

Harmonization of Vaccine Certificate Functions Regulations for Intercity Travel during Restrictions towards Community Activities Level 3 Implementation

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Abstract

At the beginning of 2020, all countries in the world were shocked by the emergence of a terrible new virus because of its rapid spread and the effects of exposure to it could kill human lives. In this case, the Government is trying to respond to the spread of covid in a responsive manner, several ways that have been carried out, among others, from the Enforcement of Restrictions on Community Activities through the Instruction of the Minister of Home Affairs No. Disease 2019 in Java and Bali Region. This study aims to find out the harmonization of the regulation of the function of the vaccine certificate for inter-city travel during the PPKM Level 3 period in DKI Jakarta and Central Java provinces and to find out how the certainty of inter-city travel requirements is when there is no regulation on vaccine certificates as travel requirement. The method used in this study is normative juridical using several sources from primary, secondary, and tertiary legal materials collected through literature study and managed by the author in a descriptive way. The results of this study indicate that the harmonization of arrangements regarding the application of vaccine certificates as a condition for travel and use of transportation during the PPKM Level 3 period in Java and Bali is not going well. This happened because the Central Java Provincial Government did not heed the Instruction of the Minister of Home Affairs No. 35 of 2021 concerning the Enforcement of Restrictions on Community Activities on the grounds that vaccination was not evenly distributed in Central Java Province so that the Central Java Regional Government did not apply a Covid-19 vaccine certificate as a condition for people to travel. Which then makes people confused, especially those who want to travel using transportation from areas that have a vaccine certificate policy as a condition for using transportation to areas that do not yet have special rules regarding the use of vaccine certificates as a condition for using transportation or vice versa.

Keywords

harmonization; PPKM; vaccine certificate



I. Introduction

At the beginning of 2020, all countries in the world were shocked by the emergence of a terrible new virus because of its rapid spread and the effects of exposure to it could kill human lives. This virus is known as Corona Virus Disease 2019 or COVID-19. The virus is destabilizing the world in many ways, especially health. Until finally the World Health Organization (WHO) declared COVID-19 as a pandemic. According to the Big Indonesian

Dictionary (KBBI), a pandemic is an epidemic that spreads simultaneously everywhere or covers a wide geography. The COVID-19 pandemic has forced drastic and very fast changes in almost all aspects of life, whether economic, political, socio-cultural, defense and security (Oti Handayani, 2021). The spread of the COVID-19 virus occurred massively and very quickly, including to Indonesia. Indonesia reported its first case on March 2, 2020 where President Joko Widodo announced that there were two cases of positive COVID-19 patients, namely a 31-year-old woman and a 64-year-old mother. (KOMPAS, 2020). Sihombing (2020) state that Covid-19 pandemic caused everyone to behave beyond normal limits as usual. The outbreak of this virus has an impact especially on the economy of a nation and Globally (Ningrum, 2020). The problems posed by the Covid-19 pandemic which have become a global problem have the potential to trigger a new social order or reconstruction (Bara, 2021).

The government is trying to deal with the spread of covid in a responsive manner, several ways have been carried out, among others, from the implementation of the Implementation of Restrictions on Community Activities (hereinafter the short author becomes PPKM). On the other hand, people feel a dilemma in their lives. Because with the implementation of PPKM it means that community mobility is also limited in aspects of life. The implementation of the PPKM period itself does not make the community feel fully comfortable and awake, because in fact many people have to do activities outside their homes during the PPKM period. Through the Emergency PPKM Minister of Home Affairs Instruction Number 15 of 2021 concerning the Enforcement of Restrictions on Emergency Community Activities for Covid 19 in the Java and Bali Regions, the government decided to relax with various policies, including the obligation to show a certificate or Covid-19 vaccination card to enjoy public space services, such as airports, malls, restaurants, stations, cinemas to haircuts. The Ministry of Home Affairs immediately made official instructions to regulate the implementation of the PPKM period, with the enactment of the Minister of Home Affairs Instruction No. 35 of 2021 concerning the Enforcement of Restrictions on Community Activities Level 4, Level 3, and Level 2 Corona Virus Disease 2019 in the Java and Bali Regions, one of the points in the instruction regulates the conditions for traveling or traveling using transportation in the middle of PPKM level 3. In the Fifth Dictum of the Ministry of Home Affairs point o explains that (Minister of Home Affairs): o. domestic travelers using private cars, motorbikes and long-distance public transportation (airplanes, buses, ships and trains) must:

