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Legal Review of Administrative Sanctions on Parking Management Based on Regional Regulations in the City of Surabaya

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Abstract

This study aims to analyze the provisions of Legal provision 36 paragraph (2) of Surabaya City Regulation Number 3 of 2018 concerning Parking Management, specifically regarding the legality and appropriateness of the application of administrative sanctions in the form of vehicle locking and a maximum fine of IDR 500,000 for parking violations, from the perspective of the principle of proportionality in state administrative law. This study uses normative legal methods with a statutory and conceptual approach. The results indicate that Legal provision 36, paragraph (2) formally meets the principle of legality because it is formulated based on legitimate authority and does not conflict with higher-level laws and regulations. However, in substance, the application of sanctions in this legal provision is deemed not to meet the principle of proportionality because it does not differentiate between levels of violations and does not provide an administrative objection mechanism for citizens. Therefore, implementing technical regulations and an evaluation of the substance of the norm are needed to ensure fair and balanced legal protection in the application of administrative sanctions in the parking sector.

Keywords: administrative sanctions, illegal parking, state administrative law, the principle of proportionality, Surabaya regional regulation.

INTRODUCTION

Transportation plays an important role in supporting national development and national integration. As stated in the Preamble of the 1945 Constitution, the state aims to promote the general welfare and create social order. In this context, transportation functions as a vital means that enables the movement of people and

goods, whether by motor vehicles or not (Aprillitawati, 2014). To ensure smooth traffic flow and driving safety, one important aspect is parking management. Parking regulations have been comprehensively regulated in Law Number 22 of 2009 concerning Traffic and Road Transportation (UULAJ), replacing Law Number

14 of 1992. In legal provision 1, number 22 of UULAJ, parking is defined as the stopping of a vehicle that is not temporary, while legal provision 59 grants local governments the authority to manage to park (Erawati & Rahmawati, 2016).

According to Law Number 38 of 2004 concerning roads, roads encompass all infrastructure intended for traffic. The central and regional governments are responsible for ensuring smooth traffic flow and logistics efficiency, as also emphasized in Law Number 2 of 2022. Regional autonomy, as regulated in Law Number 23 of 2014, provides a basis for regional governments, including parking management and enforcing related regulations (Estiningsih & Nurranto, 2020). Law enforcement in traffic management, including parking, falls under the authority of the police, as regulated by Law Number 2 of 2002 on the Police and the Criminal Procedure Code (Law Number 8 of 1981). In practice, parking facilities consist of two types: on-street parking and off-street parking. The definition of parking generally includes the state of a vehicle stopping for a specific period at a designated location, as explained by Poerwadarminta, Sukanto, and even in regulations such as Minister of Transportation Decree Number 4 of 1994 (Fajriana, 2017).

As a center of economic and administrative activities, the city of Surabaya is facing a significant increase in the number of motor vehicles. Data from BPS East Java (2023) recorded that Surabaya has around 2.9 million motorcycles out of more than 25 million vehicles in the province. This situation demands adequate parking management. Unfortunately, illegal parking practices and violations continue to increase. This causes traffic jams and leads to a loss of potential Regional Original Revenue (PAD). In 2024, the realization of PAD from the parking sector was only IDR 42 billion out of a target of IDR 101 billion.

In response, the Surabaya City Government issued Regional Regulation Number 3 of 2018 concerning Parking Management. In Legal provision 36, paragraph (2), it is regulated that administrative sanctions in the form of vehicle locking or relocation with a maximum administrative fine of IDR 500,000 for violators. This policy is also supported by concrete measures, such as clamping vehicles and imposing on-the-spot fines. For example, in December 2023, 10 illegal parking attendants who charged fees up to Rp 50,000 were apprehended, and the Surabaya Transportation Agency imposed fines of Rp 450,000 for cars and Rp 250,000 for motorcycles.

However, several legal questions have arisen regarding the basis of the authority for such actions. Sanctions are imposed directly without going through the judicial process, raising questions regarding the principle of due process of law and the protection of community rights. Some citizens believe implementing these sanctions is not transparent and tends to be economically burdensome.

This issue is important to study in the context of state administrative law. The imposition of administrative sanctions must adhere to the principles of legality, justice, and proportionality. The government must not act arbitrarily, and higher legislation must enact every policy. In this case, regional regulations (Perda) as a product of local law are subordinate to Laws and Government Regulations in the hierarchy of legislation (Gusful, 2015).

Previous studies have emphasized the importance of law enforcement aspects and the effectiveness of administrative

sanctions. The findings show that administrative sanctions in Bandung do not have a deterrent effect due to weak supervision. Prasetyo (2020) noted technical challenges and public resistance to vehicle immobilization in Yogyakarta. Subsequent research mentions that some residents in Surabaya consider administrative sanctions unfair and lacking transparency (Juwita, 2018).

