

## The Conflict of Legal Regulations Norms Business License For Recruitment and Placement of Ship Crew

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| Article Info                                                                                                                                                     | Abstract                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| <p>Received: 2024-08-20<br/>Revised: 2024-10-21<br/>Accepted: 2024-12-30</p> <p><b>Keywords:</b><br/>Disharmony , Conflict of Norms, Regulations legislation</p> | <p><i>Disharmony in context regulation legislation is a event , where there are two or more regulations that govern about One the same substance , but each of them regulation the No own technical equation its arrangement. Disharmony regulation legislation can also be said existence mutually exclusive rules overlap overlap between One regulation with regulation others , so that result in existence opposition regulation Good in a way vertical or horizontal, and overlapping overlap regulation the caused by Because too the amount existing laws in Indonesia. There is disharmony law naturally result in enforcement existing regulations , meaning that existence regulation is to organize life society , but regulations can be No effective while happen disharmony from regulations. This research uses study legal normative , namely with adopt approach law normative , which focuses on analysis to regulation applicable legislation and concepts law . His analysis is descriptive qualitative , with describe , explain and analyze aspects law with use qualitative . The purpose is is to provide an overview in a way comprehensive about disharmony regulation legislation. Research result : when it turns out happen conflict of norms, then effort law settlement conflict of norms in business permits Ministry of Law and Human Rights and Ministry of Transportation with use First principle preferences . Principles preferences used in solving conflict of norms that occurs between regulation legislation . If associated with principle this preference , the problems that occur more appropriate use principle the third preference namely lex specialist derogate legi general.</i></p> |

## INTRODUCTION

Ideally a regulation laws that have been passed or determined by the institution that has it the authority to make it , should be able to be implemented efforts to done enforcement law to regulation said . That is carried out so that the regulations the can really apply in a way effective in managing life public .<sup>1</sup> However sometimes in the enforcement law , often happen absence consistency and then in the end does not provide access to guarantee of certainty law in society .<sup>2</sup> Inability consistency enforcement regulation law , thing the because of Lots mutually exclusive rules No harmony ( disharmony ) between One regulation with regulation other .

Disharmony in context regulation legislation is a event , where there are two or more regulations that govern about One the same substance , but each of them regulation the No own technical equation its arrangement . Disharmony regulation legislation can also be said existence mutually exclusive rules overlap overlap between One regulation with regulation others , so that result in existence opposition regulation Good in a way vertical or horizontal, and overlapping overlap regulation the caused by Because too the amount existing laws in Indonesia. There is disharmony law naturally result in enforcement existing regulations , meaning that existence regulation is to organize life society , but regulations can be No effective while happen disharmony from regulations

Amount rule if seen in a way quantity , it can be said that there are very many regulations the is the regulations issued Good at level government center or at level area .<sup>3</sup> Many rules law this is what causes the amount rules that are not harmonious and contradictory each other . This research will discuss about regulations regarding permits, one of which is is regulation regarding business permits issued by the Ministry of Law and Human Rights Human ( Ministry of Law and Human Rights ) with example case is PT. Raya Mulya Bahari, then see from purpose and intent to establish the business listed in the deed Notary Public precisely Article 3 point 1, that purpose and objectives to establish company that is strive in the field services , trade , transportation , then in the Company at point 2 to achieve the intent and purpose of point 1, then the Company can

<sup>1</sup> Sunarto, S, The Principle of Legality in Law Enforcement Towards Realization Justice Substantive , Legal Issues , 45(4),252. <https://doi.org/10.14710/mmh.45.4.2016.252-258>

<sup>2</sup> Guna, W., & Wan , Power and Mechanism Appointment of Ministers in the system Presidency in Indonesia, Jurist-Diction, 2018, I (1),343-356

<sup>3</sup> Setiadi W, Simplification Regulation Legislation in Order to Support Convenience Trying , Journal Rechtsvinding , 2018, 7(3), 321-334

carry out businesses which include a. operate business in the field services , services distributor power work , services sailing , b. running one of the businesses in the field agency Good from companies both domestic and foreign abroad , c. Running business , one of which is in the field of transportation on land , at sea and in rivers , things This has become the Decree of the Minister of Law and Human Rights Basic The People of the Republic of Indonesia with Number AHU-2462782.AH01.01 of 2015 concerning Validation Establishment of a limited liability company legal entity , which then changed with Number AHU-0076323.AH01.02 of 2020, so that based on establishment company limited the PT. Raya Mulya Bahari has authority to recruit power work to be done employed in or abroad .

