

Practice of Main Rights Granting of Road Users by the Police



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ABSTRACT: This study aimed to discuss the issue of granting the main rights of road users who are escorted by the police. This research used a normative juridical approach used secondary legal data. The results of this study are the main rights of road users based on Article 134 of Law Number 22 of 2009 guided by Article 13 of Law Number 2 of 2002, in the implementation of escort regulated in the decision of KAKORLANTAS POLRI Number: KEP/51/IV/TAHUN 2014 concerning Standard Operational Procedure (SOP) for Traffic Control. In driving, people can ask to be escorted according to the rules. The implementation of the granting of escort permits is the policy of the Indonesian National Police. The National Police of the Republic of Indonesia can provide criteria for community activities that require an escort from the police, and data as well as those that give particular importance to the safeguards provided, so this makes monitoring easier.

KEYWORDS: road users; vehicle escort; police

A. INTRODUCTION

The National Police of the Republic of Indonesia (POLRI) has a role including maintaining and regulating traffic order on the road. Regarding this, there is a need for the role of law enforcement to create security in the country to create a just, prosperous, and civilized society based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Law Number 22 of 2002 concerning the Indonesian National Police, the main tasks are to:

- a. Maintain public safety and order.
- b. Enforce the law, and
- c. Provide protection, shelter, and service to the community.

People feel they have the right to get security and smooth driving on the highway, it is necessary to regulate the main rights of road users, where these regulations can later accommodate road users who have the right to take precedence on the highway so that it will facilitate every activity of the road user while on the highway road and can be escorted by personnel from the Indonesian National Police. So that later the community will also be able to understand every right of other road users. The regulation of the main rights of road users is also needed to provide security and public order when using the highway (Abdussalam, 2014). For example, in the case of a convoy of four-wheeled vehicles or two-wheeled vehicles that are escorted by the police, it is considered disturbing to road users because it interferes with the smooth flow of traffic. Activities like this have the potential to threaten order, security, and peace in society. For this reason, a permit is needed that aims to control escort activities, be it personal escorts or even convoys of vehicles. Permits are things that allow a person or other entity who requests or wants something that according to the laws and regulations must have a permit so that later when an escort is carried out on these activities, police personnel can protect convoy participants and other road users to create orderly traffic.

Police institutions in carrying out their duties cannot always be guided by the laws and regulations made by the legislature because of dynamic community life and often existing regulations are not always able to solve the problems faced by an increasingly diverse community because of this the presence of the police in the community is a very important value. The presence of the police in the community is expected to be able to provide appropriate permits to road users who apply for escorts and are also expected to provide examples of good and correct driving on the highway. Police in the eyes of the community as role models, all their movements are used as examples in community behavior (Khoidin & Sadjijono, 2006).

However, in cases that often occur in vehicle escort activities by the police, it is prone to arbitrariness. Where in carrying out escorting, police vehicles often escort private vehicles for some unnecessary reasons. An example of a case of lack of supervision and procedural applied by permit applicants and permit givers was on November 24, 2017, the artist Dewi Persik used a vehicle escort by the police, without using clear procedures and only using verbal requests to the police who at that time were found on the road. Where at that time Dewi Persik's car used the busway track and the police escorted it until they were left behind. This was what makes crowded jams because the rights of other road users were taken. Another example was in August 2015 the activity of a motorized vehicle convoy (Harley Davidson) in the Special Region of Yogyakarta which drew criticism from the public, because

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the convoy activity violated traffic by breaking through a red light at the Condongcatur Ring Road intersection, Sleman, Yogyakarta. And when the convoy of vehicles, which at that time was also escorted by the police, was also confronted by someone who was using a bicycle to cross the road. This was a clash between people's rights with one another and which people get the right to be prioritized on the highway.

This incident made the public assume there's a lack of supervision and responsibility from the Police to achieve community activities that contained elements of security, order, and peace which could be guaranteed by the Police as the permit giver. It causes the public to underestimate the Police escort of convoy activities carried out by the Police because many of the members of the convoy violated traffic that could endanger other road users. It is also undeniable that there is a lack of public knowledge regarding the Road Users Main Rights where the task of the Indonesian National Police is to be able to carry out traffic engineering so that it is orderly and smoothly, including allowing convoys of vehicles to pass red lights (Utomo, 2002).