- 1) show a vaccine card (at least the first dose of vaccination);
- 2) showing PCR (H-2) for aircraft and Antigen (H-1) for modes of transportation of private cars, motorcycles, buses, trains and ships;
- 3) the provisions as referred to in number 1) and number 2) only apply to arrivals from outside Java and Bali or departures from Java and Bali to outside Java and Bali, and do not apply to transportation within the agglomeration area for example for the Greater Jakarta area;
- 4) Traveling by plane between cities or regencies within Java-Bali can show a negative antigen (H-1) result provided that the second dose of vaccination has been obtained, and a negative PCR result (H-2) if you have just received a dose of 1 (one) vaccine.); and
- 5) For logistics vehicle drivers and other goods transportation are excluded from the provisions of having a vaccine card

The Ministry of Transportation also issued several regulations governing Inter-City Travel during the PPKM period. The Ministry of Transportation itself has issued four circulars that regulate the implementation of the use of transportation during the PPKM period, namely:

- Circular Letter Number 56 of 2021 concerning Guidelines for the Implementation of Domestic Travel by Land Transportation During the COVID-19 Pandemic.
- Circular Letter Number 57 of 2021 concerning Guidelines for the Implementation of Domestic Travel by Air Transportation During the COVID-19 Pandemic.
- Circular Letter Number 58 of 2021 concerning Guidelines for the Implementation of Domestic Travel by Rail Transportation During the COVID-19 Pandemic Period.
- Circular Letter Number 59 of 2021 concerning Guidelines for the Implementation of Domestic Travel by Sea Transportation During the COVID-19 Pandemic.

The issuance of the Instruction of the Minister of Home Affairs No. 35 of 2021 concerning the Implementation of Restrictions on Community Activities at Level 4, Level 3, and Level 2 Corona Virus Disease 2019 in the Java and Bali Regions was followed up by several local governments in Indonesia, one of which was DKI Jakarta. This is regulated in the fourth part of the Decree of the Governor of DKI No. 987 of 2021 concerning the Implementation of Restrictions on Community Activities Level 4 Corona Virus Disease 2019 (SK Governor of DKI No. 1026 of 2021). One of the important points in the regulation is the obligation to show a COVID-19 vaccination certificate as a condition for activities in sectors that have been permitted. This is done to protect the public from the transmission of COVID-19 (Trias Palupi Kurnianingrum, 2021). Several regions also responded to this, by making several rules regarding vaccine certificates that are used as a condition for the community or residents to travel and have activities in public places, the Regional Government of Central Java Province as one of the regions that is still included in the list of regions that implement PPKM Level 3 actually makes different statements from several regions that have implemented vaccine certificates as a condition for traveling and activities in public spaces. In fact, Central Java has not yet implemented the regulation in its region. Central Java Governor Ganjar Pranowo emphasized that Central Java has not yet taken the policy. The reason is that many people have not been vaccinated in Central Java. Ganjar explained that the decision had not been taken for several reasons. Ganjar feels that when all community activities are limited by the requirements of vaccine certification, it is considered unfair because there are still people who have not been vaccinated. Meanwhile, the number of people who have been vaccinated is not yet large. According to him, giving concessions for those who have been vaccinated to travel is not appropriate, and can injure justice in society (Ichwan chasani).

This disharmony between the central government's rules and the attitude of the local government has made the handling of COVID-19, especially regarding the application of vaccine certificates, a condition for using transportation facilities for people who want to travel to be ambiguous. On the one hand, there are several regions that respond quickly and responsively to the Instruction of the Minister of Home Affairs by directly issuing a Governor's Decree, but there are still regions that do not heed the Instruction for their own reasons.

II. Research Method

The type of research used in writing this proposal is a normative juridical research study. Normative juridical research is a research concept based on the main legal material by examining theories, concepts, legal principles and legislation related to this research. Also referred to as doctrinal legal research, namely research on law that is conceptualized and developed on the basis of the doctrine adopted by the drafter or in its development (Amiruddin & Zainal Asikin, 2012).

