantees of the basic rights of citizens.² Thus in a state of law, state power is based on law, not mere power and state government is based on a constitution that understands constitutionalism, without this it is difficult to be a state of law.³

¹Haris Wahyu Sunarno and Akhmad Khisni. (2020). *Analysis of Criminal Liability as Doer of Preening Criminal (Case Study in the Blora State Court)*. Jurnal Internasional Daulat Hukum, 3 (1), url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/8779/4074>

²Muhammad Adiel Aristo. (2020), *Criminal Law Policy against Actor of Criminal Performance Persecution*. Jurnal Internasional Daulat Hukum, 3 (1), url: <http://jurnal.unissula.ac.id/index.php/RH/issue/view/434>

³Supriyono. (2020), *Criminology Study of Crime of Fencing the Stolen Goods*. Jurnal Internasional Daulat Hukum, 3 (1), url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/8407/4068>

Along with the times, humans need regulations that are in accordance with the times. One of the tasks of government in a country is to formulate regulations whose main purpose is to create justice, certainty, and benefit the community. This is as intended by Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which explains that Indonesia is a state of law.⁴

Criminal law is all orders and prohibitions imposed by the State and which are threatened with a misery (criminal) whoever does not obey them, all of them are the rules for carrying out (imposing) and carrying out the said crime.⁵

From the above understanding, it can be stated that the regulation of criminal law is the regulation of actions that should and actions that are prohibited, then on legal subjects who violate the provisions of the law are subject to criminal sanctions. With the existence of this criminal law, it is hoped that it can provide a sense of security in society both for individuals and groups in carrying out their daily activities. The acts that can be punished as in this writing are criminal sanctions for traffic violations. Criminal provisions for any traffic violators are regulated in the provisions of Act No. 22 of 2009 concerning Road Traffic and Transportation.

The Traffic Unit (*Satlantas*) is the implementing element of the Resort Police which in its duties is responsible for carrying out police duties including in the field of traffic which is the elaboration of professional technical capabilities which include regulation, guarding, escort, patrolling, public education and traffic engineering, registration and driver identification or motorized vehicles, investigation of traffic accidents and law enforcement in the field of traffic, in order to maintain security, order and smooth traffic as regulated in Article 12 of Act No. 22 of 2009 concerning Road Traffic and Transportation and also to support efforts to promote public welfare as mandated also in the preamble to the 1945 Constitution of the Republic of Indonesia.

Regarding law enforcement against traffic violators who are threatened with criminal penalties based on Act No. 22 of 2009 concerning Road Traffic and Transportation, the police as a law enforcement organization have an important role in enforcing criminal law rules regarding traffic, therefore it can also stated that the police as the gateway to law enforcement in Indonesia. As quoted from the journal written by Kabib Nawawi, essentially explaining that Indonesia as a state of law, then in terms of law enforcement, the police is one of the important pillars, because the agency has a very important role in realizing legal promises into reality.⁶

In criminal law enforcement starting from the police as a law enforcement institution, this is a form of punishment. Sentencing can be interpreted as the stage of determining sanctions and also the stage of imposing sanctions in criminal law, basically a sentence is imposed so that someone who has been proven to have committed a crime no longer repeats it and other people are afraid to commit a

⁴Sekretariat Jendral dan Kepaniteraan Mahkamah Konstitusi RI. (2010). *Undang-undang Dasar 1945*. Print-11, Jakarta, p. 5

⁵Moeljatno. (2005). *Azas-azas Hukum Pidana*, Edisi Revisi, Jakarta, Bina Aksara, p. 7

⁶Kabib Nawawi. (2010). *Progresifitas Polisi Menuju Polisi Profesional, Inovatif*. Jurnal Ilmu Hukum, 2 (3), p. 1

similar crime.⁷ Regarding law enforcement in handling traffic, it is contained in Article 12 letter f of Act No. 22 of 2009 concerning Road Traffic and Transportation which stipulates that "law enforcement in question includes taking action against violations and handling traffic accidents".

In line with the policy of the Chief of the National Police of the Republic of Indonesia on July 13, 2016, Police General Tito Karnavian promoted the realization of a more professional, modern and reliable Police, so that the improvement of public services that must be based on information technology (IT), technological advances in this era of globalization will assist law enforcement in overcoming the problem of violations, especially violations of road traffic driving.