Based on the background described above, the author was interested in discussing and reviewing: 1) How is the policy formulation regarding vehicle traffic on the highway? 2) How is the implementation of the granting of Main Rights for Road Users and vehicle escorts based on Law Number 22 of 2009 concerning Road Traffic and Transportation?

The journal article was written by Erlin Indarti with the title "*Profesionalisme Mengemban Fungsi Utama Kepolisian Dalam Penegakan Hukum Di Polda Jawa Tengah* (Professionalism Carrying Out the Main Functions of the Police in Law Enforcement at the Central Java Regional Police)" discussed the demands of a police officer to commit to public service, as a matter agreed upon by all members of the profession continuously. In this case, the public's demand for increasing the professionalism of those carrying out the main functions of the police, including regulating traffic (Indarti, 2014).

Furthermore, there was another article in 2013 written by Kasman Tasaripa entitled "*Tugas dan Fungsi Kepolisian Dalam Perannya Sebagai Penegak Hukum Menurut Undang-Undang Nomor 2 Tahun 2002 Tentang Kepolisian* (The Duties and Functions of the Police in Its Role as Law Enforcer according to Law Number 2 of 2002 concerning the Police)", in which the journal article focused on the discussion of the broad structure of the Police, not only functions concerning the criminal process but includes protectors who provide protection and services to the community and community mentors to ensure public security and order as stated in Law Number 2 of 2002 concerning the Police. And the most important thing is how the Police in carrying out their roles and functions properly so that they can be accepted by the community so that they can maintain security and order by obtaining maximum support from the community (Tasaripa, 2013).

As for another study that examines the government's efforts in enforcing obedience in traffic to realize orderly traffic, in 2013 which was written by Andrea R. Sumampow entitled "*Penegakan Hukum dalam Mewujudkan Ketaatan Berlalu Lintas* (Law Enforcement in Realizing Traffic Obedience)" which examined more deeply the government's efforts in enforcing traffic order by taking action against traffic violations enforced by the traffic police (Sumampow, 2013).

In this article written, of course, there are differences with some of the articles that have been written above. In this article, we focused more on the discussion of the traffic formulation policy towards the granting of the main rights of road users and the escort of vehicles by the police based on Law No. 22 of 2009 concerning Road Traffic and Transportation.

B. RESEARCH METHOD

The method used in this paper was an empirical juridical approach. The specifications in this study were descriptive-analytical, namely research that described the application of applicable laws and regulations associated with legal theories and practices of implementing positive law concerning the problems studied (Arikunto, 2006). Sources of information can be divided into two, namely sources of knowledge providers who are ready to use, and sources that only provide raw materials (data) that still have to be processed first through certain methods.

C. RESULT AND DISCUSSION

1. Formulation Policy about Vehicle Traffic on Highways

Regulations regarding road users and vehicle escort are needed in social life so that road users, whether motorized vehicle users or pedestrians know and understand their rights and obligations while on the highway and to maintain security, smoothness, and public order.

The Government of Indonesia together with the House of Representatives to maintain the security and smoothness of traffic has formed a legal product, namely Law Number 22 of 2009 concerning Road Traffic and Transportation. In its dictum, road traffic and transportation as part of the national transportation system must develop their potential and role to realize security, safety, order, and smooth traffic and road transportation in the context of supporting economic development and regional development. The National Police of the Republic of Indonesia has an important role in realizing the objectives of the enactment of the Law. It is because they have the duty and function as the executor of the Law to regulate and control the roads.

The formation of a legal product, namely Law Number 22 of 2009 concerning Road Traffic and Transportation is a manifestation of the implementation of Law Number 2 of 2002 concerning the Indonesian National Police. And strengthened by the

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Decree of the Head of the Traffic Corps of Police of the Republic of Indonesia or referred to as the Decree of the POLRI KAKORLANTAS, Number: KEP/51/IV/TAHUN 2014 concerning the Standard Operational Procedure (SOP) for Traffic Control.

The National Police of the Republic of Indonesia according to Article 13 has to maintain public security and order, enforce the law, and provide protection, shelter, and services to the community. In achieving this goal in Article 14 point 1, the police implement regulations to achieve their main tasks, including carrying out guards and carrying out all activities to ensure security, order, and smoothness on the highway.

