



## Revocation of the decision to dismiss with no respect (Ptdh) of polri members in the Aceh Polda

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### Abstract

Resolving internal organizational violations and undisciplined, unethical acts committed by members of the National Police by members of the National Police is a necessity as regulated in the provisions of statutory regulations. This aims to create a professional institution, by referring to the provisions of the Government of the Republic of Indonesia Regulation (PPRI) Number 1 of 2003 concerning the Dismissal of Members of the State Police of the Republic of Indonesia (Perpol) Number 7 of 2022 concerning the Professional Code of Ethics and the Commission on the Code of Ethics of the State Police of the Republic of Indonesia. This research was conducted to determine the mechanism for dishonorable dismissal (PTDH) for POLRI members through normative juridical analysis by approaching statutory regulations and a case study approach. The results of the research show that Dishonorable dismissal (PTDH) from the service of POLRI members is carried out using the KKEP trial mechanism because a violation of the code of ethics is found and the criminal act is proven through a general judicial process. The KKEP hearing was held to decide on the administrative sanctions that can be given to POLRI members who violate the code of ethics. The heaviest sanction is Dishonorable Discharge (PTDH), which means being expelled from the POLRI agency without receiving a salary or severance pay. The decision-making process mechanism regarding the Dishonorable Dismissal (PTDH) of POLRI members has not met the standards expected in the Principles of Good Policing Governance because its implementation is still not in accordance with the principle of legal certainty, the principle of balance, the principle of accuracy and impartiality in the process. There are legal consequences arising from dishonorable dismissal (PTDH) of POLRI members who are not in accordance with the principle of legal certainty, the principle of balance, The principle of accuracy and impartiality is the cancellation of decisions, lawsuits and legal responsibility.

**Keywords:** Dishonorable discharge (PTDH), POLRI

### Introduction

The Indonesian National Police as a state institution has an important role in maintaining security and public order, enforcing the law, as well as providing protection, guidance and services to the community as part of efforts to maintain internal security as explained in the provisions of Law Number 2 of 2002 concerning National Police of the Republic of Indonesia This is important to maintain discipline, professionalism and authority of the police institution as well as upholding law and justice in Indonesia. In terms of statutory regulations, the Indonesian National Police can be dismissed if they violate applicable provisions. This needs to be done to ensure accountability and maintain the integrity of the police. When police officers are involved in internal misconduct, disciplinary violations, or ethical violations, it is important to immediately address these issues appropriately. The mechanism for resolving these violations is explained in applicable laws and regulations, such as Government Regulation Number 1 of 2003 concerning the Dismissal of Members of the Indonesian National Police and regulations governing the Police Professional Code of Ethics.

These regulations provide guidelines for carrying out the trial process, one of which is through the KKEP trial, to determine administrative sanctions for members who are proven to have violated the code of ethics and committed criminal acts. The most severe sanction that can be imposed is Dishonorable Dismissal (PTDH), which means that the member is dismissed from the police institution without receiving salary or severance pay. By implementing this mechanism, the Indonesian National Police aims to maintain the professionalism, integrity and authority of the

institution. It also serves as a deterrent to prevent future violations and ensure that police officers adhere to the highest standards of conduct and ethics. In this case, the aim is to maximize its main duties in maintaining security and order, promoting public trust, and upholding justice in Indonesia.

Article 1 Paragraph (5) of Government Regulation of the Republic of Indonesia Number 1 of 2003 concerning Dismissal of Members of the State Police of the Republic of Indonesia states that what is meant by Dismissal without honor is the termination of the Police service period by an authorized official of a member of the State Police of the Republic of Indonesia for any reason. certain. In Article 11 of the 2003 Government Regulations of the Republic of Indonesia, it is explained that members of the National Police of the Republic of Indonesia will be dishonorably dismissed if: Committing a criminal act, committing a violation, abandoning duties or other things prohibited by the law or regulations that regulate it. With the existence of laws and government regulations that regulate the dismissal of police officers, it is hoped that the dismissal process can be carried out transparently, fairly and in accordance with applicable regulations. Apart from that, this regulation also aims to protect the rights of the police officers concerned and maintain the integrity and reputation of the police institution as a whole.

Apart from that, the implementation of good police organizational governance (Good Policing Governance) is also an important part of supporting bureaucratic reform and efforts to improve police institutions. General principles of good governance, as stated in Law Number 30 of 2014 concerning Government Administration, such as legal

certainty, usefulness, impartiality, accuracy, non-abuse of authority, openness, public interest and good service, are the basis for underlying these efforts.