PT . is a limited liability company is fulfillment legality business that can protect perpetrator business at the same time can also bring more benefits . So every person or a group of people who will establish a business entity must register for licensing trying , namely registration given to perpetrator business to start and run business and/ or activities and given in the form of approval stated in a letter / decision or fulfillment requirements and/ or commitment . Then in line with time , PT. Raya Mulya Bahari runs his efforts are one of them is do recruitment and placement employee power work to be done made a subordinate ship (ABK)/ sailors in the country of Fiji. However when the process has been executed and then will placing in the country of Fiji, PT. Raya Mulya Bahari was charged do test act criminal human trafficking (TPPO) with base that PT. Raya Mulya Bahari does not have a Ship Crew Recruitment and Placement Business License (SIUPPAK) and are registered with the Directorate General General Ministry of Transportation Sea Relations . recruitment and placement crew boat regulated in the Minister of Transportation Regulation Number 84 of 2013.

The basis for PT. Raya Mulya Bahari to carry out recruitment is the Decree of the Minister of Law and Rights Basic The People of the Republic of Indonesia with Number AHU-2462782.AH01.01 of 2015 concerning Validation Establishment of a limited liability company legal entity , which then changed with Number AHU-0076323.AH01.02 of 2020, which PT. Raya Mulya Bahari, so that based on establishment company limited the PT. Raya Mulya Bahari has authority to recruit power Work which will employed in or abroad . While according to Regulation of the Minister of Transportation Number 84 of 2013, in recruiting and placing ABK/ sailors must have a Ship Crew Recruitment and Placement Business License (SIUPPAK) and be registered with the Directorate General General Ministry of Sea Relations Transportation . Of course . this is becoming opposition between arrangement mentioned , which shows existence overlap overlap regulations that occur

in Indonesia.<sup>4</sup> Regulation legislation is system law a whole and of course national each other own interrelationship and interdependence each other. System regulation Indonesian legislation is currently structured in a way hierarchy in accordance with theory of levels of legal norms ( *stufenbou theory* ) as stated by Hans Kelsen. Hans Kelsen put forward that legal norms That tiered and layered in a hierarchy of arrangement , which is a norm that is level his more high , valid , sourced and based on higher norms higher again, then thus furthermore arrive at a norm that cannot be traced more advanced and characteristic hypothetical and fictional , namely basic norms or *ground norm* .<sup>5</sup>

Basic norms often called with pre- supposed or must Because set moreover previously by the community become a basic norm . In the teachings the stucco Hans Kelsen 's theory , one of expert law namely Ahmad Ali stated that regulation law the whole thing lowered from the basic norms that exist at the top pyramid ( pictured) with pyramid ) and then the more down the more diverse and widespread . Basic norms top characteristic his is abstract and further down will the more concrete . In this process , what was initially in the form of something that should have changed become what can be done . So it is based on the thought from Hans Kelsen clear that How each other dependence Constitution with various regulations legislation which is One a complete unity . Based on reality law regarding the Recruitment and Placement of Ship Crew permits , where Ministry of Law and Human Rights with his authority issuing a business license is one of the his is provision service including service power Work in a way general without exclude including recruitment and placement power Work prospective ABK/ sailor , then Regulation of the Minister of Transportation requiring business entities to have business recruitment and placement crew boat required have a Ship Crew Recruitment and Placement Business License (SIUPPAK) and be registered , the substance is the same as different settings and below different authorities will become problem complex . Especially problems in enforcement rules , with existence disharmony between regulation legislation so Of course his influence effectiveness from regulation law about the permit . Where is the effectiveness law is activities that demonstrate strategies in formulating problem that is a comparison reality law with the ideal of law . So when speak about effectiveness law in society , means We discuss Power Work law in regulating and

<sup>4</sup> Latansa , QD, Constitutionality of Term Limits President and Vice President in Indonesia, Jurist-Diction, 2019, 2(2),595-616

<sup>5</sup> Bobbio, N, & Zolo , D, Hans Kelsen, The Theory of Law and the International Legal System: A talk European Journal of International Law, 1998, 9(2), 355-367 <https://doi.org/10.1093/ejil/9.2.355>

or force inhabitant society to always obedient to applicable law . Based on background behind above , researcher try analyze regulation law regarding recruitment and placement permits power Work prospective ABK/ sailors who are in conflict between One regulation with other regulations .

