



Position Law Letter Circular No. 13 Year 2021 About the Cancel of Homecoming for Eid Al-Fitr in 1441 Hijriah and Efforts to Control the Spread of Corona Viruses Disease (Covid-19) During the Holy Month of Ramadan 1442 Hijriah

Maharani Nur Azizah^{1*}, Hananto Widodo², Muhammad Fajar Adiantama³

¹ Faculty of Law, State University of Surabaya, Indonesia

² Faculty of Law, State University of Surabaya, Indonesia

³ Faculty of Law, Universitas Mercu Buana, Indonesia

* maharani.17040704038@mhs.unesa.ac.id

Article	Abstract
Keywords: <u>Circular letter; Implication;</u> <u>General Principles of Good</u> <u>Governance; Discretion;</u> <u>Policy Regulations</u>	<p><i>The issuance of the 2021 Homecoming Circular Letter aims to manage mobility during the 2021 homecoming activities. A Circular Letter is an official document containing notifications, explanations, and implementation guidelines created by authorized officials in important and urgent situations based on the principle of *freies ermesen*. To implement *freies ermesen* in issuing a circular letter, several efforts can be made, one of which is through discretion based on Law Number 12 of 2011 concerning Government Administration. This study discusses the position and implications of the circular letter, aiming to review and identify the circular letters. The type of research used is normative research with a statutory approach and a conceptual approach. The obtained legal materials are then processed to establish legal issues, followed by a literature study to determine if they align with the raised issues. Additionally, perspective data analysis is conducted to assess the correctness or appropriateness according to the law regarding a fact from the research results. The research findings indicate that a circular letter is not included in Law No. 12 of 2011 concerning the Formation of Legislation, but the policy regulations and content of the circular letters only contain appeals or notifications. A circular letter can be binding as long as there is a legal umbrella support it, such as US Government Regulation No. 12 of 2020 and Presidential Decree No. 11 of 2020. The implications of the 2021 Homecoming Circular Letters, viewed from its substance, are in accordance with Law No. 6 of 2018 regarding Health Quarantine. Additionally, the authority to issue the 2021 Homecoming Circular Letter by the Covid-19 Task Force can be seen through the activities during the 2021 Eid homecoming. A Circular Letter must not contradict the hierarchy of legislation and should provide benefits without harming the public.</i></p>

INTRODUCTION

Indonesia is one of the countries affected by the Covid-19 pandemic, first encountered in March 2020 and reported directly by President Jokowi. This of course experienced surge in day, month next one very significant Because distribution plague Covid-19 Which relatively fast. This spread has made the government start implementing policies, such as Large-Scale Social Restrictions (PSBB), Enforcement of Community Activity Restrictions (PPKM), and so on.

The dynamics of regulations or policies in Indonesia related to handling Covid-19 have been legitimized by legal instruments, including Presidential Decree Number 11 of 2020 concerning the Determination of Public Health Emergencies, Presidential Decree Number 12 of 2020 concerning the Determination of National Disasters, Perppu No. 1 of 2020 concerning State Financial Policy and Stability of the State Financial System for Handling the Covid Pandemic 19 And/Or In Frame Face Threats That Endanger the National Economy and/or Stability System Finance And PP Number 21 Year 2020 about Restrictions Social Scale Big In Framework for Accelerating Handling of Covid 19.

The impact of implementing several of the above policies regulates community activities during the Covid-19 pandemic. The many policies that are issued and implemented certainly have an impact. big on lots of sectors, especially social sector and economy. Implementation of policies such as social distancing or guard distance through PSBB, PPKM, and etc result in pattern activity Public limited and changed, due to the prohibition on gathering and attending events including worship. There are at least 82 policies regarding PPKM. Different from the previous year, the control related to the homecoming ban this year is more determined and more controlled.

Going home Eid can become Wrong One factors in the emergence of Covid-19 clusters, because they can cause crowds or gathering Public. Prohibition of homecoming Eid done aiming as breaker chain of transmission Covid-19, so that government make a letter circular Which become base law prohibition homecoming for Eid year 2021. Objective publication SE Going home 2021 published by Unit Task Handling Covid-19 (Covid-19 Task Force) namely to pay attention to community mobility Which potential can cause confirmed positive new interregional as as a result of activity during period pre And post going home Eid. In essence, SE Homecoming 2021 refers to Constitution Year 2018 about Quarantine Health (next) called with the law KK), Which Where in SE Going home 2021 the published with Meaning to regulate regarding with condition administrative for actors who travel between regions in -in country- condition journey there is on

Chapter 38 Verse (4) Act KK, namely:

"To Crew, Personnel, and/or passenger Those who are not infected and/or not exposed can continue their journey and will be given a Health Alert Card."