III. Discussion

The government is trying to deal with the spread of covid-19 in a responsive manner, several ways have been carried out, including the implementation of the Enforcement of Restrictions on Community Activities. On the other hand, the community feels a dilemma in their lives, because with the implementation of PPKM it means that community mobility is also limited in aspects of their lives. The implementation of the PPKM period itself does not make the community feel fully comfortable and awake, because in fact many people have to do activities outside their homes during the PPKM period. Through the Emergency PPKM Minister of Home Affairs Instruction Number 15 of 2021 concerning the Enforcement of Restrictions on Covid-19 Emergency Community Activities in the Java and Bali Regions, the government decided to relax with various policies, including the obligation to show a certificate or Covid-19 vaccination card to enjoy public space services, such as airports, malls, restaurants, stations, cinemas to haircuts. The PPKM policy is one of the policies to overcome the COVID-19 Pandemic outbreak which does not have a clear legal position, this is because the Implementation of Activity Restrictions for Controlling the Spread of Outbreaks is not contained in Law no. 6 of 2018 concerning Health Quarantine. Implementation of the Implementation of Community Activity Restrictions (PPKM) which in the Instruction of the Minister of Home Affairs is called PPKM in the context of controlling the spread of COVID19. The policy was first enacted by the Government through Inmendagri No. 01 of 2021 concerning the Enforcement of Activity Restrictions for the Enforcement of Activity Restrictions to Control the Spread of COVID-19. The PPKM policy is considered far more effective in tackling the spread of the COVID-19 virus compared to the PSBB policy (Ahmad Gelora Mahardika, 2021).

Pressure and hope continue to be put on the government to immediately take strategic and effective steps to provide protection and guarantees for the Indonesian people in general from the dangers of the ongoing COVID-19 pandemic. On the basis of this, various efforts have been made by the government by issuing policies to overcome it. These policies include the semi-lockdown known as Large-Scale Social Restrictions (PSBB) which refers to Law Number 6 of 2018 concerning Health Quarantine in conjunction with Government Regulation 21 of 2020 concerning PSBB in the context of accelerating the handling of COVID-19. Various policy packages issued by the government are expected to be effective in tackling the spread of COVID-19, however, in fact the level of public awareness of these policies is still relatively low (Sylvia Hasanah Thorik, 2020). Other policies are social distancing, physical distancing that has been enforced for the Indonesian people since March 2020, then carrying out national vaccinations, implementing the Enforcement of Restrictions on Community Activities (hereinafter referred to as PPKM) Emergency Level 3 since August 24, 2021, and enforcing Vaccine Certificates in public space is also for the use of public transportation between cities in the hope that the spread of COVID-19 can be controlled in Indonesia.

With the issuance of the Instruction of the Minister of Home Affairs No. 35 of 2021 concerning the Implementation of Restrictions on Community Activities Level 4, Level 3, and Level 2 Corona Virus Disease 2019 in the Java and Bali Regions, this was then followed up by several local governments in Indonesia, one of which was DKI Jakarta. As stipulated in the fourth part of the Decree of the Governor of DKI No. 1026 of 2021 concerning the Implementation of Restrictions on Activities of 63 Community Level 3 Corona Virus Disease 2019 (SK Governor of DKI No. 1026 of 2021). One of the important points in the regulation is the obligation to show a COVID-19 vaccination certificate as a condition for activities in sectors that have been permitted. This is done to protect the public from the transmission of COVID-19.7 The policy of applying a vaccine card as a condition for traveling to public places has brought pros and cons among the public. Both those who are pro and contra, both

have logical reasons. According to people who are pro, generally think that making a vaccine card as one of the conditions can encourage the acceleration of vaccination in order to achieve herd immunity (Trias Palupi Kurnianingrum, 2021).