## RESEARCH METHODS

This research uses study legal normative , namely with adopt approach law normative , which focuses on analysis to regulation applicable legislation and concepts law . Review to Constitution comparison , and approach conceptual is indication strong use method law normative . <sup>6</sup>In this research , we use data source , which is primary data got through studies study in the field , while for secondary data with laws , regulations legislation and literature law . His analysis is descriptive qualitative , with describe , explain and analyze aspects law with use qualitative . The purpose is is to provide an overview in a way comprehensive about disharmony regulation legislation .

## DISCUSSION

Disharmony law That happen if there is misalignment between one legal norm with other norms. LM Gandhi stated the occurrence disharmony law can be located in the center legislation general or general norms , for example difference opinions and aspirations regarding goals , principles , systems law as well as organization authority . In view from Gandhi's opinion later We analysis disharmony that occurs in regulations law regarding recruitment and placement permits power Work prospective ABK/ sailors who are in conflict with the implementation his between Ministry of Law and Human Rights with his authority issuing a business license is one of the his is provision service including service power Work in a way general without exclude including recruitment and placement power Work prospective ABK/ sailor , then Regulation of the Minister of Transportation requiring business entities to have business recruitment and placement crew boat required have a Ship Crew Recruitment and Placement Business License (SIUPPAK) and be registered , the substance is the same as different settings and below authority , then We will analyze the cause first the occurrence disharmony

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<sup>6</sup> Hermanto, Efendi S & Asy'ari , Criminal sanctions For drug Traffickers According to law Number 35 of 2009 Regarding Narcotics: A perspective From Islamic Criminal Jurisprudence ( Fiqih Jinayah) ALFIQH Islamic Law Review Journal, 2 (3), 153-168

## DISHARMONIZATION OF LEGISLATION: CAUSAL FACTORS

Disharmony between the Ministry of Law and Human Rights Basic Humans who with his authority issue business permits and Minister of Transportation Regulations regarding recruitment and placement permits crew boat Good in the and abroad to become one of the obstacles , so that matter the must seen factor reason the occurrence disharmony , which includes :<sup>7</sup> First : Formation regulations by different institutions and often within a certain period different times . Both is authorized official changeable Because limited by term of office , transfer task or replacement , third : Approach sectoral more dominant compared to approach system in formation regulation , fourth : weakness coordination in the formation process regulations involving various agencies and disciplines law , fifth : ways and methods that have not been steady , standard and standard for all authorized institution make regulation legislation .

Naturally disharmony regulation legislation will result in : <sup>8</sup>a. differences interpretation in implementation , c. uncertainty law , c. regulations legislation No implemented in a way effective and efficient , and d. dysfunction law , which signifies that law unable to provide guidance behave , control social , settlement dispute and as means change socially orderly and regularly . From various causes the occurrence disharmony law , so in this study , the researcher see ways and methods that have not been steady , standard and standard for all authorized institution make regulation legislation . Discussion is as following :

Ministry of Law and Human Rights Humans in improving service public and take action continue bureaucratic reform in realizing good governance through Directorate General General Legal Administration ( Directorate General of AHU) carries out breakthrough new with launch online AHU system on March 23, 2014 , one of the reforms carried out by the Directorate General of AHU is system legal entity validation is one of them is a limited liability company . The establishment of a Limited Liability Company (PT) is basically is Constitution Number 40 of 2007 concerning Limited Liability Companies , so that a PT can carry out its business its function as *legal person* There is a number of conditions that must be met fulfilled , which includes, among other things, submitting application via AHU online to get letter Ministry of Law and Human Rights This is based on the Law Number 3 of 1982 concerning Mandatory Company Registration

<sup>7</sup> Safudin SE, Harmonization of Law in Antinomy Law : Review Critical and Its Implementation by the Supreme Court , Q. Media, 2021

<sup>8</sup> Hastuti E, Wantu F & Tijow.LM , Completion Disharmony Regulation Legislation Through Mediation , 2020, Gorontalo Law Review 3(2), 137-152 <https://doi.org/10.32662/golrev.v3i2.983>