Explanation of Article 38 paragraph (4) of the KK Law, the term "health alert card" is a card given to inter-regional travelers as a means of tracking disease cases. Furthermore, in Letter G of Protocol Number 13 of the 2021 Mudik Circular Letter, it also explains the special application of tightening the mobility of Domestic Travelers (hereinafter referred to as with PPDN) during going home Eid. There are provisions in place, including PPDN who travel using sea, air, sea crossings, private land transportation, intercity trains, showing a negative certificate within 1x24 hours and for PPDN public land transportation random tests will be carried out. This can be seen that *political will* government. The policy to prohibit homecoming for Eid in 2021 is intended to suppress the spread of Covid-19 while still showing or implementing certain provisions.

The consequences of a state of law have an impact on the existence of legitimacy which is based on law in every aspect of life in all areas of nationality, society, society, social, culture, and state, which is implemented based on a national legal system that has been mutually agreed upon. The national legal system is one reflection of the desired legal ideals and is developed in a country by strengthening elements that foster each other as a form of collaboration to overcome the problems that are present in the life of the nation and state, especially life that is in harmony with Pancasila and the 1945 Constitution of the Republic of Indonesia (Rosika, 2019).

The government that issues mandatory policy regulations notice principles. Which life in in the dynamics of state law while reviewing values and conditions and situations that happened moment. That also; as well as on moment. This that is Handling on time Covid-19 pandemic (Disantara, 2020). There are two schemes regarding the regulation of legislation in the theory of legislation (Widodo, 2021). First, the model of legislation. Legislation is a textual decision - written - issued by officials or officials who have attributive, delegative, or mandatory authority, which load reference in binding on the behavior of society in general. Second, the regulatory model through policy regulations (beleidregels).

In principle, the issuance of the Circular Letter is only oriented towards legitimated announcement, so that automatically the material content of the Circular Letter does not contain any command norms - legal norms - as stated in the laws and regulations. Thus, the Circular Letter cannot be used as a basis for public legal action or private. By Because That, Letter Circular Which issued by the Covid-19 Task Force only applies to organizations or internally and cannot be applied generally. Therefore, this shows that the Circular Letter's breadth of application is not in line with its function and his position, so that Letter Circular This is a form of inaccuracy in its use (Inggiz et al., 2019). The phenomenon of the emergence of the Covid-19 pandemic target on practice- practice in field which is legitimized through policy regulations that are used as a legal basis for carrying out the prohibition; one of which is the Instruction of the Minister of Home Affairs Number 7 of 2021 concerning the Extension of the

Implementation of Micro-Based Community Activity Restrictions and Optimizing the Corona Virus Disease 2019 Handling Posts at the Village and Sub-district Levels to Control the Spread of Corona Virus Disease 2019 (Covid-19). This Ministerial Instruction is also not included in the category of statutory regulations, but policy regulations. Therefore, the policy regulation should be in the form of the Elimination of Homecoming for Eid al-Fitr 1441 Hijriah and Efforts to Control the Spread of Corona Virus Disease 2019 (Covid-19) cannot be used to regulate society, especially in relation to restrictions on community activities in the form of a ban on homecoming.

Based on the preliminary explanation regarding the problems above, the problem formulation that can be drawn and is the main topic of this research is 1) How Letter position Circular in system law in Indonesia? 2) How implications Letter Circular as the basis for handling the Covid-19 pandemic? The objectives of this study are 1) To examine the position of the Circular Letter in the legal system in Indonesia, 2) To identify the implications of the Circular Letter as the basis for handling the Covid-19 pandemic.

METHOD

The research method used in this paper is normative legal research, with a statutory approach and a conceptual approach. The statutory approach is implemented by examining all laws and regulations related to the problem. the law that in hand. While the conceptual approach comes from the development of views and doctrines in science law. The legal materials used include primary legal materials originating from legislation, secondary legal materials originating from theses, dissertations, and legal journals related to the issue or topic of the writing, and non-legal materials originating from still relevant to the topic being researched.

The technique of collecting legal materials is used in the research carried out, then carrying out a literature study. on law secondary For look for whether it is in accordance with the issues raised. Perspective data analysis is used in this study by providing an assessment of right or wrong, or something Which should according to law to a fact from the research results. Use of perspective methods used by researcher for further can

provide arguments or explanations and descriptions of a problem related to position, implications Letter Circular, authority, regulations, policies and general principles of good governance.