Looking at the reality, although some regions have made several rules regarding vaccine certificates that are used as a condition for the community or residents to travel and have activities in public places, the Regional Government of Central Java Province as one of the regions that is still included in the list of regions that implement PPKM Level 3 actually makes different statements from several regions that have implemented vaccine certificates as a condition for traveling and activities in public spaces. Central Java has yet to enforce the regulation in its region. Central Java Governor Ganjar Pranowo emphasized that Central Java has not yet taken the policy. The reason is that many people have not been vaccinated in Central Java. Ganjar explained that the decision had not been taken for several reasons. Ganjar feels that when all community activities are limited by the requirements of vaccine certification, it is considered unfair because there are still people who have not been vaccinated. In terms of handling and controlling the spread of Covid-19, the government has full responsibility for the safety and health of its people. This explains that the government is obliged to provide services, and arrangements relating to the handling and control of covid-19, including the regulation on the use of vaccine certificates as a condition for inter-city travel, the implementation of which has not found perfect harmonization in several regions. This is also a top priority for local governments considering that the health sector is one of the mandatory government affairs for local governments in this case, namely as a basic service for public health. What was done by the Central Java regional government was an action that reaped many pros and cons, as in Central Java Vaccine certificate was not valid as a condition for traveling in the Central Java region.

The policies issued by the Minister of Home Affairs and the Minister of Transportation clearly have the goal of being able to control various forms of the spread of the Covid-19 virus, in this case, by traveling between cities in Indonesia. The process of controlling, preventing, and handling the spread of the Covid-19 virus requires every community to show a vaccine certificate that they have received as a condition for using public transportation and mobility in their daily lives. Meanwhile, by not heeding the instructions, the Central Java Government's attitude was just the opposite. This causes differences in regulations regarding the use of vaccine certificates as a condition for inter-city travel, which can be studied based on the theory of the legal system that the stages of forming legislation are not implemented. To run its government, the central government must be connected with local governments that are well established and harmonious. With the aim of prosperity and the stages of forming laws and regulations in a legal system, it requires synchronization and harmonization between Pancasila, the 1945 Constitution of the Republic of Indonesia, and other laws and regulations because the legal system is an inseparable and inseparable unit. relate to each other. A legal system can work if all laws and regulations are in line and do not conflict with each other.

Inter-City Travel If a Region has not Regulated Vaccine Certificates as Travel Requirements during PPKM Level 3

With all the efforts made by the government, both the central government and local governments to accelerate the handling and control of the Covid-19 virus, a national vaccination program was formed which requires all Indonesians to receive a dose of the Covid-19 vaccine in order to prevent massive transmission of Covid-19 during this period. PPKM Level 3 in various regions. In the context of controlling the spread of the Covid-19 virus, cooperation, especially coordination, is the key word. Coordination between the center and regions or coordination across ministries and agencies, will facilitate the implementation

of PPKM policies and suppress the spread of the Covid-19 virus. In this regard, local government attitudes and regulations related to travel procedures and conditions should also be in accordance with the regulations made by the central government regarding travel requirements during the Level 3 PPKM period. Several regions seemed alert and responsive to the instructions issued by the Minister of Home Affairs, such as the DKI Jakarta Provincial Government which immediately issued the DKI Governor Decree No. 1026 of 2021 concerning the Enforcement of Restrictions on Community Activities Level 3 Corona Virus Disease 2019 with the aim of following the instructions of the Minister of Home Affairs regarding the implementation of Level 3 PPKM. It also regulates the use of vaccine certificates as a condition of travel for the community. Local governments in terms of making policies are regulated in accordance with the hierarchy of laws and regulations as in the concept of a Decentralized Unitary State where if we look at the context of the Unitary State, the regions are only divided by authority but still have to return to the center. In terms of applying vaccine certificates as a condition for inter-city travel, local governments have an obligation to regulate this, of course in accordance with the directives issued by the central government. The regulation on the application of vaccine certificates as a condition for the use of transportation was originally considered as one of the preventive/preventative measures from the spread of the covid-19 virus in Indonesia, especially in the transportation sector and community mobility. This should be the main axis for every regional head to follow these rules with the aim of creating harmonization and synchronization related to the enforcement of the implementation of the vaccine certificate.

The fact about the application of vaccine certificates as a transportation requirement during the PPKM level 3 period, there are several local governments that do not follow this. In this case, the Central Java Provincial Government. On one occasion, the Governor of Central Java, Ganjar Pranowo, explained that Central Java had not been able to follow the regulation due to the low number of vaccinations in the area.