Referring to the principles that have been established as part of an institution in carrying out its authority, it is important for organizations to remain flexible to face the demands of the situation. Resolving internal organizational violations and undisciplined or unethical acts by POLRI members is a necessity in creating a professional institution, with reference to the Republic of Indonesia Government Regulation (PPRI) Number 1 of 2003 concerning Dismissal of Members of the Republic of Indonesia State Police and the Republic of Indonesia State Police Regulations (Perpol) Number 7 of 2022 concerning the Professional Code of Ethics and the Commission on the Code of Ethics for the National Police of the Republic of Indonesia.

The presence of Perpol Number 7 of 2022 concerning the Professional Code of Ethics and the Commission on the Code of Ethics for the National Police of the Republic of Indonesia is a reform step. As time goes by and the various dynamics that occur in carrying out police duties, the ethical values, culture and behavior that exist in society experience changes that influence the behavior of the Republic of Indonesia Police officers. Therefore, new regulations are needed, namely Republic of Indonesia Police Regulation Number 7 of 2022 concerning the Professional Code of Ethics and the Republic of Indonesia Police Code of Ethics Commission. This new Police Regulation is a combination of the Republic of Indonesia State Police Regulation Number 14 of 2011 concerning the POLRI Professional Code of Ethics and the Republic of Indonesia State Police Regulation Number 19 of 2012 concerning the organizational structure and work procedures of the Republic of Indonesia Police Code of Ethics Commission which has been declared invalid. since June 15, 2022.

The Code of Professional Ethics for the Indonesian National Police (KEPP) is moral norms and rules, both written and unwritten, which guide the attitudes, behavior and actions of officials of the Indonesian National Police in carrying out their duties, authority, responsibilities and daily life. In Article 3 paragraph (1) of Perpol 7 of 2022 concerning KEP and KKEP, the Police Code of Ethics plays an important role in realizing Bhayangkara POLRI personnel who are professional and proportional as described in the scope and content of the KEPP which includes state ethics, institutional ethics, ethics society and personality ethics.

Research regarding the effectiveness and implementation of the National Police Code of Ethics Commission (KKEP) in implementing the Indonesian National Police Professional Code of Ethics (KEPP) is still an area that needs further research. Because so far there has been no adequate research regarding the extent to which KKEP is effective in dealing with ethical violations and ensuring accountability within the Indonesian National Police. Matters that need to be examined include evaluation of KKEP procedures, including transparency, fairness and compliance with appropriate process principles. A deeper understanding is needed regarding whether existing procedures are effective and fair enough in dealing with KEPP violations, and whether there is room for improvement.

Furthermore, research needs to be carried out to evaluate the level of compliance of Indonesian National Police officers with the KEPP. This research will examine the extent to which KEPP is followed by police officers and identify

obstacles or challenges that may arise in its implementation. Apart from that, it is also necessary to analyze the impact of decisions made by KKEP on the accountability and professional behavior of Indonesian National Police officers. It is important to know whether the decisions taken by KKEP are effective in preventing repeat violations and contributing to improved ethics and discipline within the police.

These studies will provide a more comprehensive understanding of the effectiveness, challenges and potential for improvement of KKEP in implementing KEPP within the Indonesian National Police. It is hoped that the results of this research can contribute to improving the disciplinary system and ethical standards in the police, thereby strengthening public trust in law enforcement.

In the provisions of Article 1 paragraph (2) of Perpol 7 of 2022 concerning KEP and KKEP, it is said that to enforce KEPP, a POLRI Code of Ethics Commission (KKEP) was formed. Article 38 paragraph (3) of Perpol 7 of 2022 concerning KEP and KKEP states that the KKEP Regional Police level is formed by the Regional Police Chief (Kapolda) based on the delegation of authority from the Head of the Indonesian National Police (KAPOLRI). Furthermore, in the provisions of Article 68 of Perpol 7 of 2022, the KKEP consists of a Chair, Deputy Chair and Members who are tasked with studying the results of the Accreditor Examination, carrying out trials for KEPP Violations and making trial decisions on cases committed by KEPP violators, which are then presented to the KKEP Forming Officials. (Kapolda) if the Suspected Violator does not file an appeal. Furthermore, Article 82 of Perpol 7 of 2022 concerning KEP and KKEP, the Suspected Violator submits an appeal, then the appeal decision is submitted to the Commission Former (Kapolda) to obtain a decision to agree or reject the recommendation of KKEP or KKEP Appeal within 30 (thirty) working days.