RESULTS AND DISCUSSION

Circular Letter No. 13 of 2021 concerning the Elimination of Homecoming Day Raya Eid Fitri Year 1441 Hijri And Efforts to Control the Spread of Corona Viruses Disease (Covid-19) During the Holy Month of Ramadhan 1442 Hijriah (hereinafter referred to as SE Mudik 2021) was issued by the Covid-19 Task Force when Indonesia became one of the countries affected by Covid-19, because the Eid homecoming could be one of the clusters of increasing positive Covid-19 numbers. SE Going home 2021 refer to on Chapter 38 Paragraph (4) Law Quarantine that where passengers who are not infected or exposed to the disease can travel and are given a health alert card as a means of tracking disease cases. This is also contained in Letter G regarding the Elimination Protocol Going home, Prevention, And Control Covid-

19 SE Mudik 2021 also explains the validity of PPDN Which do going home using land, sea and air transportation to show a negative certificate within 1x24 hours.

The purpose of issuing the 2021 Mudik Circular is to monitor public mobility during the Eid homecoming. Basically, the circular including in policy regulations but are not included in the hierarchy of legislation in accordance with the provisions of Article 7 paragraph (1) of Law Number 20 of 2011 concerning the Formation of Legislation, although in some respects they appear to be statutory regulations (Zaman, 2024a). The issuance of the Circular Letter has the aim of being a legitimated announcement, which Where load material from The SE does not contain a norm of command – a legal norm – as contained in statutory regulations. This also makes the SE unable to be used as a reference for legal actions, both public and private. Validity SE Which published by Task Force Covid-19 only applicable in a way organization or internal only, nor can it be generally binding.

A. Position Letter Circular Based on Legal System in Indonesia

Indonesia as a country of law, must carry out all its actions, including its government, in accordance with applicable legal provisions. All matters relating to the state, society, nation, and government must based on on law Which apply. By becoming a country of law, an orderly system is formed, including laws and regulations, which are made by officials who have the authority to determine the general rules that apply. Practice country must always comply system, procedures, principles, drafting, implementation, and dissemination of laws when making regulations (Hanum, 2020). In the rapid development of state practices, sometimes officials or government agencies take policies or make additional written rules in addition to those already in the applicable laws and regulations. One of them is policy regulations which consist of several forms, including *beleidslijnen*, *het beleid*, *voorschriften*,

richtlijnen, regelingen, circulares, resoluties, aanschrijvingen, beleidnota's, reglemen ministriële, beschikkingen, and enbekenmakingen.

The government has issued several laws For handling the COVID-19 pandemic, such as PP No. 21 of 2020 concerning Large-Scale Social Restrictions In Frame Acceleration Handling COVID-19, and Presidential Decree No. 11 of 2020 concerning the Determination of Public Health Emergencies. Circulars, technical instructions, and implementation instructions are some of the legal products issued by institutions such as ministries and local governments. These legal products usually contain appeals or regulations to maintain the mobility of health protocols (Disantara, 2020).

Policy regulations are present as part of the realization of friess ermesen which is free authority government. Fries ermesen can used as a forum for officials and government agencies to carry out bribery without having to be related to policies. applicable (Mighty Primary & Danang Pambudhi, 2021). Assignment government can implemented If there is freedom in to organize policy in line with situations and conditions in the field. The policy is stated in the form of policy regulations.

To overcome the limitations in the application of the principle of legality (*wetmatigheid van bestuur*), *Freies Ermessen* emerged. Welfare states face problems when legality alone is not enough to meet the needs of society that continue to grow along with advances in technology and science. In line with the increasing demand for complex public services in the socio-economic field, Laica Marzuki said that *freies Ermessen* is the freedom given to state administration to run the government. Until the end of the 20th century, discretionary freedom became increasingly unavoidable in the modern welfare state system. With the emergence of the era of globalization after 2000, state administration uses the discretionary freedom given by public office. This can be seen in the practice of governance in the following situations (Yuhdi, 2013):

1. When No There is regulation Which arrange in a way concrete solutions to certain problems, even though the problem requires immediate action, such as in dealing with natural disasters or infectious disease outbreaks. In this case, government officials need to take steps that benefit the state and society without direct direction.
2. When existing regulations give government officials complete freedom to act.
3. When legislative delegation occurs, government officials are given the authority to regulate themselves, even though this authority actually comes from officials who have a higher level of power.

