



## The revocation of dishonorable discharge decisions (PTDH) of police officers within the Aceh regional police jurisdiction

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### Abstract

The National Police Regulation of the Republic of Indonesia (PERPOL) No. 7 of 2022 regulates the Professional Code of Ethics and the Police Code of Ethics Commission (KKEP), where the decision of the KKEP is final but still depends on the approval of its forming official (Kapolda). This creates potential inconsistencies in the execution of the verdict and allows the revocation of sentences that contradict the disciplinary rules of the National Police. This study aims to analyze the suitability of the revocation of the Dismissal Decision Without Respect (PTDH) for members of the National Police in the Aceh Regional Police with laws and regulations, and assess the application of the principles of Good Policing Governance in the process. The method used is normative legal research with a legislative approach. The results of the study show that the revocation of PTDH in the Aceh Regional Police requires independent supervision to avoid personal or political interests. The Aceh Police Chief revoked PTDH without paying attention to the applicable legal provisions, thus causing legal uncertainty and indications of abuse of authority. In addition, the cancellation of PTDH outside the established authority reflects a failure in the application of the principles of good policing governance, especially in the aspects of transparency, accountability, and justice. It is recommended that the revocation of PTDH be carried out with an independent supervision mechanism, increased evaluation of members of the National Police before revocation, and the provision of clearer guidelines regarding the criteria for revocation of PTDH. Thus, this process can be more fair, accountable, and in accordance with the applicable legal rules.

**Keywords:** Revocation of Decision, PTDH, Police

### Introduction

The National Police of the Republic of Indonesia has a strategic role in maintaining public security and order, enforcing the law, and providing protection and services to the community as stipulated in Article 5 paragraph (1) of Law No. 2 of 2002 concerning the National Police of the Republic of Indonesia (Gaussyah, 2014) <sup>[2]</sup>. Police bureaucratic reform aims to update the policing system by focusing on changing mindset, work culture (culture set), and management system. The implementation of good policing governance is an integral part of supporting bureaucratic reform, based on the General Principles of Good Governance (AUPB) as stated in Law No. 30 of 2014 concerning Government Administration. These principles include legal certainty, usefulness, impartiality, prudence, non-abuse of authority, openness, public interest, and good service (Article 10 of Law of the Republic of Indonesia Number 30 of 2014 concerning Government Administration). Adherence to these principles is necessary to maintain institutional flexibility in the face of challenges. Solving internal violations, both disciplinary and ethical, is a must in realizing a professional police force. This is based on Government Regulation of the Republic of Indonesia (PPRI) No. 2 of 2003 concerning Disciplinary Regulations for Members of the National Police and Regulation of the National Police of the Republic of Indonesia (Perpol) No. 7 of 2022 concerning the Professional Code of Ethics and the Commission of the Code of Ethics of the National Police of the Republic of Indonesia. Perpol No. 7 of 2022 is an update to Perpol No. 14 of 2011 concerning the Police Professional Code of Ethics and Perpol No. 19 of 2012 concerning the Organizational Structure and Work Procedures of the National Police Code of Ethics Commission of the Republic of Indonesia which was revoked on June 15, 2022. The

Professional Code of Ethics of the National Police of the Republic of Indonesia (KEPP) functions as a moral guideline that regulates the attitudes, behaviors, and actions of members of the National Police in carrying out their duties. The KEPP covers state, institutional, community, and personality ethics (Article 3 paragraph (1) of Perpol 7 of 2022 concerning KEP and KKEP). To enforce the KEPP, the National Police Code of Ethics Commission (KKEP) was established (Article 1 paragraph (2) of Perpol 7 of 2022 concerning KEP and KKEP) at the Regional Police level based on the authority delegated by the National Police Chief (Article 38 paragraph (3) of Perpol 7 of 2022 concerning KEP and KKEP). The KKEP is tasked with reviewing the results of the examination, holding trials, and determining verdicts against KEPP violators. The decision is then submitted to the KKEP Forming Officer (Kapolda) within 30 working days (Article 82 of Perpol 7 of 2022 concerning KEP and KKEP), either to be accepted or rejected if the violator does not appeal (Article 68 of Perpol 7 of 2022 concerning KEP and KKEP).

