

## Law Enforcement Of Crime Operation Power Installation Without Certificate Of Operations Eligible Under The Constitutional Court Decision Number 58 / Puu-Xii / 2014 (Overview Against Article 54 Paragraph 1 Of The Act Number 30/2009)

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Abstract. Electricity policy in encouraging the ease of trying to become the hope of many parties. Act Number 30 of 2009 on Electricity requires that any electrical installation has the operational acceptance certificate (SLO). Based on the operational acceptance certificate as a prerequisite for enjoying the flow of electricity, as a discrimination against citizens and compounded by the threat of imprisonment related to the waiver provisions. The Constitutional Court is authorized to reconcile the justice seekers in the nation's leading citizens equal rights and away from discrimination. This study departs from problems such as the following: 1) How do criminal acts of law enforcement on power installations operate without a certificate of operation acceptance; 2) What factors affect the law enforcement of criminal acts operating electric power installations without a certificate of operation worthiness.

This study uses empirical juridical approach to the type of descriptive analytical research. Data used by researchers there are two types of primary and secondary data. Primary data were obtained through interview and secondary data obtained by the engineering literature study.

Based on the results, it can be explained that: 1) Law Enforcement Crime operate Installation Power Without Eligible Certificate of Operation, originated from Central Java Police open investigation investigators through interviews, with the results known to the criminal offense of electricity. Further enhanced the status of the investigation into the investigation process. At this stage of the prosecution, the public prosecutor indicted the suspect in the first alternative charges which violates Article 49 paragraph (2) or second violation of Article 54 paragraph (1) of Act Number 30 of 2009. 2) The factors that affect law enforcement Crime operate Installations power Without Eligible Certificate of Operation is the socialization factor that is still weak, criminals who do not know about the legal norms in Act Number 30 of 2009,

Keywords: Criminal; Operational Acceptance Certificate; Electricity

### 1. Introduction

Electricity policy in encouraging the ease of trying to become the hope of many parties. Rate World Bank in determining the ranking EoDB (Ease Of Doing Business) Indonesia, one of which is an indicator of the licensing submission electricity connection. EoDB position of Indonesia in 2017 was ranked 49<sup>th</sup> out of 189 countries for Getting Electricity and in 2018 rose to rank 38. There are four factors considered in assessing getting electricity, namely: (1) The number of procedures required to obtain electrical connection, (2) the time required to complete each procedure, (3) costs required only

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official fee (no fee / bribe) and outside the VAT, and (4) Reliability of supply and Transparent Index Rate. In general stages of electrical connection in Indonesia at this time of the evaluation base of the World Bank as follows: (1) SLO (Certificate of Eligible Operations); (2) Approval of the application; (3) Construction; (4) ignition.

Regulation of the Minister of Energy and Mineral Resources Number 27 Of 2017 about the level of service quality and cost associated with the Distribution of Electricity by PT *Perusahaan Listrik Negara (Persero)*, in Article 18 paragraph (1) states that every installation utilization of electric power required to have a Certificate of Eligible Operation (SLO) before connecting power electricity by PT PLN.<sup>3</sup> Meanwhile the Minister of Energy and Mineral Resources Number 10 2016 stated that Eligible Certificate of Operation (SLO) is evidence of the formal recognition of an electric power installations has been functioning as the matching requirements defined and declared ready for operation.<sup>4</sup> Legislation governing electricity, through the procedure of judicial review in the Constitutional Court has enacted legal substance new provisions on the abolition of the criminal article 44 paragraph (4) of Act Number 30 of 2009, and criminal sanctions fines in Article 54 paragraph ( 1) of the same Act, it is not true for household electricity consumers.<sup>5</sup> View of legal experts, in looking at the idea of formulation of the protection of electricity as described by Barda Nawawi Arief explained that the idea "expands the scope of theft in Article 362 of the Criminal Code, which means that also contains the idea to extend the safeguard sources of energy or natural resources controlled by state (article 33, paragraph (3) of the Constitution of the Republic of Indonesia Year 1945) ".<sup>6</sup>

Business entities in the field of services in the city of Semarang experienced criminal case electrification for operating permits captive power (generator) is problematic and certificate of operation acceptance (SLO) installation of electricity in buildings parents have not been in accordance with the systems and procedures set forth in the criminal provisions of the Act of Electricity , It is interesting and important to investigate the extent of implementation of law enforcement against criminal acts of electricity. As a business that impact on the economic sector and its relation to the safety of the user community it is important in this case study deepened and expanded in an academic perspective.