The granting of free ermesen is actually the result of accepting the concept of a welfare state. The elements of free ermesen in the concept of a legal state include: "1) Free ermesen aims to carry out public service tasks, 2) Free ermesen is an active action by state administration officials, 3) Free ermesen is taken on their own initiative, and 4) Free ermesen aims to resolve important problems that arise suddenly,

5) 'The attitude of the action can be accounted for to God Almighty as well to the law' (Wet, 1985).

Policy regulations are a special form of legal regulations, also as a guideline on how the government can exercise its authority over the community, can be issued by the regional or central government. Policy regulations as a guideline in realizing the implementation of Which own discretion, For prevent arbitrary actions from occurring.

Circular as part of policy regulations or policy rules Which own objective For provide written policies as a product of government administrative actions. The substance of the Circular Letter (hereinafter referred to as SE) is only in the form of procedures or explanations that simplify or clarify the rules implemented, so the substance of the SE must not conflict with or override laws and regulations. On basically, regulation policy in the form of SE No set up And the term No there is in the hierarchy regulation legislation as which is contained in Chapter 7 paragraph (1) Constitution Number

12 of 2011 concerning the Formation of Legislation, which includes:

"1. Law National principle Republic Indonesia in 1945; 2. MPR Decree; 3. Government Regulation in Lieu of Law; 4. Government Regulation; 5. Presidential Regulation; 6. Provincial Regulation; 7. Regency/City Regulation"

As for a number of type regulation other legislation mentioned in Article 8 paragraph (1) of Law Number 12 of 2011 concerning the Formation of Legislation:

"Types of Legislation other than those referred to in Article 7 paragraph (1) include regulations stipulated by the People's Consultative Assembly, People's Representative Council, Regional Representative Council, Supreme Court, Constitutional Court, Audit Board, Judicial Commission, Bank Indonesia, Ministers, agencies, institutions or commissions of the same level which are established by Constitution or Government on the order of the Law, the Regional People's Representative Council of the Province, Governor, Board Representative People District/City Area, Regent/Mayor, Village Head or equivalent"

A Circular Letter (SE) is an official document containing an announcement regarding certain matters that are considered important and must be distributed immediately. According to Article 10 paragraph (1) of the National Archives Regulation of the Republic of Indonesia Number 5 of 2021 concerning General Guidelines for Official Documents, Circular Letters are used as policy guidelines for the government as the authority that has authority written For finish issues that are not regulated by existing laws. Therefore, state administrative officials can implement SE as policy regulations freely. In doing so, they must consider provision base regulation legislation, government policies, and AAUPB.

General Principles of Good Government (AAUPB) is a collection of principles that used for creating standards and procedures for good governance. Therefore,

government must be fair, polite, honorable, and free from tyranny, violation of regulations, abuse of authority, and arbitrary actions. In the book "State Administrative Law", written by Ridwan HR, Jazim Hamidi states several definitions of AAUPB, as follows: 1) AAUPB is an ethical value that develops and persists in State Administrative Law, 2) functioning as guidelines for official in running task they And as tool test for administrative judge to action administration country, And 3) Some AAUPB are still abstract and unwritten and can be applied in practice (HR, 2014).

Bachsan Mustafa argues that in General Principles of Good Governance (AAUPB), the term "principle" refers to "principal law", that is base Which form a rule law, including rules law order government. "General" is a word that refers to something that is common, covers fundamental things, and accepted as a principle by most people. "Government" refers to the State Administration (TUN) agency or official, while "good" refers to the general principle that is based on matter Which Good, worthy, and worthy to be used as a guideline in the implementation of government as a requirement for forming a clean and good government (Pratiwi et al., 2016).

Policy regulations are present as part of the realization *Fries the First Mess* Which is free reign of government. *Fries* Which have the meaning of free, independent, and not bound, while *ermessen* means to guess, consider, and assess (Fitriyani, 2022). This term is often used in government so that *fries ermessen* can be described to provide a forum for state administration bodies or officials to be able to carry out a action without need bound with policy which applies (Ridwan & Sodik Sudrajat, 2017).

The terminology of policy regulations is a translation from policy regulations. The essence regulation policy is results from the actions of TUN Which aiming to show a policy written. Policy rules contain norms that are of a general and abstract nature, just like statutory regulations, then from That, policy rules called also with pseudo-legislation (pseudo legislation) (Mukti Pratama & Danang Pambudhi, 2021).

The policy regulation in Dutch Law is known as secret law, policy regulations, or pseudowetgeving, while in Germany it is called *verwaltungsvorschriften*. Other terms are also found in the English Law literature, including *quasi-legislation*, *pseudolegislation*, *soft law*, *sub-delegated legislation*, *quasi-delegated*, *tertiary rules*, *tertiary legislation*, *administrative rule*, *policy rules*, *policy*, *quasi-law*, *administrative quasilegislation* (Eric & Anggraita, 2021).