Electronic ticketing, commonly called E-Tiring, is the digitization of the ticketing process, by utilizing information technology. It is hoped that the entire ticketing process will become an innovation that can assist the police in management of prosecution and payment of fines for traffic violations. With the E-Tiring system, violators only pay fines for the articles violated through the violator's bank account.⁸

From the things described above, the author's intention arises to establish the purpose of writing, namely to examine and analyze the juridical substance of formulative policies for traffic violations criminal law enforcement using E-Tiring.

2. Research Methods

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

3. Results and Discussion

Traffic is defined as "pedestrians, riding, or herded animals, vehicles, and other conveyances either singly or together while using any highway for purposes of traffic" other means of transportation either individually or jointly using the road for its purpose.⁹

As an implementing element in charge of carrying out tasks, the Traffic Unit which is part of the police element has functions covering traffic order activities, including prosecution of violations and investigation of traffic accidents as well as registration and identification of motorized vehicles in the context of law enforcement and fostering security, safety, and security order, and smooth traffic.

⁷M. Alvi Rizki Ilahi, Elly Sudarty dan Nys Arfa, (2020). *Pelaksanaan Pidana Pelatihan Kerja Terhadap Anak Pelaku Tindak Pidana*, PAMPAS: Journal of Criminal, 1 (2), p. 2

⁸Setiyanto, Gunarto, & Wahyuningsih, (2017). *Efektivitas Penerapan Sanksi Denda E-Tilang Bagi Pelanggar Lalu Lintas Berdasarkan Undang-Undang Nomor 22 Tahun 2009 Tentang Lalu Lintas Dan Angkutan Jalan (Studi Di Polres Rembang)*. Jurnal Hukum Khaira Ummah, 12 (4), p. 742-766

⁹Djajoesman, (1996), *Polisi dan Lalu Lintas*. Cetakan Kedua, Jakarta: Bina Cipta, p.8

According to Wirjono Prodjodikoro, the meaning of violation is: "overtrending" or violation means an act that violates something and is related to the law, which means nothing but an act against the law.¹⁰ The Criminal Code does not explain the meaning of violation. Violations can be distinguished from crimes by the sanctions given. Sanctions for violators are generally lighter than for criminals. The term "violation" is a statutory offense (*wetsdelicten*), namely an act whose nature is against the law can only be known after there is a law that regulates it.¹¹

Traffic violations are not regulated in the Criminal Code (KUHP), but there are those concerning the offenses referred to in the Criminal Code, for example, because negligence causes someone to die (Article 359), because negligence causes serious injury to others, and so on (Article 360).¹² A law is essentially a reflection of the will of the government and society. Every society needs a social control mechanism, namely everything that is done to carry out the planned process to educate, invite, and even force the community members to conform to the rules and values of the life of the community concerned.¹³

One form of effective social control for the community in using road traffic and transportation is traffic regulations, namely Act No. 22 of 2009 which is further elaborated by government regulation Number 41-45 of 1993. As for the regulation of Act No. 22 of 2009 concerning Road Traffic and Transportation was made for the following purposes:

- The realization of safe, safe, orderly, smooth, and integrated Road Traffic and Transportation services with other modes of transportation to encourage the national economy, promote public welfare, strengthen national unity and integrity, and be able to uphold the dignity of the nation;
- The realization of traffic ethics and national culture; and
- The realization of law enforcement and legal certainty for the community.

From the above, it can be seen that manners and obeying traffic rules are very important. This especially concerns the behavior of road users in complying with traffic rules and road transportation for the sake of realizing smoothness and safety to prevent accidents that may be caused by negligence of road users.

System infrastructure and standardization in building the organization are an important part of the vehicle for future changes in realizing the quality of the performance of *Polri* personnel in a professional manner which is closely related to public services as a new paradigm in the implementation of Police services through improving the quality of public services to the community, increasing capability and accountability bureaucratic performance, as well as the realization of a clean and corruption-free government with the hope of a change in mindset, culture set and the establishment of an integrated system and quality performance.

This is in line with the National Police Chief's 3rd priority program, namely increasing the professionalism of *Polri* members as one of the elaboration of the

¹⁰Wirjono Prodjodikoro. (1981). *Asas-asas Hukum Pidana di Indonesia*. Jakarta : PT. Eresco, p. 53

¹¹Rusli Effendy and Poppy Andi Lolo. (1989). *Asas-asas Hukum Pidana*. Ujung Pandang: Umithohs Press, p. 74

¹²Mahrus Ali. (2012). *Dasar-Dasar Hukum Pidana*. Jakarta: Sinar Grafika, p. 200

¹³Berlin Situmorang, (2011). *Sejarah Perkembangan Hukum Lalu Lintas*. Medan, Fakultas Hukum USU, p.13

Nawacita program for the Jokowi-JK Working Cabinet. Professionalism in the public service sector will be realized if there is a change in the service culture with the aim of building institutional strengthening to solidify solidity, creative breakthroughs for increasing professionalism, and increasing integrity/improvement to accelerate mental revolution.¹⁴

Professionalism in the field of public services needs to be a concern considering that the implementation of current services does not meet effective and efficient standards which will be one of the triggers for service delays or uncertainty and public unrest that leads to opportunities to make deviations in dismissing uncertainty and public unrest itself so that it has not been able to accelerate the professional *Polri* that drives mental revolution and pioneers of social order (the 6th quick wins program).