Based on this, the formation of traffic rules and road transportation to create security, order, and smoothness in traffic because this is a legal product, namely Law No. 22 of 2009 concerning Road Traffic and Transportation.

Article 1 number 2 of Law Number 22 of 2009 explains that the notion of traffic is the movement of vehicles and people in the road traffic space, in this article, it is explained that it is not only vehicles, whether motorized vehicles or cars, but pedestrians, including subjects who fill from the road traffic space which has the rights and obligations that have been regulated in this Law and Article 1 point 3 of Law Number 22 of 2009 concerning Road Traffic and Transportation explains that the meaning of Road Transportation is the movement of people and/or goods from one place to another by using a vehicle in the road traffic space.

In road traffic, road users have different needs, this Law regulates the rights and obligations of road users, it also regulates road users who have the main right to get smooth traffic on the highway, which means that the main rights granted to road users are: road users who have the right to take precedence on the road either using an escort from the police or not using an escort from the police based on the interests that have been regulated in the law, this has been regulated in article 134 of Law Number 22 of 2009 concerning Traffic and Road Transportation.

The road users above are road users who get priority on the road to take precedence wherein its implementation the police can escort or use red or blue light signals and the sound of sirens so that the vehicles can run smoothly.

Article 134 above is an explanation of road users who have the main right to take precedence and article 135 regarding procedures for regulating smoothness is a manifestation of Article 14 letters a and b of Law Number 22 of 2009 namely:

- a. In carrying out the main tasks as referred to in Article 13, the State Police of the Republic of Indonesia shall be tasked with:
 - 1) Implementing regulation, guarding, escorting, and patrolling the community and government activities as needed;
 - 2) Organizing all activities to ensure security, order, and smooth traffic on the road;

In Article 14 letters a and b above, if there is a submission or request from road users included in the points of article 134 addressed to the police for vehicle escort and the request for submission is received by the police, it becomes an obligation for other road users to give priority to the vehicle escorted by the police. Because in Article 104 of Law Number 22 of 2009 it is explained that:

- b. In certain circumstances for the order and smoothness of traffic and road transportation, officers of the State Police of the Republic of Indonesia may take the following actions:
 - 1) stop the flow of Traffic and/or Road Users;
 - 2) instructing Road Users to continue;
 - 3) speed up Traffic flow;
 - 4) slow down the flow of Traffic; and/or
 - 5) divert the direction of traffic flow.

So what is meant by Article 104 of Law Number 22 of 2009 above, in certain circumstances the police can take the above actions aimed at controlling and smoothing traffic. This article also emphasizes that road users are obliged to obey orders given by police officers when making road arrangements. In paragraph 2 it is emphasized again that orders given by police officers as referred to in paragraph 1 must take precedence over orders given by traffic signaling devices. So what it means is that the orders given by traffic signaling devices such as traffic lights can not be enforced while police officers are carrying out traffic regulations. This aims to provide order and smoothness to road users who have primary rights and other road users.

In implementing Law 22 of 2009, the National Police of the Republic of Indonesia has made regulations by issuing the Decree of KAKORLANTAS POLRI, Number: KEP/51/IV/TAHUN 2014 concerning the Standard Operational Procedure (SOP) for Traffic Control. Which contains the procedures for securing traffic and escorting vehicles that have the right to be prioritized on the highway.

Based on the description above, it can be understood that, in carrying out its duties and authorities, the Indonesian National Police is always guided by the principle of legality wherein acting the police must be based on statutory regulations as the basis for every administration of government (Ridwan, 2002). It can be seen that the police in regulating vehicle traffic on the highway are guided by Article 13 of Law Number 2 of 2002 where the task of the police is to maintain security, order, enforce the law, and provide services to the community. In achieving their duties, the police must do some of regulating traffic and escort vehicles. Article 134 of Law Number 22 of 2009 regulates the granting of primary rights to road users wherein its implementation it must be escorted by the police and carry out security on the highway, the implementation rules are contained in the Decree of KAKORLANTAS POLRI, Number: KEP/51/IV/TAHUN 2014 concerning Standard Operational Procedure (SOP) for Traffic Control.