Bagir Manan is of the opinion that the accurate term to use is policy provisions, because the word "provisions" is meant to differentiate it from regulations. Which own connotation like form legislation, for example ministerial regulations or government regulations. Philipus M. Hadjon argues that *beleidsregel* or policy regulations (*policy rules*) are made by official administration country for implementation of government duties. The existence of policy regulations is a consequence of the rule of law in achieving people's welfare (*welfare state*) (Eric & Anggraita, 2021). Government duties can be carried out if there is freedom in implementing policies in line with conditions

and the factual situation. These policies will be stated in the form of policy regulations (Sibuea, 2010).

Phillipus M. Hadjon argues that policy regulation is a product of government administrative action whose purpose is to achieve *naar buiten Bring schriftelijk beleid*, namely to provide written policies. Policy regulations cannot be changed or misled, because regulations function for the operational implementation of state duties. Because regulations are like laws behind laws and regulations, such regulations are called *pseudo-wetgeving regulations* or pseudo-legislation (Ridwan & Sodik Sudrajat, 2017).

Making regulation policy on governance is matter Which common. Philip M. Hadjon explained that in the implementation of a daily government, it reflects that the TUN agency or officials have taken several specific policy steps, including creating beleidsregel, policy rules or policy regulations, thus there is a relationship between freies ermsen or the principle of discretion with policy regulations. Policy regulations are a formal form of a policy, which is made by state administration officials based on discretionary authority (Soebroto, 2012).

Discretionary authority is regulated in Law Number 30 Year 2014 about Administration Government (hereinafter referred to as UUAP). Discretion according to Article 1 Number 9 UUAP is:

"Decisions and/or actions determined and/or done by office government in the case of legislation that provides a choice, No arrange, No complete or No clear, and/or the existence of government stagnation"

Government officials in exercising discretionary powers own right for use discretion according to its purpose (Article 6 paragraph (2) letter e UUAP) and must comply with UUAP in implementing/executing discretion (Article 7 verse (2) letter d UUAP). Article 22 UUAP provides the authority to use discretion in give alternative law for facilitating the administration of government. This includes filling legal loopholes, providing legal certainty amidst uncertainty, overcoming institutional deadlocks both at the national level and area, for the sake of interest general and wider benefits.

The scope of government officials' discretion includes decision-making and/or government actions due to certain conditions, including (Munawaroh, 2023):

1. The rules governing decision making and/or actions determine what must be done. Terms like can, yes, authorized, entitled, should, expected, and similar words are commonly used to indicate the intent of this decision making and/or action.
2. When No There is provision Which set up in legislation, decision making and/or action done. It means conditions where there are no laws governing how the government operates in certain or extraordinary situations.
3. The regulations that are out of sync and not harmonious as well as regulations that require implementing regulations that have not been made to cause decisions or actions to be taken.

4. Decision making and/or actions resulting from government stagnation in matters of public interest such as human safety, national integrity, natural disasters, disease outbreaks, social conflicts, riots, and national defense and unity.

Every use of discretion by administrative/government officials of course has a purpose in accordance with Article 22 paragraph (2) of the UUAP, including:

"a. facilitating the implementation of government; b. filling emptiness law; c. gives legal certainty; d. overcoming government stagnation in certain circumstances for the benefit and public interest"

There are also conditions that must be met by administrative officials in exercising discretionary authority in accordance with Article 24 of the UUAP, including:

"a. in accordance with the purpose of Discretion as referred to in Article 22 paragraph (2); b. does not conflict with the provisions of laws and regulations; c. in accordance with the AUPB; d. based on objective reasons; e. does not give rise to Conflict Interest; And f. done with good faith"

Circulars in Indonesia are prepared to provide clarification or directions related implementation things certain things that are considered important and urgent, which have not been regulated or still not enough clear in regulation legislation invitation, which is the main source of positive law in Indonesia. Circulars are not intended to violate laws or regulations. Usually, laws and regulations include articles that provide legal sanctions for violators of the provisions stipulated therein, while circulars are only policies of officials that have no legal consequences. In principle, circulars are issued to strengthen and explain existing and applicable legal norms (Listiani, 2020).

Because invitation is confession against the sovereignty of the people, the regulations that are enacted have binding power. Before being enforced, the state must ensure that regulation Which made for organizing society to achieve common ideals is socialized to the community. Every regulation should ideally be made through an agreement between the people's representatives and the government; this is the way the state recognizes the sovereignty of the people. However, the progress of our legal system has resulted in many rules of action being made without the agreement of the people's representatives.