Structuring infrastructure or structuring a management system for handling traffic violations based on technology and the National Police Grand Strategy 2005-2025 (Public Trust Building, Partnership Building, and Strive For Excellence) policies which are strengthened by the 2015-2019 National Police Strategic Plan which includes, among others: First, fulfillment of *Alpalkam/Almatsus Polri* in order to support strengthening the main tasks and functions of the National Police. Second, the establishment of a professional, moral, modern and superior *Polri* posture through changing the mindset and culture set. Third, the development of police technology and information systems in a sustainable manner that is integrated through research and scientific studies to support optimal *Polri* performance.

Specifically related to E-Tiring, the initiation of the application of E-Tiring is actually in line with the direction of national law development, especially in the direction of the development of the fourth national law which focuses on efforts to eliminate the possibility of criminal acts of corruption and is able to handle and completely resolve problems related to collusion, corruption and nepotism (KKN). The application of E-Tiring based on digital data through recording on cameras with intelligence software makes face-to-face contact between *Polri* members and violators less and less, so as to prevent the corrupt behavior of *Polri* members and/or traffic violators.

We can see the basis for electronic ticketing regulations in Government Regulation no. 80 of 2012 concerning Procedures for Inspection of Motorized Vehicles on the road and prosecution of Traffic and Road Transportation Violations and of course we can see in Act No. 22 of 2009 concerning Road Traffic and Transportation can be seen in Act No. 22 of 2009 concerning Road Traffic and Transportation and Government Regulation Number 80 of 2012 concerning Procedures for Inspection of Motorized Vehicles on the Road and Enforcement of Traffic and Road Transportation Violations.¹⁵

In the explanation of Article 272 of Act No. 22 of 2009 concerning Road Traffic and Transportation explained that Electronic Equipment can be used. Later on, the results of this electronic use can be used in court as evidence. Electronic

¹⁴Setiyanto. Op.cit. p. 763

¹⁵Subhave Sandhy, Suwanto H, Arie Q. (2016). *Aplikasi Tilang Berbasis Android*. Universitas Ilmu Pakuwan Bogor, p. 7.

equipment in question is equipment that can be used as a recorder of an event and then can store information. Article 251 of the same Law states that the communication and information system of traffic and road transportation can also be used in terms of law enforcement such as investigating and investigating criminal acts of Traffic and Road Transport or it could be other crimes, handling actions regarding violations, congestion and traffic accidents committed by the Police as well as the ambush.

It is regulated in Article 267 to take action, namely, every violation committed in the field of traffic and road transportation which is examined according to the quick examination procedure may be subject to a fine based on a court order. In a quick inspection event, it can be carried out without the presence of violators. For violators who are unable to attend, they can deposit a fine to a bank appointed by the Government. Meanwhile, the amount of the fine deposited with the bank is the maximum fine imposed for each traffic and road transportation violation. Proof of depositing the fines must be attached to the violation evidence file.

Article 268 of the Road Traffic and Transportation Law explains that if the court's decision determines that the fine is smaller than the fine that is deposited, then the remainder of the fine must be notified to the violator to be taken by the custodian. If the remaining fine money is not collected within one year from the court's decision, it will be deposited into the state treasury.

Thus, based on the explanation above, the basis for the regulation of electronic ticketing has been clearly regulated in the Act as well as Act No. 22 of 2009 concerning Road Traffic and Transportation, CCTV is categorized as Electronic equipment used in ticketing efforts that are currently being used. In revealing violations in the field of Traffic, Act No. 22 of 2009 is appropriate if it is linked/used as a ticketing regulation through CCTV at this time, as has been stated regarding articles and other laws that the basis for ticketing regulations through CCTV is effectively used and has a clear basis with the same core between the rules / basics.¹⁶

The existence of an E-Tiring can certainly support the accountability of the police who have the authority to be able to handle existing traffic violations. All traffic violations can then be recorded rigidly by the existing system from input to output. Then the data handling of the violation will not be missed. If at any time there is data that would be wrong or blocked, this will be tracked easily. Through this E-Tiring system, all information regarding actions that are categorized as traffic violations and penalties due to actions taken will make it easier for the public to know. Thus, the community is expected to have legal awareness and in the future they will not commit any more violations.