The disharmony and synchrony of local government attitudes and regulations from the central government resulted in confusion and uncertainty in the use of vaccine certificates as a travel requirement for people's mobility. According to Jan Michiel Otto, the real legal certainty is indeed more of a juridical dimension. Otto provides a further limitation of legal certainty which defines legal certainty as the possibility that in certain situations, namely: There are clear, consistent and accessible (accessible) rules, the ruling agencies (government) apply the legal rules consistently and submissively and obediently to them, citizens in principle adjust their behavior to these rules, independent and impartial judges (judicials) apply these legal rules consistently when they resolve legal disputes and, concrete judicial decisions held. Of course, this is the responsibility of the central and local governments, because the government has a function that requires the government to be harmonious and synchronized in terms of making rules, especially regarding the application of the use of vaccine certificates as a travel requirement during PPKM Level 3, namely the regulatory function, which emphasizes that regulation not only to the people but to the government itself. That is, in making life policies more dynamic that regulates people's lives and at the same time minimizes state intervention in people's lives. So, the function of the government is to regulate and provide protection to the community in carrying out their lives as citizens. The implementation of vaccine certificates as a condition for traveling and traveling between cities aims to encourage public participation in the success of the Covid-19 vaccination program, of course, it should be supported. Because the government is serious about dealing with the pandemic by protecting its citizens and suppressing transmission. This can be done by vaccination. At this point people can agree with the policy, but there are other issues that the government must seriously consider before taking steps to implement the vaccine card policy. This is the regulation of community mobility during the PPKM Level 3 period which depends on the vaccine certificate.

V. Conclusion

1. Harmonization of arrangements regarding the application of vaccine certificates as a condition for travel and use of transportation during the PPKM Level 3 in the Java and Bali regions which has been explained in the Instruction of the Minister of Home Affairs No. 35 of 2021 concerning the Enforcement of Restrictions on Community Activities Level 4, Level 3, and Level 2 Corona Virus Disease 2019 in the Java and Bali Regions did not run according to the instructions. This happened because the Central Java Provincial Government did not heed the Instruction of the Minister of Home Affairs No. 35 of 2021 concerning the Implementation of Restrictions on Community Activities Level 4, Level 3, and Level 2 Corona Virus Disease 2019 in the Java and Bali Regions on the grounds that vaccination was not evenly distributed in Central Java Province. so that the Central Java Regional Government does not apply a Covid-19 vaccine certificate as a condition for its people's travel. On the other hand, the DKI Jakarta Provincial Government has followed and implemented the Instruction of the Minister of Home Affairs No. 35 of 2021 concerning the Enforcement of Restrictions on Community Activities Level 4, Level 3, and Level 2 Corona Virus Disease 2019 in the Java and Bali Regions by issuing a Decree of the Governor of DKI Jakarta which it stipulates 90 the application of vaccine certificates as a condition of travel for the people. This condition explains how the disharmony between the regulations issued by the Central Government and the attitude taken by the regional government which was originally supposed to follow these regulations in order to achieve the acceleration of handling and spreading the Covid-19 virus in Indonesia.
2. Travel between cities during the implementation of the Level 3 PPKM period became a confusing thing because the disharmony between the central government rules and the attitude of the local government made the handling of COVID-19 especially regarding the implementation of vaccine certificates as a condition for using transportation facilities for people who want to travel become ambiguous. . On the one hand, there are several regions that respond quickly and responsively to the Instruction of the Minister of Home Affairs by directly issuing a Governor's Decree, but there are still regions that do not heed the Instruction for their own reasons. This creates conflict and confusion in the community, especially those who want to travel using transportation from areas that have a vaccine certificate policy as a condition for using transportation to areas that do not yet have special rules regarding the use of vaccine certificates as a condition for using transportation or vice versa. The government must also ensure and guarantee the availability and distribution of vaccines evenly in all regions. The government must also consider people who suffer from certain diseases, which are medically not recommended to be injected with vaccines. No less important is how the protection of the state to the community does not affect their rights in obtaining public services, this needs to be considered and considered so as not to cause discrimination. Do not let the vaccine card, in a certain degree, be used as an instrument of legitimacy in discrediting people's rights. After all, everyone certainly wants to get the same protection and treatment from the state, but not everyone is lucky to get that. The government must also pay attention to how the impact of the implementation of the vaccine card will be.

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