Invitation is a way to maintain sovereignty people while changing development legal system. Legal experts disagree with the binding force of policy regulations. Since policy rule makers do not have legislative authority, circulars included in policy regulations as "regulations" still have direct legal force, according to Bagir Manan. The administration of the state itself is the main purpose of policy regulations.

In accordance with Chapter 7 verse (1) Constitution Number

12 of 2011 concerning the Formation of Legislation, so that circulars are recognized and have legal force. binding, its creation must be regulated by higher statutory regulations. Based on Article 7 and Article 8, the central and regional governments often establish regulations that include Government Regulations,

Presidential Regulations, Ministerial Regulations, Regional Regulations, and Regional Head Regulations.

In addition, other policies, such as directives or circulars, are often issued, such as in dealing with the COVID-19 pandemic. Therefore, circulars can be considered to have binding force in the state system, as regulated in Law Number 12 of 2011 concerning the Formation of Legislation. However, Article 7 paragraph (1) of Law Number 30 of 2014 concerning Government Administration states that government policies include in category official decision TUN rather than regulations (*regeling*).

Bagir Manan also explained that the instructions were not considered as regulations, but as state administrative policies. As a result, it makes no sense to regulate the binding power of circulars through other regulations listed in Article 8 paragraph (1) of Law Number 12 of 2011. Therefore, even though circulars No own strength law Which in general, policy regulations are usually considered binding for all parties involved in the contents of the circular.

B. Implications Letter Circular No. 13 Year 2021 as the Basis for Handling the Covid-19 Pandemic

According to the Big Indonesian Dictionary (KBBI), implication is defined as involvement or the state of being involved, either directly or indirectly. Implication can also mean participation or involvement in something. When associated with social aspects, social implications refer to relationships or impacts that are produced from context social public. Besides that, the implications Also can interpret as all something which arise from process taking policy, namely implications arise as a result of the implementation of a particular policy or activity.

Circular Letter Number 13 of 2021 was issued by the Indonesian government as a step to control the spread of Covid-19 during the Holy Month of Ramadan. And approaching Day Raya Eid Fitri year 1442 Hijri. The background to the issuance of the 2021 Mudik SE between other, First For arrange mobility community with opportunities increased during the holy month of Ramadan and Eid al-Fitr 1441 Hijriah, also the rate of Covid-19 transmission increased, secondly there are posts at the village/sub-district level Which own role in make efforts to control the spread of Covid-19 at the micro level during the holy month of Ramadan and Eid al-Fitr 1442 Hijriah.

There are 12 (twelve) regulations that are used as the legal basis for issuing the 2021 Mudik Circular Letter. The elimination of homecoming referred to in the 2021 Mudik Circular Letter is "a temporary elimination of homecoming that applies to land, sea, rail and air transportation modes. as effort control mobility during the holy month of Ramadan and Eid al-Fitr in the year 1442 Hijriah". The exceptions are in enforcement SE Going home 2021 Number 2 Letter G of the Protocol for the Elimination of Homecoming, Prevention and Control of Covid-19 which states that "logistics distribution trips and travelers are excluded" with needs urge For non-

homecoming interests include work or business trips, visiting sick family members, condolence visits for deceased family members, pregnant women accompanied by 1 person family members, and the interests of the birth being accompanied by a maximum of 2 people".

Travelers who travel during the homecoming period are required to have Letter Permission Exit/Entry (SIKM) written as condition do journey, done too screening document "SIKM And letter negative statement covid-19 with do test RT-CPR/rapid antigen test/test GeNose C19 Which done in door arrival or post control Which is at in rest area, border city big, point checking And point insulation area agglomeration by TNI/Polri And Local Government". There is a number of regulations Which become basis in SE issuance Homecoming 2021 by the Covid-19 Task Force, namely PP number 21 Year 2020 Restrictions Social Scale Big In Frame Acceleration Corona Handling Viruses Disease 2019 (Covid-19) And Presidential Decree Number 11 Year 2020 about Determination Emergency Public Health Corona Viruses Disease 2019 (Covid-19). Article 4 paragraph (1) of PP 21/2020 states

"The scope of PSBB includes school and workplace holidays, restrictions on religious activities and restrictions in public places or facilities"

This is in line with the scope of the 2021 Mudik Circular Letter, which is to control worship activities during the holy month of Ramadan and Eid al-Fitr prayer activities on 1 Shawwal 1442 Hijriah. The 2021 Mudik Circular Letter was issued based on the authority given to the government, in this case to the Task Force Handling Covid-19. Authority This based on a number of matters, First on Constitution Number