According to Article 67 paragraph (3) and Article 81 paragraph (3) of Perpol 7 of 2022 concerning KEP and KKEP, the KKEP decision is final and binding, so that after the KKEP secretary or KKEP Appeal submits the KKEP trial decision or KKEP Appeal Decision to the KKEP Formation or The Formation of the Appeals Commission (Kapolda), then within 30 (thirty) working days the Formation of the Commission must provide an answer regarding the imposition of punishment to the Suspected Violator. If within that time the Chief of Police has not provided an answer or approval, the Regional Police Chief is deemed to have approved the KKEP Recommendation or KKEP Appeal.

As explained in Articles 65 and 67 of Perpol 7 of 2022 concerning KEP and KKEP, namely "KKEP decisions are final and binding if:

1. No objection has been raised by the Violator;
2. After there is a decision from the official who formed the KKEP; or
3. The alleged violator was not present at the KKEP hearing and the reading of the verdict."

Then in Article 67 of Perpol No.7 of 2022 concerning KEP and KKEP states that:

1. KKEP Session Decisions are registered by the KKEP secretariat.
2. If the Violator, husband/wife, biological child, biological parent, or Companion does not submit an

Appeal, the KKEP Secretariat submits a copy of the KKEP Hearing decision to the KKEP forming official no later than 3 (three) working days after the decision.

3. After the maximum time limit of 30 (thirty) working days, the KKEP forming official who does not give approval is deemed to have agreed to the KKEP decision.

Based on all the provisions that have been mentioned, in reality there are still several problems related to the authority to resolve violations of the Professional Code of Ethics for members of the Indonesian National Police. These problems include arbitrariness or non-compliance in fulfilling the general principles of good governance (AUPB) or gaps in legal uncertainty. For example, the POLRI Professional Code of Ethics Hearing Decision does not yet have binding force and is not final, even though the trial has been completed (KKEP without appeal by the Violator and at the KKEP Appeal level) as the end of the trial process carried out at the POLRI institution.

The power of execution regarding the results of trials against violators which have been declared final, actually depends on the superior who has the authority to punish (Ankum Superior) as the Forming Official of the POLRI Code of Ethics Commission (KKEP) and the Appeals Commission (Qamar <sup>[11]</sup> & Rezah, 2017). So that the trial decision only provides limited recommendations which can then be rejected or disapproved by Ankum's superiors as KKEP Forming Officials and the Appeals Commission (in this case the Regional Police Chief at the Regional Police level) for decisions based on legal facts revealed in the trial by the Commission POLRI Code of Ethics (KKEP) and KKEP Appeals.

Even though the KKEP and KKEP Appeal decisions are final, the final decision requires approval from the Official Forming the KKEP/KKEP Appeal (Kapolda) which in reality the Commission was formed by the official (Kapolda) himself. This causes the existence of the Commission only as a form of fulfilling formalities without having the final power to carry out execution, and decisions based on the facts of the trial can be ignored and not approved at the discretion of the KKEP/KKEP Appellate Forming Official (in this case the Regional Police Chief).

The KKEP and KKEP Appeal decisions which are based on a fair trial process should not be revoked so easily, like the final and binding decisions of judges in general courts. Apart from that, this policy conflicts with eight principles of good governance, such as the principle of legal certainty, the principle of expediency, the principle of impartiality, the principle of accuracy, the principle of not abusing authority, the principle of openness, the principle of public interest, and the principle of good service.

In terms of this analysis, the researcher took an example in the Aceh Regional Police area where the policy was to grant forgiveness to several Aceh Regional Police personnel who were involved in various violations, including criminal acts that had been decided by the court in 31 cases, desertion in 24 cases, as well as repeated disciplinary violations, and narcotics abuse in 52 cases, all of which received recommendations for dishonorable discharge (PTDH) through the KEPP and KKEP Appeal Hearings between 2019 and 2021 (Supreme Court Directory, 2024).

This data shows that the policy of revoking the punishment is contrary to the regulations governing disciplinary action,

ethics and the dismissal of members of the Indonesian National Police. Ankum's superior's decision to accept or reject the final decision of the KKEP or KKEP Appeals Session again overrides the Commission's function and emphasizes the authority of the Commission Establishment through unilateral policy. Apart from that, the revocation of the PTDH recommendation decision is contrary to several legal theories adopted, such as the Legal Certainty Theory, Authority Theory, Expediency Theory, and the Principles of Good Policing Governance.

This research is interesting to conduct because it involves important issues in the field of policing and law enforcement. First, this research will discuss changes to the Indonesian National Police Professional Code of Ethics (KEPP) and the formation of the National Police Code of Ethics Commission (KKEP). This change is a reform step to adapt ethical values, culture and behavior to society and overcome problems that may arise in police work.