4. Conclusion

We can see the basis for electronic ticketing regulations in Government Regulation no. 80 of 2012 concerning Procedures for Inspection of Motorized

¹⁶Junef. (2014). *Perilaku Masyarakat Terhadap Operasi Bukti Pelanggaran (Tilang) Dalam Berlalu Lintas*. E-Journal Widya Yustisia, 1(1), p.52-60

Vehicles on the road and prosecution of Traffic and Road Transportation Violations and Act No. 22 of 2009 concerning Road Traffic and Transportation. In the explanation of Article 272 of Act No. 22 of 2009 concerning Road Traffic and Transportation explains that Electronic Equipment can be used. Later on, the results of this electronic use can be used in court as evidence. Electronic equipment in question is equipment that can be used as a recorder of an event and then can store information. The mechanism for implementing E-Tiring in handling traffic violations is aimed at realizing the accountability of public service providers as an effort to fulfill the needs of service recipients as well as implementing the provisions of laws and regulations or all forms of services. For this reason, it is recommended that there are laws and regulations that regulate the implementation of E-Tiring by revising the traffic and road transportation laws.

5. References

Journals:

- [1] Haris Wahyu Sunarno and Akhmad Khisni. (2020). *Analysis of Criminal Liability as Doer of Preening Criminal (Case Study in the Blora State Court)*. Jurnal Internasional Daulat Hukum, 3 (1), url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/8779/4074>
- [2] Junef. (2014). *Perilaku Masyarakat Terhadap Operasi Bukti Pelanggaran (Tilang) Dalam Berlalu Lintas*. E-Journal Widya Yustisia, 1(1)
- [3] Kabib Nawawi. (2010). *Progresifitas Polisi Menuju Polisi Profesional, Inovatif*. Jurnal Ilmu Hukum, 2 (3)
- [4] M. Alvi Rizki Ilahi, Elly Sudarty dan Nys Arfa, (2020). *Pelaksanaan Pidana Pelatihan Kerja Terhadap Anak Pelaku Tindak Pidana*, PAMPAS: Journal of Criminal, 1 (2)
- [5] Muhammad Adiel Aristo. (2020), *Criminal Law Policy against Actor of Criminal Performance Persecution*. Jurnal Internasional Daulat Hukum, 3 (1), url: <http://jurnal.unissula.ac.id/index.php/RH/issue/view/434>
- [6] Setiyanto, Gunarto, & Wahyuningsih, (2017). *Efektivitas Penerapan Sanksi Denda E-Tilang Bagi Pelanggar Lalu Lintas Berdasarkan Undang-Undang Nomor 22 Tahun 2009 Tentang Lalu Lintas Dan Angkutan Jalan (Studi Di Polres Rembang)*. Jurnal Hukum Khaira Ummah, 12 (4)
- [7] Supriyono. (2020), *Criminology Study of Crime of Fencing the Stolen Goods*. Jurnal Internasional Daulat Hukum, 3 (1), url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/8407/4068>

Books:

- [1] Berlin Situmorang, (2011). *Sejarah Perkembangan Hukum Lalu Lintas*. Medan, Fakultas Hukum USU
- [2] Djajoesman, (1996), *Polisi dan Lalu Lintas*. Cetakan Kedua, Jakarta: Bina Cipta
- [3] Mahrus Ali. (2012). *Dasar-Dasar Hukum Pidana*. Jakarta: Sinar Grafika
- [4] Moeljatno. (2005). *Azas-azas Hukum Pidana*, Edisi Revisi, Jakarta, Bina Aksara
- [5] Rusli Effendy and Poppy Andi Lolo. (1989). *Asas-asas Hukum Pidana*. Ujung Pandang: Umithohs Press

- [6] Sekretariat Jendral dan Kepaniteraan Mahkamah Konstitusi RI. (2010). *Undang-undang Dasar 1945*. Print-11, Jakarta
- [7] Subhave Sandhy, Suwanto H, Arie Q. (2016). *Aplikasi Tilang Berbasis Android*. Universitas Ilmu Pakuwan Bogor
- [8] Wirjono Prodjodikoro. (1981). *Asas-asas Hukum Pidana di Indonesia*. Jakarta : PT. Eresco