According to Article 65 of Perpol No. 7 of 2022, the KKEP's decision is final and binding if: (a) no objection is raised by the violator; (b) has received a decision from the KKEP forming official; or (c) the alleged offender is not present at the hearing and the reading of the verdict. However, even though it is final, the decision of the KKEP still depends on the approval of the Chief of Police who formed the commission, so that it can ignore the facts of the trial and make the commission only a fulfillment of formalities. This has the potential to eliminate the power of execution of decisions that have been established in the trial. The provisions in Article 67 of Perpol No. 7 of 2022 stipulate that the KKEP's decision is registered by the KKEP secretariat, and if there is no appeal within three

working days, the decision is submitted to the KKEP forming official. If within 30 working days the official forming the KKEP does not give approval, the decision is considered approved (Article 67 paragraph (3) and Article 81 paragraph (3) of Perpol 7 of 2022 concerning KEP and KKEP). In practice, there are still abuses of authority that lead to legal uncertainty, such as the decision of the KEPP hearing has not yet been finalized even though the violator does not appeal. This shows the weak power of the execution of the results of the KKEP trial (Article 1 number 22 of Perpol 7 of 2022 concerning the KEP and KKEP), because the final decision remains with the KKEP Forming Official, who in this case is the Chief of Police.

The implications of the authority of the Police Chief in rejecting the KKEP decision can be seen in several cases at the Aceh Regional Police (Mulyasno, 2022) <sup>[7]</sup>. The Aceh Regional Police revoked the decision of dishonorable dismissal (PTDH) against members who had received PTDH recommendations from the KKEP and KKEP Appeal. This policy is contrary to the principles of legal certainty and good policing governance. Data shows that during 2019–2021 there were 31 cases of criminal violations, 24 cases of dismissal, and 52 cases of narcotics abuse and repeated disciplinary violations, all of which have received PTDH recommendations (Source of the State Police of the Republic of Indonesia Aceh Region for Profession and Security, 2022). However, some of the dismissed members filed a lawsuit with the Banda Aceh State Administrative Court (PTUN), as in case No. 50/G/2021/PTUN. Bna (Hamdani), No. 4/G/2022/PTUN. Bna (Riski Trisma Wahyu), and No. 5/G/2022/PTUN. Bna (M. Syahrin). This phenomenon shows a contradiction in the policy of revocation, which is not only contrary to disciplinary and ethical regulations, but also to the theory of legal certainty, the theory of authority, the theory of utility, and the principle of good policing governance. Therefore, it is necessary to evaluate the mechanism for revoking the PTDH decision to ensure that the decision that has been taken in the KKEP trial has final and binding force in accordance with applicable regulations.

## Method

### Types and Approaches to Research

This research uses normative legal research methods, which are often referred to as doctrinal law research. This approach refers to the concept of *law in the book*, which is research that focuses on written laws and regulations (Asikin, 2006 <sup>[1]</sup>; Jonaedi Efendi *et al.*, 2018) <sup>[3]</sup>. In this approach, legal norms or rules become the standard in assessing individual behavior when dealing with the law. Doctrinal law research is often categorized as normative juridical research, which focuses on the analysis of legal theories, basic concepts, legal principles, and laws and regulations relevant to the object of study (Marzuki, 2017) <sup>[5]</sup>. In this study, several approaches were used to answer the problems studied, including:

#### 1. Statute approach

This approach focuses on the analysis of laws and regulations related to legal issues that are the focus of the research. Considering that this research is normative, the legislative approach is the main instrument in examining the norms and rules contained in regulations (Marzuki, 2017) <sup>[5]</sup>. However, this approach often requires a combination with

other approaches in order to be able to analyze a legal issue comprehensively.