6 of 2018 concerning Health Quarantine which gives the government the authority to take necessary steps in the framework of controlling infectious diseases. Article 1 number 2 of the Health Quarantine Law defines:

"Emergency Health Public is an extraordinary public health event characterized by distribution disease infectious and/or the incident that caused by radiation nuclear, biological contamination, chemical contamination, bioterrorism, and food that poses a health hazard and has the potential to spread across regions or countries" Covid-19 is a viral disease that infectious in a way fast, can spread cross region or cross country. Chapter 3 letter d Act Quarantine

Health mention:

"The implementation of health quarantine aims to provide protection and legal certainty for the community and health workers."

This is in line with the issuance of the 2021 Mudik Circular Letter issued by the Covid-19 Task Force as a government agency that has the authority that with the issuance of the 2021 Mudik Circular Letter, there will be protection and certainty for the community in regulating mobility public, optimization function Covid-19 Post,

carries out monitoring, control, and evaluation in order to prevent an increase in Covid-19 transmission.

SE Mudik 2021 if it is associated with implications on aspects social so there is impact Which caused by a social context of society. This can include changes in norms, behavior, or social structures because of a policy or action. When the 2021 Mudik Circular Letter came into effect on May 6-17, 2021, the coordinating minister for PKM had appealed to the public not to move or activity in outside area, except in condition very urgent. The decision to prohibit it from being carried out during Lebaran 1442 Hjiriah in accordance with the 2021 Mudik Circular Letter was certainly based on several considerations, including the occurrence of increased case daily until 93% on Holiday Eid Al-Fitr year 2020, at the time simultaneously happen weekly death rate of up to 66%.

In Letter G Number 6 of SE Mudik 2021 concerning Protocol Elimination Going home, Prevention and Covid-19 control explains that:

"Screening of travel permit documents/SIKM and negative Covid-19 certificates with RT-PCR tests/rapid antigen tests/GeNose C19 tests is carried out at the gate. arrival or post control Which is at in rest areas, borders of large cities, checkpoints and agglomeration area blocking points by members of the TNI/Polri and Regional Government".

This happened to 323 drivers at the Jakarta-Cikampek Toll Road KM34B homecoming checkpoint and from the test results, two people were found to be reactive to the Covid-19 virus (Fathan, 2021). In addition, the National Police Traffic Corps noted that 90 thousand people were randomly tested for antigen swabs while heading to the Jabodetabek area. And there is 400 person Which reactive Covid-

19 (A Ramadhan, 2021). This means that there is conformity with that contained in the 2021 Mudik Circular Letter.

Another implication of the 2021 Mudik Circular Letter is that as many as 2.266 vehicles personal and 113 bus making a U-turn at the East Java-Central Java border in Ngawi, there were also 500 motorbikes that failed to enter East Java and Central Java. However, on the other hand, there were also drivers who managed to cross the East Java-Central Java border because they had completed letter information task from place Work and because of urgent matters, family members are sick or have died. In addition, since the issuance of the ban on homecoming, 2,966 people have taken the rapid antigen test, with two of them being reactive. against the Covid-19 virus (Harianto, 2021).

Third activities in on as part of enforcement of regulations from SE Mudik 2021 Which Where forbid and eliminate the 2021 Eid homecoming. Basically, homecoming can be done but must still comply with the regulations or directions stated in the 2021 Homecoming Circular. Authorized agencies such as the Covid-19 Task Force, Ministries/Institutions, TNI/Polri and Regional Governments continue to monitor

and control the travel of people who safe with to form Post Security Integrated, besides having the right to stop and/or carry out abolition journey person on base SE in harmony And No contradictory with provision laws and regulations and can implement discipline protocol health Covid-19 And law enforcement in accordance with the provisions of laws and regulations.

CONCLUSION

Letter Circular is part of Policy Regulations and No including in series Regulation Legislation regulated by Law Number 12 of 2011. To realize freies ermessen and issue a Circular, they must make several efforts, one of which is through discretion, which of course must be based on UUAP. Government Regulation Number 21 of 2020 and Presidential Decree Number 11 of 2020 as the legal umbrella for the issuance of SE Mudik 2021. The material in SE Mudik 2021 is only an appeal or notification. The Circular does not be contradictory with hierarchy regulation. legislation must give a benefit and does not harm society.