(Law Number 3 of 1982) then the Minister announced deed establishment . Meanwhile, for the field its business , then PT is obliged register through online single submission (OSS) this is in accordance with Minister of Law and Human Rights Regulation Number 17 of 2018 as response from Regulation government Number 24 of 2018 concerning Service Licensing Try Integrated In general Electricity . Business license Number AHU-2462782.AH01.01 of 2015 concerning Validation Establishment of a limited liability company legal entity , which then changed with Number AHU-0076323.AH01.02 of 2020 with the Ministerial Decree whose purpose and intent are to establish the business listed in the deed Notary Public precisely Article 3 point 1, that purpose and objectives to establish company that is strive in the field services , trade , transportation , then in the Company at point 2 to achieve the intent and purpose of point 1, then the Company can carry out businesses which include a. operate business in the field services , services distributor power work , services sailing , b. running one of the businesses in the field agency Good from companies both domestic and foreign abroad , c. Running business , one of which is in the field of transportation on land , at sea and in rivers

Temporary in the Minister of Transportation Regulation PM Number 84 of 2013 concerning Recruitment and Placement of Ship Crews in Chapter I number 2 states that business agency crew ship manning *agency* which is a legal entity that operates in the field of recruitment and placement crew boat on boat in accordance with qualifications , continued in Article paragraph (1) which states that activity business agency crew boat done by the established business entity specifically for business agency crew ship , continued with (2) that the business entity that is established exclusively for agencies crew ship in operation recruitment and placement sailor on the ship must have a business license agency crew boat from minister . From here clear that based on Ministry of Law and Human Rights activity business out through determination his No just as field agency Good from within and outside abroad , but also stated that PT can run business in the field services , services distributor power work , services shipping , Meanwhile in the Minister of Transportation Regulation PM Number 84 of 2013 states that activity business agency crew boat carried out by a business entity that is established exclusively for agencies crew ship . meaning There is differences in norms in reviewing field activity effort . Where is the norm? is benchmark , guideline or main rules in a regulation legislation . This results in different interpretations in its implementation , so that There is legal uncertainty for PT in running activity business nya . In one side that is letter determination The Ministry of Law and Human Rights provides the interpretation that established business more nature wide compared to with Minister of Transportation Regulation PM Number 84 of 2013

which specifically addresses the field business agency crew boat So that regulation implementation Constitution ca n't walk with effective and efficient , and occurs dysfunction law , one of them is what happened against PT. Raya Mulya Bahari. PT. Raya Mulya Bahari itself has already recruit and place power Work become a crew member/ sailor with based on the authority stated in the deed Notary Public Number AHU-2462782.AH 01.01 of 2015 concerning Validation Establishment of a limited liability company legal entity , which then changed with Number AHU-0076323.AH01.02 of 2020 with the Decree of the Minister.

Between the Decrees Ministry of Law and Human Rights for permission effort , no clarified that business the cannot be held before fulfill the necessary permits as condition must for PT. Armed with the Letter of Determination , PT can now carry out activity his efforts . While in the Minister of Transportation Regulation through Article 2 paragraph (2) the business entity is established exclusively for agencies crew ship in operation recruitment and placement sailor must have a business license agency crew boat from Minister . In Article 2, PT which already has a business license from Ministry of Law and Human Rights clear must determined by the Minister, as well as in the Minister of Transportation Regulation that permission to carry out recruitment must also be have a business license from the Minister. It means here giving rise to multiple interpretations because each minister issues business permits . Here happen difference between provision law with formulation understanding certain , of course matter result negative , when the PT is not have a business license from Minister of Transportation Regulation , only have a business license from the Decree Ministry of Law and Human Rights , then operate business nya , then will charged problem criminal one of them do test act criminal human trafficking . It is happen because the PT that sent power work to be done become a crew member/ sailor No pocketing letter of permission from Ministry of Transportation . This is considered not enough ensure certainty law , while post implementation Regulation president Number 91 of 2017 concerning Acceleration Implementation Trying , requirements licensing made more easy , because only There is one permit, then it covers various types licensing , such as Number Parent Business License (NIB) which includes the Company Registration Certificate (TDP), Company Identification Number Importer (API) and Customs Rights and RPTKA.