#### 2. Conceptual Approach

This approach explores various legal concepts from a practical scientific perspective, so as to provide a clearer and more systematic understanding of the sources of law and the function of law in the analysis of a problem. This approach is also based on a variety of evolving legal doctrines and views, thus contributing to building stronger legal arguments.

#### 3. Case Approach

This approach is used to analyze various legal issues through real-life case studies, particularly in state administrative law. In this study, a case approach is applied in analyzing the policy of revoking the Decision of Dismissal Without Respect (PTDH) of members of the National Police in the Aceh Regional Police. The analysis was carried out to evaluate the suitability of the policy with the General Principles of Good Governance and various other juridical foundations.

Through a combination of these approaches, this study aims to examine the juridical validity of a policy and the authority of state officials, especially in the context of the revocation of the decision of PTDH members of the National Police by the Regional Police Chief.

### Data Collection Sources and Techniques

The data sources in this study consist of primary, secondary, and tertiary legal materials, as well as non-legal materials that function as a complement to the analysis (Muhammad, 2005) <sup>[6]</sup>.

#### 1. Primary Legal Material

Primary legal materials include various laws and regulations, jurisprudence, and doctrines that have binding power, including:

- Constitution of the Republic of Indonesia in 1945
- Law Number 8 of 1981 concerning the Criminal Procedure Law
- Law Number 28 of 1999 concerning the Implementation of a Clean and Free State from Corruption, Collusion, and Nepotism
- Law of the Republic of Indonesia Number 2 of 2002 concerning the National Police of the Republic of Indonesia
- Law of the Republic of Indonesia Number 30 of 2014 concerning Government Administration
- Government Regulation of the Republic of Indonesia Number 1 of 2003 concerning the Dismissal of Members of the National Police
- Government Regulation of the Republic of Indonesia No. 2 of 2003 concerning Disciplinary Regulations for Members of the National Police
- Supreme Court Regulation Number 6 of 2018 concerning Guidelines for Settlement of Government Administrative Disputes After Taking Administrative Efforts
- Regulation of the Chief of the National Police of the Republic of Indonesia Number 2 of 2016 concerning the Settlement of Disciplinary Violations of Members of the National Police

- Regulation of the Chief of the National Police of the Republic of Indonesia Number 7 of 2022 concerning the Professional Code of Ethics and the Police Code of Ethics Commission

## 2. Secondary Legal Materials

Secondary legal materials are used to clarify the legal substance contained in primary legal materials. This source includes law books, academic literature, papers, scientific journals, as well as theories and views of legal experts that provide further understanding of the laws and regulations analyzed (Soekanto, 1985).

## 3. Tertiary Legal Materials

Tertiary legal materials include supporting information such as legal dictionaries, encyclopedias, magazines, and various sources of information that provide additional insight into the latest legal developments through mass media, electronic, or the internet (Mamudji, 1984) <sup>[4]</sup>.

## 4. Non-Legal Materials

In addition to legal materials, this study also relies on non-legal materials as additional references. This source can be in the form of observations, interviews, and books outside the field of law that can provide a broader context in research analysis (Marzuki, 2017) <sup>[5]</sup>. Observation and interview techniques were used to obtain empirical data that supported the arguments and ideas formulated in this study.

## Data Analysis

The data analysis process in this study plays an important role in ensuring the suitability of the research findings with the problems being studied. The initial stage of analysis is carried out by verifying all the data obtained to ensure its validity. The data is then classified by type to simplify the analysis process. This study uses a descriptive-analytical method with a qualitative approach, where the evaluation of data is carried out systematically. Drawing conclusions is carried out by a deductive method, which is an approach that starts from general principles and then identifies in a more specific context to produce logical and systematic conclusions (Mamudji, 1984) <sup>[4]</sup>.

## Result

The results contain answers to research problems quantitatively and/or qualitatively in a clear, precise and complete manner that can use information in the form of actual drawings/graphs/tables/descriptions.

## Discussion

The discussion contains a summary of the research results, the relationship with the concept or theory and other relevant research results, the interpretation of the findings, the limitations of the research, and its implications for the development of the concept or science.

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