Second, this research will identify challenges in enforcing the Professional Code of Ethics for members of the National Police. One of the challenges faced is the lack of power to execute the results of KKEP trials which have been declared final. This can create legal uncertainty and reduce the effectiveness of enforcing the Professional Code of Ethics. Third, this research will highlight the implications of the forgiveness policy given to several Polri personnel involved in violations, including criminal acts. This policy raises questions about the consistency of enforcing discipline and ethics within the police institution. Fourth, this research will link policies in enforcing the Professional Code of Ethics with the principles of good governance, such as legal certainty, expediency, impartiality and openness. An evaluation of the extent to which the policy complies with these principles and whether there is a need for improvement will be relevant.

By studying and analyzing these issues, this research can provide a better understanding of the challenges and changes in enforcing the Police Professional Code of Ethics and their implications for police institutions and society as a whole. Based on the background description above, researchers are interested in further research on "Revocation of Decisions on Dishonorable Discharge (PTDH) of Police Members within the Aceh Regional Police".

## Research Methods

### 1. Types and Research Approaches

This research is normative legal research or doctrinal legal research which uses a statutory approach, a conceptual approach and a case approach (Sugiyono <sup>[14]</sup>, 2017). A legislative approach is used to study laws and regulations related to the issue under study. The conceptual approach is used to understand legal concepts and build legal arguments. A case approach is used to study examples of legal issues in state administrative law.

### 2. Data Collection Sources and Techniques

The data used in this research are primary data and secondary data. Primary data was obtained through observation, while secondary data was obtained through literature review. The legal materials used include primary legal materials (legislation, jurisprudence, doctrine), secondary legal materials (books, literature, papers, legal journals), tertiary legal materials (legal dictionaries, encyclopedias, magazines), and non-legal materials (non-law books, observations) (Sugiyono <sup>[14]</sup>, 2017).

### 3. Data analysis

The data analysis process is carried out through a thorough examination of all existing data. This analysis involves sorting and grouping types of data for the purposes of writing and analyzing the data itself. This research uses a descriptive analytical approach with a deductive method in drawing conclusions.

#### Discussion

##### 1. Legal Analysis regarding the revocation of Decisions on Dishonorable Discharge (PTDH) from Service for POLRI Members is in accordance with statutory regulations

Article 11 of the Government Regulation of the Republic of Indonesia Number 1 of 2003 explains that members of the National Police of the Republic of Indonesia can be dishonorably dismissed if they commit a criminal act, commit a violation, abandon their duties or other things. A clearer and more specific description will be explained as follows:

###### a. Committing a Criminal Act

Article 12 of the Government Regulation of the Republic of Indonesia Number 1 of 2003 states that POLRI members who commit criminal acts are sentenced to prison based on a court decision which has permanent legal force and in the opinion of the authorized official cannot be maintained in the service of the Republic of Indonesia State Police;

###### b. Committing Violations

Article 13 Government Regulation of the Republic of Indonesia Number 1 of 2003 Members of the National Police of the Republic of Indonesia can be dishonorably dismissed from the National Police of the Republic of Indonesia for violating the oath/promise of members of the National Police of the Republic of Indonesia, the oath/promise of office, and/or the Code of Professional Ethics for the National Police Republic of Indonesia.

###### c. Leaving Tasks or Other Things

Apart from that, police officers can also be dishonorably dismissed if they are proven to have abandoned their duties without a clear reason or have taken other actions that are detrimental to the police institution or have violated their obligations as members of the police force. A police officer who deliberately does not carry out his duties without a clear reason or chooses not to attend important operational activities can be considered to have neglected his duties. This action could harm the police institution in carrying out its duties and responsibilities in maintaining security and public order. In addition, if a member of the police is involved in actions that are detrimental to the police institution, such as committing acts of corruption or breaking other laws, this can also be grounds for dishonorable dismissal. In both situations, police officers are considered to have violated their obligations as police officers and can be subject to severe sanctions, including dishonorable dismissal from the police institution.

Administrative sanctions in the form of recommendations for Dishonorable Discharge (PTDH) can be imposed through a Police Code of Ethics Commission Session if violators intentionally commit criminal acts with the threat of a minimum prison sentence of 4 (four) years or more related to criminal acts of rape, abuse, murder and trespassing. Other criminal acts are committed after the

criminal offense has first been proven through a general judicial process up to a court decision which has permanent legal force (Rabbani<sup>[12]</sup>, 2021).