In licensing based on risk , there is a number of determination risk and rating scale business activity effort , good activity business at risk low , risky medium and high risk high . <sup>9</sup>It is also explained that at risk low , service process licensing is very simple , with letter statement so perpetrator business has been able to get legality direct in the form of

NIB, while intermediate ( intermediate) There are 2, namely intermediate low and medium high ) then for medium low with letter statement has obtained NIB with certificate standard , and for medium tall with risk tall must fulfil verification , perpetrator business must fulfil condition licensing Then new get NIB with certificate standard with status Not yet verified , and for the risk tall licensing try will provide NIB with permission. Based on criteria business with based on risk , then PT can run business in the field services , services distributor power work , services shipping , because they have already obtained the NIB and do not get into the activity business based on risk high . Because in the activity business with level risk tall the required implementation standards activity the later efforts need verification Good from government center or area in accordance with his authority publish certificate standard based on results verification fulfillment standard implementation activity effort , then if everything has been fulfilled , new government will issuing business licenses .

So what happened to PT Raya Mulya Bahari, this PT already had a permit because of this permit ... then PT Raya Mulya Bahari can carry out activity field services , services distributor power work , services shipping , including do recruitment and placement power Work prospective ABK/ sailors . The absence of synchronization appears on the Minister of Transportation Regulation where PT must fulfil obligation to have a Ship Crew Agency Business License from the Minister of Transportation . In Chapter II Article 3 states that the business license issued by the Minister of Transportation will issued after fulfil condition administration , where condition the is company limited , have certificate suffering complete until certificate change last completed with letter decision approval by the ministry law and human rights. So here lah multi -interpretable location regulation legislation . This has an impact on the certainty law , decisions related with articles that are open to multiple interpretations become diverse and even possible become depart behind . At PT which only have a business license from Ministry of Law and Human Rights without a business license from Ministry of Transportation , it could be considered become even illegal business considered do act criminal human trafficking with depart power Work out of Indonesia, or it could be the judge's decision stated that this is a violation administration. Things discussed on about existence disharmony in regulations legislation related to business licenses recruitment and placement crew ships outside Indonesia occur

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<sup>9</sup>Bahir Mukhammad, Implementation Licensing Based on Risks After the Job Creation Law , Journal of Justice Reasoning

Because existence conflict of norms. And the conflict of norms between Ministry of Law and Human Rights with Minister of Transportation Regulation enter into the horizontal norm conflict , namely conflict of norms against absence harmony between a noma that has equal standing in administration order hierarchy regulation legislation According to Law Number 12 of 2011 concerning Formation Regulation Legislation .

## **RESPONSIBILITY IN THE USE OF LICENSING SERVICE AUTHORITY**

The complexity regulation licensing which is often No consistent resulting in the existence of obstacle for investors in establishing business in Indonesia and cause obstruction development economy . Permission itself own urgency as a runway law (legal basis), an instrument that guarantees certainty law , protector interests and use as tool proof if there is claim . The purpose of permissions can be viewed from two sides , the first is side government , that granting permission , namely carry out regulation whether the provisions contained in the regulations the in accordance with reality in practice or No even though it is to set order . Then from side society , where objective granting permission is for certainty law , certainty rights and to obtain facility with to tie up actions on a system licensing , manufacturing laws can pursue various objectives from permission.<sup>10</sup>

On service licensing , state administrative officials are authorized to follow all over the terms and conditions given in a way attribution in carrying out procedure in accordance with substance that has been determined by the government . Concept authority formation regulation service Licensing in Indonesia is based on hierarchy regulation legislation . Amendments Constitution base 1945 (UUD 1945) Article 22 A mandates that the procedures formation Constitution set up with law , which then give birth to Constitution Number 12 of 2011 concerning Formation Regulation Legislation . Then as regulation executor from Constitution said , then issued a number of regulation namely : Regulations President Number 61 of 2005 concerning Procedures for the Preparation and Management of National Legislation Programs and Regulations President Number 68 of 2005 concerning Procedures for Preparing Bills, Draft Bills Perppu < RPP and Draft Presidential Decree .

Constitution Number 13 of 2022 concerning Changes to the Law Number 12 of 2011 concerning Formation Regulation Legislation on basically arrange about : a. Formation process regulation legislation , b. Substance regulation legislation and c. Techniques compilation regulation legislation ( attachment . While Constitution Number 13 of 2022,

<sup>10</sup> Adrian Sutedi , Licensing Law in the Public Service Sector , Jakarta, Sinar Grafika , 2011 p . 200

namely realize definite , standard and binding methods and methods authorized institution make regulation legislation , improving coordination and smoothness of the formation process regulation legislation and integrating provision regulation legislation with One legislation and adapt with law the constitutional system of the Republic of Indonesia. To produce regulation good and quality legislation as well as the occurrence harmonization regulation legislation There is a number of stages that must be done by the former legislation .