The situation in Surabaya also shows the increasingly complex dynamics of parking policies. During the Eid al-Fitr holiday in 2025, the city government launched a discounted overnight parking tariff program and a special non-cash tariff on Surabaya's anniversary. On the other hand, Mayor Eri Cahyadi's policy targeting a city free of illegal parking and a tap payment system indicates a direction towards reform. However, all of this raises questions. The situation in Surabaya also shows the increasingly complex dynamics of parking policies. During the Eid al-Fitr holiday in 2025, the city government launched a discounted overnight parking tariff program and a special non-cash tariff for Surabaya's anniversary.

On the other hand, Mayor Eri Cahyadi's policy targeting a city free of illegal parking and implementing a tap payment system indicates a direction towards reform. However, this raises new legal questions: how will law enforcement be applied to violators of the new system? Is there legal protection in case of mistakes? Due to the low realization of PAD, the proposal to abolish roadside parking fees from the Regional People's Representative Council (DPRD) also raises a dilemma. Without official retribution, the basis for enforcing administrative sanctions can become weak. On the other hand, granting authority to the Transportation Agency (Dishub) to impose sanctions directly also needs to be reviewed based on the principles of administrative law.

Therefore, studying Legal provision 36, paragraph (2) of Surabaya City Regulation Number 3 of 2018 is important. The focus of the study is directed towards the conformity of the provisions with higher regulations, the validity of the Transportation Department's authority to impose sanctions without a court process, and legal protection for the public. This study is important for maintaining justice and ensuring that parking policies are implemented proportionally and in accordance with the general principles of good governance (AUPB).

An analysis of the position of Legal provision 36, paragraph (2) is necessary to ensure that this regional regulation does not conflict with national legal principles. However, local administrative sanctions must have a strong basis of authority. In addition, the number of fines and actions such as sealing must adhere to the principle of proportionality. The purpose of enforcing regulations should not create an unbalanced impact on society. Here lies the importance of evaluating policies so that they enforce order and provide fair legal protection.

With that background, this research aims to legally examine the regulation of administrative sanctions in Legal provision 36, paragraph (2) of Surabaya City Regulation Number 3 of 2018. This research is expected to provide academic and practical contributions in realizing an effective, fair, and constitutional parking policy.

METHODOLOGY

This research uses a normative or doctrinal legal method, which is an approach that focuses on written legal norms as the main object of study, to analyze legislation, legal principles, and relevant

doctrines concerning Legal provision 36 paragraph (2) of Surabaya City Regulation Number 3 of 2018 on Parking Management, particularly about the legal basis, legality, and its conformity with the principles of state administrative law and the general principles of good governance (AUPB). The data sources consist of primary legal materials (legislation), secondary materials (books, journals, and expert opinions), and tertiary materials (legal dictionaries and encyclopedias). The approaches used in this research include a legislative approach to examine the conformity between regional regulations and higher laws, and a conceptual approach to understand the meaning and limits of government authority in imposing administrative sanctions through theories of state administrative law. These approaches are used complementarily to provide a comprehensive picture of the legal foundations and principles underlying the imposition of administrative sanctions in parking management in Surabaya.

RESULTS AND DISCUSSION

A. The Legal Position and Binding Force of Administrative Sanctions in Legal provision 36 Paragraph (2) of Surabaya City Regulation Number 3 of 2018 on Parking Management in Surabaya Within the Hierarchy of Legislation

In the Indonesian legal system, Regional Regulations (Perda) hold a legitimate and recognized position within the hierarchy of legislation. This is emphasized in Legal provision 7, paragraph (1) of Law No. 12 of 2011 jo. Law No. 13 of 2022. However, the enactment of a regional regulation (perda) is still subject to the principle of *lex superior derogat legi inferiori*, so the norms in the perda must not conflict with higher laws and regulations. The Surabaya City Regulation No. 3 of 2018 on Parking Management regulates various aspects of parking management, including provisions for administrative sanctions in Legal provision 36 paragraph (2) in the form of a maximum fine of Rp500,000 and vehicle immobilization (Siregar & Kusmilawaty, 2022). Although it has been legally established, there is a need to test its substance and implementation based on the principles of state administrative law (Kesek, 2013).

Legal provision 36, paragraph (2) is formally established by the City Government and the Regional House of Representatives (DPRD) by the regional legislative mechanism. Legal provision 236 of Law No. 23 of 2014 on Regional Government grants the authority to impose administrative sanctions. This means that local governments are authorized to impose administrative sanctions in regional regulations as long as they do not conflict with higher laws (Larasati & Rohman, 2020).

However, formal legality is not enough. According to legal doctrine, as stated by Peter Mahmud Marzuki, the validity of legal norms must also be tested from a material perspective, namely the conformity of the content of the norms with legal principles and the general principles of good governance (AUPB), such as the principles of legality, proportionality, protection of rights, and accountability. Legal provision 36, paragraph (2) stipulates a singular administrative sanction without classification between minor and major violations (Maharani et al., 2014). The sanction of wheel clamping and fines up to Rp500,000 are uniformly imposed for various types of parking violations. This raises questions about the principle of proportionality, which requires that sanctions must be commensurate with the level of error or violation.