POLRI members who commit criminal acts mean they have violated 3 (three) regulations, namely the Criminal Code (KUHP), Government Regulation Number 2 of 2003 concerning Disciplinary Regulations for POLRI Members, and Political Regulation No. 7 of 2022 concerning KEP and KKEP. Because there are 3 (three) regulations that have been violated, based on Article 112 of the POLRI Professional Code of Ethics, it is stated "If there is a cumulative violation between a disciplinary violation or a POLRI Code of Ethics trial based on the consideration of the Inspector General of the Investigated/Suspected Violator as well as the opinion and legal advice from the function holder. law", if a certain criminal act occurs then the implementation will be carried out through a code of ethics trial which will be carried out after a trial decision at the general court, because the results of the decision from the general court will be one of the pieces of evidence in the trial process of the POLRI Code of Ethics Commission. It should be remembered that members of the POLRI are permitted to resign during the hearing process of the POLRI Code of Ethics Commission (KKEP) with certain considerations, with the exception of if the alleged violator of the POLRI code of ethics has not committed a criminal offense which is punishable by a maximum prison sentence of 5 years (Son, 2023).

This is as regulated in Article 111 paragraph (1-2) of Perpol No.7 of 2022 which states "(1) Suspected KEPP violators who are threatened with PTDH sanctions are given the opportunity to submit their resignation from POLRI service on the basis of certain considerations before the implementation of the KKEP Session". Paragraph (2) states, "Certain considerations as referred to in paragraph (1), include Suspected Violators: a. have a service period of at least 20 (twenty) years; b. have achievements, good performance and services to the POLRI, nation and state before committing the violation; danc. not commit a criminal offense that is punishable by a maximum imprisonment of 5 (five) years.

Article 111 paragraph (2) is cumulative, if letters a and b are met, but you must also look at the requirements of letter c. In other words, the violation committed by Ferdy Sambo was in the serious category as regulated in Article 17 paragraph (3) of Perpol 7/2022. The serious category as defined in Article 17 paragraph (3) states, "Severe category KEPP violations as intended in Article 16 paragraph (1) letter b number 3, with the following criteria: a. carried out intentionally and there is personal interest and/or other parties; b. the existence of an evil conspiracy; c. impact on families, communities, institutions and/or the state resulting in legal consequences; d. come to public attention; and/or e. committed a criminal act and has received a decision that has permanent legal force."

Research on violations of the code of ethics for POLRI members has been carried out by Oktoriny<sup>[6]</sup> (2019) entitled "Implementation of Disciplinary Punishments Against Members of the National Police of the Republic of Indonesia Who Perform Siri Marriages by the Provos at the West Sumatra Regional Police". In his research, the implementation of sanctions has gone as it should. The provision of disciplinary sanctions against perpetrators has

had a deterrent effect and has served as an example for members of the West Sumatra Regional Police. This research examines how POLRI members are handled who violate the code of ethics for marital status by carrying out unregistered marriages within the West Sumatra Regional Police. Meanwhile, research by Dwi Oknerison<sup>[5]</sup> (2014) on enforcing the professional code of ethics on the behavior of police officers in handling criminal cases focused more on examining the role of the Indonesian Police in handling criminal cases and the types of violations of the Indonesian Police's professional code of ethics and law enforcement. Study Ekowati<sup>[3]</sup>, Sudarmanto, Junaidi & Sukimin, (2020) does not specifically examine violations of the code of ethics for POLRI members regarding marital status. This research only focuses on examining the enforcement of professional codes of ethics in handling criminal cases. Implementation of violations of the professional code of ethics for the Indonesian National Police can be carried out procedurally based on the provisions of the Chief of Police Regulation Number 14 of 2011 concerning the POLRI Professional Code of Ethics. Legal arrangements for police officers who commit criminal acts of murder, where violations of the code of ethics have consequences, will be tried by the professional code of ethics commission. The legal sanction is that a police officer who commits a criminal act will be processed through a general court hearing, undergo sanctions, undergo a code of ethics trial with dishonorable discharge. The imposition of disciplinary sanctions is decided in a disciplinary hearing for police officers who violate police discipline and code of ethics (Agustini, Dewi & Widyanantara, 2021).

So the mechanism for dishonorable dismissal from the service of a member of the Indonesian National Police is:

1. Members who are suspected of committing acts that violate the code of ethics will be investigated and investigated.
2. After that, an examination of the case was carried out which presented evidence and witnesses and victims,
3. After collecting evidence and information from witnesses and victims, an investigation report (BAP) is prepared.
4. After the BAP is completed and a resume is created, legal opinions and advice are requested from the legal sector.
5. This inspection report (BAP) is then submitted to the Professional Code of Ethics Commission (KKEP) for follow-up.
6. Trials are held against alleged violators and witnesses and victims,
7. After the trial is held, the Professional Code of Ethics Commission decides on the case by imposing sanctions in accordance with the applicable laws and regulations,
8. Once the decision is made, the alleged violator receives and undergoes the sanctions of the decision with the heaviest punishment being dishonorable discharge (PTDH) or in other words being dismissed from the membership or agency of the Republic of Indonesia Police.