So between Ministry of Law and Human Rights with Minister of Transportation Regulation on Business Licenses recruitment and placement crew boat both inside and outside abroad , must done harmonization legislation . Harmonization legislation is a process of adjustment concept , substance and formulation in a design regulation legislation , both in the internal parts of the draft like trunk , body and explanation , with regulation legislation that has been there are other designs that are also being prepared . At that time implemented , so that to form a integrated and aligned elements or No with regulation other legislation . Rounding is the process of making all integrated elements so that Finally to form concept , substance and formulation become a complete unity .

After rounding , there is consolidation , which is the process of evaluating concept , substance and formulation from aspect consideration philosophy , juridical and sociological so that the public instruments that are formed are believed to be regulation strong and stable legislation as well as capable become runway law to regulate and resolve issues faced . Harmonization , rounding and consolidation Conception design Constitution intended so that legislation produced become product reliable law , and become eligible in the system law national . Because the system law national must fulfil characteristics include : obey principle hierarchy regulation legislation , mutual interrelationship and interdependence between One Constitution with Constitution other , no there is conflicting elements between One with others, can be tested (judicial review) either in a way material and also formal , existence guarantee that the process of formation regulation legislation in a way obedient principle for certainty law .

Formation process regulation legislation the must fulfil a number of stages , which of course begin from stage planning until the invitation . At stage planning in manufacturing legislation started national legislative program or legislative program national . This polegnas is instrument planning formation regulation legislation drafted

by the government and the House of Representatives (DPR). Usually problems faced is Not yet There is his political will of compilation prolegnas , for example just Not yet existence synergy in manufacturing regulation legislation between ministry as is currently being researched , then planning programmed , systematic and integrated for the long term time certain , then such a situation is very influential on the content regulation or regulation The Ministry of Law and Human Rights ' program to facilitate permits for perpetrators business is to cut bureaucracy that has made things difficult for the perpetrators business and also aims to attract investors to invest their capital in the country, while Ministry emit policy obligation for perpetrator efforts to have an Agency Business License crew the ship provides protection towards workers who will become a crew member/ sailor . However still must integrate , even though have different goals and purposes , so that impression that making regulation legislation No is order or pressure from party certain that have desire usually relate with nuance politics and more dominant so that product law ca n't integrate with need public .<sup>11</sup>

Enforcement regulation legislation must contains 3 foundations , including : first is runway philosophical namely those related with philosophical state or our state ideology Pancasila as state foundation and sources from all source law . Then the Regulation legislation must notice in a way truly load the values that become ambition the law contained in the fifth principle of Pancasila. Then the second one is runway legal namely existence the authority of each regulation legislation that must be made by a body or officials who have authority that is legislature and the House of Representatives (DPR) with notice need society . There is conformity between types and materials load regulation legislation , non-compliance conformity types can be reasons to be able to cancel regulation legislation made follow the procedure or procedure certain . However if procedure or atat method the No obeyed , as a result will null and void / not yet have strength tie as well as No may contradictory with regulation more legislation high in its level . And the third is runway sociological , namely need or demands faced by society , where trend his different with hope society , then from That regulation legislation made is expected to be accepted by society and also have Power use in a way effective temporary regulation legislation accepted by society will have Power more use effective . Third runway the of course must fulfilled in every production regulation legislation so that regulations the become effective validity his in society .

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<sup>11</sup> Miftah Thoha , Bureaucracy Politics in Indonesia, Jakarta, Raja Grafindo , 2010, p . 12

Then in this study when it turns out happen conflict of norms, then effort law settlement conflict of norms in business permits Ministry of Law and Human Rights and Ministry of Transportation with use First principle preferences . Principles preferences used in solving conflict of norms that occurs between regulation legislation among others<sup>12</sup>: 1. Lex superior derogate legi inferior , where This principle is interpreted that regulation legislation that has degree or higher position tall put aside regulation legislation that has degrees or higher position low . 2. Lex posterior derogate legi inferior , namely This principle means that regulation latest legislation put aside regulation legislation that was made earlier . and 3. Lex specialist derogate legi generali , which means that regulation special legislation put aside regulation general legislation . So according to researcher if associated with principle this preference , the problems that occur more appropriate use principle the third preference namely lex specialist derogate legi generali . Because recruitment and placement crew boat of course under ministry relationship . Minister of Transportation Regulation No PM 84 of 2013, indeed is description from Republic of Indonesia Law Number 17 of 2008 concerning Shipping . The purpose of its formation This law is to stabilize resilience national , then need existence system transportation national to support growth economy , regional development and strengthening state sovereignty . Related matters with water activities , one of which is the voyage which is One unity a system consisting of from transportation in waters , ports , safety and security as well as protection maritime .