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2. Implementation of the Main Rights Granting to Road Users and Vehicle Escort

Police action is part of government action to realize government goals. The government's objectives include, among others, making and maintaining law or maintaining order and peace (*orde en rust*); realizing the will of the state, and carrying out the public interest (*service piblique*, public service) (Sadjijono, 2010).

The granting of Main Rights to road users is intended for motorized vehicles which have been regulated in Article 134 of Law No. 22 of 2009. The "motor vehicles that have primary rights" are Motorized Vehicles, both two-wheeled vehicles or four-wheeled vehicles or more, which get priority on the road based on the order of the law or get permission from the police which must take precedence over other road users. Article 134 of Law Number 22 of 2009 concerning Road Traffic and Transportation, said:

Road Users who get the main right to take precedence in the following order:

- a. Fire fighting vehicles on duty;
- b. Ambulances transporting sick people;
- c. Vehicles to assist in Traffic Accidents;
- d. Vehicles led by State Institutions of the Republic of Indonesia;
- e. Vehicles for the leadership and officials of foreign countries as well as international institutions who are state guests;
- f. The funeral procession; and
- g. Convoys and/or vehicles for certain purposes according to the considerations of the police officers of the Republic of Indonesia.

All the vehicles mentioned above must be prioritized by other road users in road traffic. Vehicles that get the priority, based on Article 135 paragraph (1), must be accompanied by an escort from the Indonesian National Police and/or use red or blue light signals and the sound of sirens.

It is further explained in paragraph 2 that the officers of the State Police of the Republic of Indonesia carry out security if they know that there are prioritized road users. And in paragraph 3 it is added that traffic signaling devices and traffic signs are not applied to vehicles as referred to in Article 134 of Law Number 22 of 2009.

1) Provision of Vehicle Escort

Provision of vehicle escort is carried out by the Indonesian National Police or other institutions that have an escort function such as the Presidential Security Forces, the Indonesian Armed Forces, and the Military Police. However, we often find that the Indonesian National Police generally carry out escorting vehicles, whether it is state activities or community activities.

Traffic Control is an activity of organizing, securing moving on the road to protect human life safety and goods (objects), VVIP/VIP/State Protocol activities, and other community activities continuously during the journey from one place to another by using a motorized vehicle in a state of emergency, safely, orderly, and smoothly.

In obtaining an escort permit, we must meet the criteria for prioritized road users as described in Article 134 of Law No. 22 of 2009. In the field implementation, Mr. Ipda Agus Joko SH, MH grouped 2 types of road users get the main right on the road and or get a vehicle escort by the Indonesian National Police based on the incident, namely:

- 1) Incidental Vehicles:
 - a. Fire fighting vehicles carrying out their duties;
 - b. Ambulances transporting sick people;
 - c. Vehicles to assist in Traffic Accidents.

Incidental vehicles are vehicles such as those listed above that have the main right to be prioritized on the road, which appears suddenly so that they have not made official notification or permission to the Indonesian National Police to get traffic priority (fire engines and ambulances). Or even obtain written permission for private cars requesting vehicle escort by the Indonesian National Police for assisting in traffic accidents.

The above vehicles have the right to be prioritized on the road only when the vehicle is carrying out its duties such as a fire fighting vehicle that wants to extinguish a fire or other tasks, an ambulance that takes sick people or picks up sick people, and vehicles to assist in traffic accidents (Abdussalam, 2012).

- 2) Scheduled Vehicles;
- 3) Vehicles for the leaders of the State Institution of the Republic of Indonesia;
- 4) Vehicles for the state guests' leaders and officials of foreign countries and international institutions;
- 5) The funeral procession; and
- 6) Convoys and/or vehicles for certain purposes according to the considerations of the police officers of the Republic of Indonesia.

A scheduled vehicle is a vehicle that travels on a scheduled basis in which he has obtained the right to be given a vehicle escort by the Indonesian National Police or a vehicle that requests to be escorted according to his needs that has applied for a previous permit and is approved by the Indonesian National Police to be given an escort.

2) Application for a Vehicle Escort Permission by the Indonesian National Police

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In applying for a permit to the Indonesian National Police to request assistance in escorting, it is necessary to first consider the needs of the trip and the place of travel to be addressed, this aims to determine which State Police of the Republic of Indonesia can provide vehicle escort assistance. The following is the procedure for applying for escort assistance, namely:

- a. Submit a letter of application to the relevant Indonesian National Police;

For example: Submitting a letter to the Central Java Regional Police Ditlantas addressed to the Director of Traffic (Dirlantas) of the Central Java Police, from the Dirlantas down to the Highway Police Section (PJR).