Furthermore, the Transportation Department officers carry out sanctions directly without going through notification procedures,

written warnings, or administrative objection procedures. However, Law No. 30 of 2014 on Government Administration emphasises that administrative actions must have a basis of authority attribution, follow procedures, and guarantee citizens' rights to legal protection. Without that, the action can be considered *ultra vires* (beyond authority) (Malombeke, 2016).

Implementing the provisions of Legal provision 36, paragraph (2), in the field is carried out without differentiation of violations and control or evaluation mechanisms. For example, a few minutes of parking delay can be treated like a parking violation in an emergency zone. This disparity violates the principle of distributive justice and can create public distrust towards legal norms (Mosal, 2013).

Furthermore, the absence of objection mechanisms or administrative appeal efforts contradicts the principle of legal protection (*rechtsbescherming*). In a rule of law state, every citizen is entitled to due process of law, including the right to defend themselves against government actions that restrict their rights (Pangerapan & Wokas, 2016).

The maximum fine of Rp500,000 in the regional regulation is nominally in line with the penalty in Law No. 22 of 2009 on Traffic and Road Transportation (Legal provision 287). However, in that law, fines can only be imposed through an adjudicative process by the court, not directly by administrative officials. This indicates that actions restricting citizens' rights, such as padlocking, should have strict legal procedures and be subject to judicial review (Rabiyah & Firman, 2021).

The provisions in the regional regulation also do not explain whether the officers have explicit attribution or delegation of authority in enforcing the sanctions. Without detailed legal grounds, implementing administrative sanctions is at risk of being unconstitutional. It can be annulled through the supervision of the Minister of Home Affairs or substantive review by the Supreme Court. Based on normative and implementative evaluations, Legal provision 36 paragraph (2) needs to be revised to better align with the principles of the rule of law and the protection of citizens' rights. Several concrete steps that the Surabaya City Government can take include:

- a) Formulating a classification of parking violations (light, moderate, severe) along with proportional sanctions.
- b) Create an SOP for implementing administrative sanctions that includes the stages of notification, warning, and execution.
- c) Providing an administrative objection mechanism or local appeal route for aggrieved residents.

These steps are important to ensure that the law is not only a repressive tool but also an instrument of fair and accountable protection. Legal provision 36, paragraph (2) of Surabaya City Regulation No. 3 of 2018 is formally valid and has binding legal force. However, in practice, the norm can potentially violate the principles of state administrative law, particularly legality, proportionality, and protection of rights (Selvia et al., 2019).

The binding force of a legal norm is determined by its formation procedure, how the norm is applied, and its impact on the community's rights. Therefore, revising the substance and implementation mechanism of Legal provision 36 paragraph (2) becomes crucial to ensure that efforts to maintain order are not

carried out in a manner that violates the principles of the rule of law.

B. Provisions for the Imposition of Administrative Sanctions in Legal provision 36 paragraph (2) of Surabaya City Regional Regulation Number 3 of 2018 on the Implementation of Parking Management in Surabaya from the perspective of the principle of proportionality

Legal provision 36 paragraph (2) of the Surabaya City Regional Regulation Number 3 of 2018 on Parking Management stipulates administrative sanctions in the form of a maximum fine of Rp500,000 and/or vehicle immobilisation for parking violations, which, although formally valid as a regional legal product, need to be substantively tested based on the principles of state administrative law and the general principles of good governance (AUPB), such as the principles of legality, proportionality, legal protection, and clarity of authority. These provisions do not yet provide a classification of the level of violations. They are not accompanied by a notification mechanism or space for administrative objections, potentially violating the principle of proportionality and the principle of legal protection as regulated in Law Number 30 of 2014 on Government Administration, which requires clear procedures and space for citizens to raise objections to the actions of administrative officials.

Furthermore, the direct imposition of sanctions by Dishub officers without adjudicative procedures or legal testing does not align with the principle of due process of law. It can create legal uncertainty and infringe upon citizens' constitutional rights. Although the nominal fines are in line with the provisions of Law Number 22 of 2009 concerning Traffic and Road Transportation, the difference lies in the enforcement process, where the Traffic Law regulates sanctions through the judiciary, while this regional regulation uses direct administrative actions, which substantively creates vulnerability to the practice of abuse of power. Therefore, it is necessary to reformulate the norm of Legal provision 36 paragraph (2) to regulate the classification of parking violations, establish stages of administrative sanctions proportionally and procedurally, and provide an administrative objection mechanism to ensure justice, transparency, and legal protection for the community, so that the imposition of sanctions remains within the legal framework that upholds the principles of legality and substantive justice.

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CONCLUSION

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