## **2. Implementation of the Principles of Good Policing Governance by the POLRI is based on the General Principles of Good Governance (AAUPB) as a basis for revoking the Dishonorable Discharge (PTDH) decision against members of the POLRI**

The application of General Principles of Good Governance (AUPB) in imposing Dishonorable Discharge (PTDH) sanctions against POLRI members is very important to ensure that the decision is based on fair principles and in accordance with the law. AUPB acts as an ideal foundation in maintaining the concept of the rule of law and protecting the human rights of citizens in the implementation of discretionary actions by state administrators (Tjandra<sup>[15]</sup>, 2023).

In the case of TUN (State Administration) decisions, Article 52 paragraph (2) of the Government Administration Law states that these decisions must be in accordance with statutory regulations and be based on the AUPB. Therefore, government administrators are required to understand and comply with the principles recognized as AUPB. If the AUPB principle is ignored in making a TUN decision, the validity of the decision can be challenged. In the context of dishonorable dismissal of POLRI members, PTDH decisions must consider and be based on the AUPB. However, in practice, PTDH decisions are sometimes issued without paying attention to the AUPB. This can create injustice in the decision-making process.

In order to implement the Principles of Good Policing Governance by POLRI, AUPB must be the basis for revoking PTDH decisions against POLRI members. The principles of Good Policing Governance include transparency, accountability, community participation, as well as fair supervision and law enforcement. By complying with the AUPB and implementing these principles, it is hoped that police governance can be better and more in line with the public interest. There are several principles that were violated in relation to the PTDH decision regarding POLRI members, including: (Maulidin<sup>[4]</sup>), Gani & Efendi, 2023).

### **a. Principle of Legal Certainty**

PTDH (Disrespectful Dismissal) decisions against members of the National Police must be based on a clear legal basis and pay attention to propriety and justice. In PTDH cases against Polri members, sometimes there is legal uncertainty that can affect the member's status. This uncertainty can arise due to the long period of time between the recommendation for PTDH sanctions by the National Police Professional Code of Ethics Commission (KKEP) and the decision made by the competent authority.

Implementing PTDH decisions without giving members an opportunity to prove their innocence may also violate the rights of the individual. Therefore, it is important to apply the principles of Good Policing Governance in making decisions regarding sanctions against members of the National Police. This principle emphasizes the importance of legal certainty, accountability and fair treatment in the decision-making process for members of the National Police.

The application of the Principle of Legal Certainty in implementing PTDH decisions against members of the National Police requires serious attention. Several aspects that indicate a violation of this principle include:

### 3. There is a long time between the ethics hearing and the PTDH decision

There are cases where there is a significant period of time between the ethics hearing recommending PTDH sanctions and the decision by the competent authority. This creates legal uncertainty regarding the member's status, because during that period the member still receives his rights but is not given the opportunity to prove his innocence. This kind of legal uncertainty is contrary to the principle of legal certainty.

1. The PTDH decision was made without considering the court decision which has permanent legal force
2. There are cases where PTDH decisions are issued without considering the court decision which has declared the member guilty. This is contrary to the principle of legal certainty which requires decisions to be based on statutory regulations and a fair judicial process.
3. PTDH decisions are made without going through a general judicial process
4. In several cases, PTDH decisions were issued without going through a general judicial process that could prove the error committed by the member. The principle of legal certainty requires that there be a fair judicial process and adequate evidence before administrative sanctions such as PTDH are imposed.
5. Non-compliance of PTDH sanctions with established requirements
6. There are cases where the PTDH sanctions imposed do not comply with the requirements set out in statutory regulations. For example, perpetrators of criminal acts can only be subject to PTDH sanctions if they commit them intentionally (*dolus*) and the penalty is four years or more. If these requirements are not met, then PTDH sanctions should not be applied.

In order to implement the Principles of Good Policing Governance within the Polri institution, it is important to ensure that PTDH decisions regarding Polri members are based on general principles of good governance, including the principle of legal certainty. The principles of Good Policing Governance include transparency, accountability, community participation, as well as fair supervision and law enforcement. By complying with the principle of legal certainty and these principles, it is hoped that PTDH decisions will be fairer, in accordance with the law, and protect the rights of individual members of the National Police in general.

#### b. Principle of Balance

In implementing the Principles of Good Policing Governance, it is important for the National Police institution to comply with the General Principles of Good Governance (AAUPB) as a guideline in revoking decisions to Dishonorably Discharge (PTDH) against members of the Indonesian National Police. One of the relevant principles is the principle of balance.