- b. Attach the activities carried out that requires escort assistance;

For example: in the letter of application for escort, the time, place, and need for escorting the vehicle are stated.

After the submission of the letter is received by the Indonesian National Police, it will be checked how the urgency of the escort assistance is given and later will be given an answer if the application for escort assistance is received regarding the procedure for applying for vehicle escort, which is the policy of the police agency which refers to the Decree of the State Minister for Issuance. State Apparatus (Kepmenpan Number: 63/Kep/M/Pan/2003) concerning Public Service Standards.

Based on the description above, it can be understood that police action is any action or action by the police based on their authority in the context of carrying out government functions in the field of maintaining security and public order, providing protection, shelter, and service to the community and enforcing the law. Police actions position the police as legal subjects, meaning as *dragger van rechten en plichten* or supporters of rights and obligations, where the police (as an institution and function) carry out various actions based on facts.

The legal action of the police, in this case, gives the main rights to road users as well as escorting the vehicle causing certain legal consequences. The legal consequences resulting from legal action for the police can be in the form of:

- a. Some changes to rights, obligations, or powers;
- b. Changes in the legal position of an existing person or object;
- c. There are certain rights, obligations, authorities, or statuses.

Based on the above, the granting of primary rights must be given to road users who need or need to get the right to be prioritized, this is related to the principle of legal certainty.

3) Types of Vehicle Escort

The State Police of the Republic of Indonesia in carrying out traffic escort classifies the types of escort carried out in several ways, this is contained in the Decree of the National Police Headquarters, Number: KEP/51/IV/TAHUN 2014 concerning Standard Operational Procedures (SOP) for Traffic Escort, which divides into 4 types of escort:

- a. VVIP escort, this escort is used to escort the president or vice president, state guests at the level of the president or head of government.
- b. VIP escort, this escort is used to escort high-ranking State/Foreign officials, governors, mayors/regents, POLRI or military generals, important documents/state money, and dangerous materials/goods.
- c. Escort Candidates for President/Vice President and Candidates for Regional Heads during the General Election.
- d. Escorting Community Activities, escorting development processions/parades, pilgrims, tourists, community homecoming, campaign participants, bridal convoys, and funeral attendants.

The types of escort above will be distinguished by the form of escort provided by the Indonesian National Police and requires the number of personnel who carry out escorts and the vehicles used, based on the level of necessity for escorting.

D. CONCLUSION

Based on the descriptions that have been presented in previous chapters, the authors draw the following conclusions:

The main rights granting of road users carried out by the Ditlantas Polda Central Java is guided by Law Number 22 of 2009 concerning Road Traffic and Transportation as stated in Article 134 and Article 135 which regulates the duties of the State Police of the Republic of Indonesia in regulating and main rights granting of road users and based on Law Number 2 of 2002 concerning the State Police of the Republic of Indonesia contained in Article 13 concerning the Main Duties of the State Police of the Republic of Indonesia. The State Police of the Republic of Indonesia in granting the main rights of road users based on Law Number 22 of 2009 and in carrying out escorts based on the Decree of the National Police Headquarters where this is following the main tasks of the Indonesian National Police as stated in Article 13 of the Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, namely maintaining security and public order, enforcing the law and providing protection, shelter, and services to the community.

The Central Java regional police traffic directorate in providing the main rights of road users in this case is to carry out vehicle escorts and has a Standard Operational Procedure (SOP) in receiving vehicle escort requests and carrying out the escort. The police have the policy to consider accepting or rejecting an application for an escort that has been submitted, this must be following Article 134 of Law Number 22 of 2009 and refers to the Decree of the State Minister for Issuance of State Apparatus

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(Kepmenpan Number: 63/Kep/M/Pan/2003) concerning Public Service Standards. However, in this case, the policy made by the police can create legal uncertainty, because the considerations from the police make the criteria for requesting escorts unclear.

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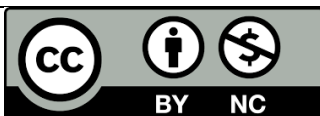
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