Suggestion

Authorized officials must have a good understanding of the use of Letter Circular, notice the basic principles of making this kind of quasi-legislative policy. This includes the authority to issue it, the content of the material, And coverage its implementation, so that Letter Circulars in accordance with their function and position. There needs to be an authorized body in making Circulars so that Circulars have legal certainty. Academic institutions must be involved in socialization efforts and provide input and recommendations to authorities and officials regarding the use of Circulars and legal products in general. The public must be more critical in monitoring government actions, because they have a role in law enforcement.

REFERENCES

- Among them, F. P. (2020). The Legitimacy of Circular Letter in Handling COVID-19 Pandemic. *Legality* , 6 (2). <https://doi.org/10.21070/jihr.2020.6.645>
- Basah, S. (1985). Existence and Benchmark of State Administrative Court in Indonesia . Alumni.
- Eric, & Anggraita, W. (2021). Legal Protection for the Issuance of Policy Regulations (Beleidsregel). *Journal of Legal Communication* , 7 (1), 464–487.
- Fitriyani, D. (2022). VALIDITY OF THE COURT CIRCULAR GREAT NUMBER 3 YEAR 1963[Hasanuddin University]. http://repository.unhas.ac.id/id/eprint/16604/3/B01_1181419_skripsi_23-05-2022%201-2.pdf

- Hanum, C. (2020). ANALYSIS LEGAL POSITION OF THE LETTER CIRCULAR IN SYSTEM LAW INDONESIA. *Humani (Law and Civil Society)* , 10 (2), 138–154.
- Hariato, S. (2021, May 19). 2,266 Cars and 112 Buses Turned Around Come back in Border East Java-Central Java in Ngawi . *Detik.Com*.
- HR, R. (2014). *State Administrative Law* . Rajawali Press.
- Inggiz, RT, Kushartono, T., & Amanita, A. (2019). The Position of Circular Letters is Linked to Laws Number 15 Year 2019 Junction Law Number 12 of 2011 Concerning the Formation of Legislation. *Journal of Legal Dialectics* , 1 (1), 1–29.
- Mukti Pratama, S., & Danang Pambudhi, H. (2021). Position, Function, and Supervision of Regional Head Policy Regulations within the Framework of the Regional Autonomy System. *Journal of Legal Analysis* , 4 , 120– 130.
- Munawaroh, N. (2023, September). The Meaning of Discretion, Scope, Condition, And For example . Law On line. <https://www.hukumonline.com/klinik/a/arti-discretion--ruang-lingkup--syarat--dan-contohnya-lt54b538f5f35f5/#>
- Dear, C. S., Mrs. Purnamawati, S. A., Mr. & Purbawati, C.Y. (2016). *Principles General Government the good one* . <https://bldk.mahkamahagung.go.id/images/PDF/2018/PENJELASAN-HUKUM-ASAS-ASAS-UMUM-PEMERINTAHAN-YANG-BAIK.pdf>
- Ridwan, J., & Sodik Sudrajat, A. (2017). *Administrative Law Country And Policy Service Public* (A. Salim & M. A Elwa, Eds.; V). Nuance Scholar.
- Rosika, AA (2019). Review of Legislation Theory To System Justice Criminal Child. *QISTIE Scientific Journal of Legal Studies* , 12 (1), 22–33.
- Sibuea, HP (2010). *Principles of the State of Law, Policy Regulations & General Principles of Good Governance* (YS Hayati, Ed.). Erlangga. <http://repository.ubharajaya.ac.id/8407/1/BUKU%20REFERENCES%20ASAS%20NEGARA%20HUKUM.pdf>
- Soebroto, AC (2012). LEGAL POSITION OF REGULATIONS/POLICIES UNDER THE REGULATION OF THE MINISTER OF NATIONAL DEVELOPMENT PLANNING /HEAD OF BAPPENAS . [Jdih.Bappenas.Go.Id](https://jdih.bappenas.go.id). https://jdih.bappenas.go.id/data/file/WORKSHOP_Regulation_of_policy_in_Ministry_of_PPN_bappe_nas.pdf

- Widodo, H. (2021). Prohibition Going home No There is Legal Basis .
Mediamerahputih.Id. <https://m.mediamerahputih.id/baca-166-larangan-mudik-tidak-ada-dasar-hukumnya>
- Yuhdi, M. (2013). THE ROLE OF DISCRETION IN THE IMPLEMENTATION OF GOVERNMENT.LIKHITAPRAJNA Scientific Journal. Faculty of Teacher Training and Education , 15 , 69–83.
<https://media.neliti.com/media/publications/235035-role-of-discretion-in-the-implementation-of-p-5f963a35.pdf>