The principle of balance requires a proportion between the sanctions given by State Administrative Bodies/Officials and the level of violations committed. In this case, the official issuing the sanction decision must consider the balance between the severity of the sanction and the level of the violation that occurred.

However, in several cases of PTDH decisions issued by the Regional Police Chief against POLRI members, there is no apparent consideration of the principle of balance. PTDH sanctions were given based on the recommendations of the KKEP ethics hearing which recommended the member's dismissal because he had violated the code of ethics and was suspected of being involved in a criminal act. However, there has been no court decision that finally states the member's guilt. Therefore, the PTDH sanctions in this case are disproportionate to the level of error committed.

Likewise, the Regional Police Chief's decision to impose PTDH sanctions on POLRI members also does not fulfill the principle of balance. PTDH sanctions are given based on recommendations from the KKEP ethics trial which are based on ethical violations related to criminal acts which have been sentenced by the court to imprisonment for a certain period of time. However, police regulations require that PTDH sanctions can only be given if the crime committed carries the threat of a certain criminal penalty and has been decided by a court with permanent legal force. In this case, the PTDH sanctions given were not commensurate with the level of violations committed by the member.

In the context of implementing the Good Policing Governance Principles, it is important for the National Police institution to ensure that PTDH decisions regarding POLRI members are based on general principles of good governance, including the principle of balance. The principles of Good Policing Governance involve transparency, accountability, community participation, as well as fair monitoring and enforcement of the law. By paying attention to the principle of balance and these principles, it is hoped that PTDH decisions can be fairer, in accordance with the law, and protect the rights of individual POLRI members.

However, in practice, neither the recommendations of the KKEP ethics trial nor the Regional Police Chief's decision to impose PTDH sanctions on POLRI members have adequately considered the principle of balance. Therefore, it is necessary to review the implementation of this decision so that legal certainty and justice for POLRI members can be fulfilled.

#### c. Accuracy Principle

In the context of implementing the Principles of Good Policing Governance by the police in Indonesia, the principle of thoroughness has important relevance as a basis for revoking the Dishonorable Discharge (PTDH) decision against members of the Indonesian National Police. The principle of accuracy emphasizes the need for the government to act carefully in issuing decisions, by considering all factors and circumstances relating to the material of the decision, listening to the reasons put forward by interested parties, and considering the legal consequences that arise from the decision.

In several cases, PTDH decisions against POLRI members in Indonesia have become controversial because they do not pay attention to the principle of due diligence. Several aspects that should have been important considerations in the main case were not taken into consideration in the decision. This can lead to inaccuracy in the decision-making process by the officials involved. They do not consider important aspects related to the subject matter of the case, including relevant information and recommendations.

In implementing the Principles of Good Policing Governance, the principle of due diligence is an important basis in revoking PTDH decisions against POLRI members. Officials involved in the decision-making process must implement the principle of accuracy by considering all aspects relevant to the subject matter of the case, reviewing all relevant facts, and listening to all reasons put forward by interested parties. In this way, the decisions taken will be more careful, fair and in accordance with legal principles that prioritize Good Policing Governance.

In order to implement the Principles of Good Policing Governance effectively, the police in Indonesia need to ensure that officials involved in the decision-making process have a good understanding of the general principles of good governance (AAUPB) and are able to apply them carefully. In addition, there needs to be a monitoring and accountability mechanism that ensures that the decision-making process is carried out transparently, fairly and objectively, and takes into account all aspects relevant to the subject matter of the case. In this way, the implementation of the principles of Good Policing Governance can be realized in an effort to create a police force that is professional, responsible and has integrity.

#### **d. Principle of Impartiality**

In the context of implementing the Principles of Good Policing Governance by the Indonesian National Police (POLRI), there are several important aspects that must be considered, including the principle of impartiality. This principle emphasizes the importance of considering the interests of all parties as a whole, without discrimination.

In several cases in various regions in Indonesia, including at POLRI, there are indications of discriminatory treatment in imposing sanctions on POLRI members. There are differences in the punishment given to POLRI members who commit violations with the same level of culpability. This shows that there is an attitude of subjectivity in imposing sentences, which could be an anomaly in enforcing the code of ethics in police institutions.

In implementing the Principles of Good Policing Governance, it is important to carry out the judicial process objectively and non-discriminatorily. The judiciary must function as a transparent and accountable enforcer of law and justice. The ethical judicial process must be carried out professionally, based on legal principles that prioritize due process of law and equality before the law.