With a variety of principles preference above , then There is a number of types in solution norm conflicts include : 1. Denial (disavowal), namely steps skipped with maintain that No happen norm conflict , 2. Reinterpretation , namely interpret back to the main norm in a way flexible with follow principles preferences , and also with interpret a norm of preference and apply Then as well as disregarding other norms. 3, Invalidation , divided into into two, a. formal abstract , namely implemented by the institution special for example by the Supreme Court , b. Practical namely use and run all these norms in concrete cases , and finally 4. Remedy , namely with consider recovery which can then be canceled One provisions .<sup>13</sup>Then the settlement conflict of norms itself can be done with method litigation whose settlement carried out in institutions state justice , implemented

<sup>12</sup> Zahlul Pasha Karim, The Confusion of Election Institutions Between Three Rules : Study of Aceh KIP, Evaluation Election simultaneously , 2019, p . 13

<sup>13</sup> Tatiek Sri Djamiati and Philpus M. Hadjon , Legal Argumentation , Gadah Mada University Press, Surabaya, 2009, pp . 31-32

by the Supreme Court and the courts under his and can also be done by the Court Constitution .<sup>14</sup>

If happen a conflict of norms between regulation legislation so against the norm done a testing . Jimly Asshiddiqie state There is three forms of legal norms that can be implemented testing regarding it , including : 1. Normative decisions which contain and are of a legal nature regulation ( *regeling* ), 2. Normative decisions that contain and are of a regulatory nature determination administration ( *beschikking* ) and 3. normative decisions which contain and are of a ordinary judgment called with verdict .<sup>15</sup> So in this study , in testing with use decision normative which contains and is of a nature determination administration ( *administration* ).

In addition to the settlement conflict normwith litigation , there is also settlement conflict of norms with non- litigation , meaning settlement can be done outside court . This is regulated in the Regulation of the Minister of Law and Human Rights Man Number 2 of 2019 concerning settlement Disharmony Regulation Legislation through Mediation . However one must made into base the idea that Article 24A of the Constitution of the Republic of Indonesia and also the Law Number 11 of 2012 Article 9 paragraph (2) then authority testing to regulation legislation under Constitution can only be done in the Supreme Court .<sup>16</sup> action to conflict of norms can be done outside court with effort preventive , namely he did control normative through internal testing by the initiating party product law namely by the institution legislative or executive , which is more known with *legislative review* or *executive review*

## CLOSING

Basic norms often called with pre- supposed or must Because set moreover previously by the community become the basic norm . However , along the way often happen conflict of norms in making regulation legislation . Happened conflict of norms, then effort law settlement conflict of norms in business permits Ministry of Law and Human Rights and Ministry of Transportation with use First principle preferences . problems that occur more appropriate use principle the third preference namely *lex*

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<sup>14</sup> Rosita, Alternatives in Solutions Disputes ( Litigation and non- Litigation , Journal of Islamic Law, Vol. VI, No. 2 , p . 100

<sup>15</sup> I Gde Five astawa & Suprin Na'a , Dynamics of Law and Science Legislation in Indonesia, PT Alumni, Bandung 2008 p . 119

<sup>16</sup> Ade Kosasih & A. Majid Ali, Analysis Critical Authority Ministry of Law and Human Rights Man in the Making Dispute Regulation Legislation via Medias, Journals Islamic Government and Politics , Vol. 6 No. 1 Year 2021

specialist derogate *legi generali* . Because recruitment and placement crew boat of course under ministry relationship . Minister of Transportation Regulation No PM 84 of 2013, indeed is description from Republic of Indonesia Law Number 17 of 2008 concerning Shipping . The purpose of its formation This law is to stabilize resilience national , then need existence system transportation national to support growth economy , regional development and strengthening state sovereignty . Related matters with water activities , one of which is the voyage which is One unity a system consisting of from transportation in waters , ports , safety and security as well as protection maritime . If happen a conflict of norms between regulation legislation so against the norm done a testing . So in this research , in testing with use decision normative which contains and is of a nature determination administration ( *administration* ).

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