In the context of enforcing the Principles of Good Policing Governance in the Indonesian police, the application of general principles of good governance (AAUPB) is an important basis. The revocation of the Dishonorable Discharge (PTDH) decision against POLRI members must ensure that discipline and ethics are enforced fairly, non-discriminatorily, and in accordance with the level of violations committed by POLRI members.

By ensuring the implementation of Good Policing Governance Principles, POLRI can create a police force that is good, professional and has integrity in carrying out its duties to serve the community fairly and responsibly.

### **1. Legal consequences arising from non-compliance with the application of principles in the implementation of PTDH for POLRI members**

Republic of Indonesia Police Regulation Number 7 of 2022 concerning the Professional Code of Ethics and the

Republic of Indonesia Police Code of Ethics Commission provide a clear basis regarding ethics, behavior and rules for POLRI members in carrying out their duties. The POLRI Code of Ethics Commission (KKEP) is responsible for studying violations committed by POLRI members and making trial decisions regarding these cases.

In the context of dishonorable discharge (PTDH) for police officers in Indonesia, if there is a discrepancy in the application of the principles regulated in the Code of Professional Ethics for the Indonesian National Police (KEPP), several legal consequences that may arise are as follows: (Sirait<sup>[14]</sup>, Marbun & Siregar, 2021)

#### **a. Change of Decision**

If there are discrepancies in the application of KEPP principles in the PTDH process, the PTDH decision regarding POLRI members can be changed by the competent authority if it is not yet final. Changes in decisions may occur if there are violations of legal principles or procedures that are not followed correctly or Ankum's superiors have a different opinion.

#### **b. Lawsuit**

POLRI members who feel that the PTDH they receive is not in accordance with applicable legal principles or procedures can file a legal claim. The lawsuit can be submitted to court to request the annulment of PTDH's decision, as well as to obtain compensation if their rights are violated. The court will assess whether the correct legal principles and procedures have been followed in the PTDH process.

#### **c. Legal Responsibility**

If it is proven that the application of the KEPP principles was carried out in deliberate violation of law or procedures, the party responsible for the decision may be subject to legal responsibility. They may face administrative, disciplinary or criminal sanctions, depending on the offense committed. Legal liability may involve sanctions such as fines, dismissal, or criminal charges against the perpetrator.

It is important to note that the resulting legal consequences will depend on the specific facts and circumstances of each case. Therefore, if there are problems related to the application of KEPP principles in the implementation of PTDH, it is recommended that the affected or involved parties consult with legal experts to obtain advice that is appropriate and specific to the situation.

In upholding the principles of Good Policing Governance, it is important for police throughout Indonesia to ensure that the ethical justice process is carried out objectively, fairly and in accordance with applicable legal principles. These principles include the principles of impartiality, respect for individual rights, and protection against discrimination. By implementing these principles, the police in Indonesia can build a good reputation, maintain integrity, and provide fair services to the community.

### **Conclusions and Suggestions**

#### **1. Conclusion**

The dishonorable discharge (PTDH) process for POLRI members does not meet the standards of Good Policing Governance Principles. There were violations of the principles of legal certainty, the principle of balance, the principle of accuracy and impartiality in the process. The decision-making process needs to be reviewed to ensure good police governance. The legal consequences that can

arise from non-compliance with the application of the principles of the Indonesian National Police Professional Code of Ethics (KEPP) in PTDH are changes in decisions, legal challenges and legal responsibilities. Changes to PTDH decisions may occur if there are violations of legal principles or procedures. POLRI members who are dissatisfied with PTDH's decision can file a legal action to request an annulment, as well as obtain compensation if their rights are violated. Legal liability may be imposed on the responsible party if it is proven that they have violated the law or procedures. However, the resulting legal consequences will depend on the specific facts and circumstances in each case.

## 2. Suggestion

Based on the conclusions above, here are some suggestions regarding the dishonorable discharge (PTDH) process for POLRI members:

- a. It is recommended to review the decision making process regarding PTDH. Ensure that the process meets the principles of Good Policing Governance, such as the principle of legal certainty, the principle of balance, the principle of accuracy and impartiality. Improving procedures and increasing transparency in determining sanctions can help ensure fairness and accountability.
- b. Ensure objective and consistent application of the principles of the Indonesian National Police Professional Code of Ethics (KEPP) in PTDH. Ensure that every step and decision taken is based on clear and proven facts, and that the punishment given is proportional to the violation committed.
- c. Establish an independent and objective appeal mechanism for POLRI members who are dissatisfied with PTDH decisions. In addition, strengthening independent monitoring institutions that can monitor and evaluate PTDH processes to ensure fairness and compliance with the principles of Good Policing Governance.

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