The problem formulation in this paper departs from the question: How law enforcement criminal offenses power installations operate without a certificate of operation acceptance? What factors are affecting the criminal acts of law enforcement power installations operate without a certificate of operation acceptance?

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<sup>3</sup> Article 18 paragraph (1) of the Regulation of the Minister of Energy and Mineral Resources Number 27 Year 2017 about the level of service quality and cost associated with the Distribution of Electricity by PT *Perusahaan Listrik Negara (Persero)*.

<sup>4</sup> Article 1 Regulation of the Minister of Energy and Mineral Resources Number 10 Year 2016 on the Amendment to Regulation of the Minister of Energy and Mineral Resources Number 5 of 2014 on Procedures for the Accreditation and Certification of Electricity

<sup>5</sup> Constitutional Court Decision Number 58 / PUU-XII / 2014 2014

<sup>6</sup> Barda Nawawi Arief, 2001, *Aspek Hukum Pidana dalam Hukum Ketenagalistrikan, Bahan Ceramah pada "Pendidikan dan Pelatihan Hukum" PT PLN Perseroan Distribusi Jawa Timur, Surabaya, 29 Maret 2001, hlm 7-8.*

## Research Methods

This study uses empirical juridical approach. Juridical empirical or sociological laws and may be referred also to the field of research, including reviewing the applicable regulations, and what happens in reality in society. Empirical aspects of this research related to the enforcement of the criminal offense operates a power installations without operational acceptance certificate (SLO). Then the juridical aspects of the norms relating to criminal offenses operate installation of electric power without SLO particularly Act Number 30 Of 2009 on Electricity.

Researchers have descriptive analytical research, which is used to describe or give a picture of the object under study through data or samples that have been collected as without analyzing and making conclusions apply to the public.<sup>7</sup>The data in this study were divided into two, namely primary and secondary data. Primary data is data obtained directly by researchers. While secondary data is a source that can provide information on some documents and others.<sup>8</sup> That is, this study will describe the images of the crime of power installations operate without SLO. The data collection method through unstructured interviews or guided. Understanding of the interview is not guided is a free interview where researchers did not use the interview guides that have been arranged in a systematic and complete collection. Interview guides used only in the form of an outline of the problems in question.<sup>9</sup>

## 2. Results and Discussion

### 2.1. Law Enforcement Crime Operate Without Electricity Installation Eligible Certificate of Operation

Law enforcement according to the theory proposed by Soerjono is harmonizing relations activities that span the 'hierarchy values of the established norms and attitudes acts as a series of translation of the value of the final stage. To create, maintain and sustain peace social life.<sup>10</sup>in pursuit of power for its own sake of generating captive power (generator) without comes without an operating license (IO), and for the operation of power installations such as MDP, SDP and Installation utilization of electric power has not been provided with a certificate of operation acceptance (SLO), all activities operational captive power not equipped with an operating license (IO) and electricity installations operationalization not equipped with operational acceptance certificate (SLO) carried by the suspect Ir. CS bin LSA as a Director of PT. ARGA KENCANA SANTOSO ". all operational activities are equipped with captive power without an operating license (IO) and electricity installations operationalization not equipped with operational acceptance certificate (SLO) carried

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<sup>7</sup> Sugiyono, 2009, *Metode Penelitian Kuantitatif, Kualitatif dan R&D*, Alfabeta, Bandung, hlm 29.

<sup>8</sup> Wardani, Koko Arianto dan Wahyuningsih, Sri Endah, *Kebijakan Formulasi Hukum Pidana Mati Terhadap Pelaku Tindak Pidana Korupsi Di Indonesia*, *Jurnal Hukum Khaira Ummah*, Vol. 12. No. 4 Desember 2017, hlm 954

<sup>9</sup> Berg dalam Kartika Nur Kusuma, *Studi Fenomenologi Seksualitas Transgender Wanita di Samarinda*, *Jurnal Psikoborneo*, Vol 4, No. 2, hlm 368.

<sup>10</sup> Soerjono Soekanto, 1983, *Faktor-faktor yang Mempengaruhi Penegakan Hukum*, UI Press, Jakarta, hlm. 35.

by the suspect Ir. CS bin LSA as a Director of PT. ARGA KENCANA SANTOSO ". all operational activities are equipped with captive power without an operating license (IO) and electricity installations operationalization not equipped with operational acceptance certificate (SLO) carried by the suspect Ir. CS bin LSA as a Director of PT. ARGA KENCANA SANTOSO".<sup>11</sup>

Currently the law enforcement criminal offense electrification run by law enforcement officials through a process of public inquiry, which was later upgraded to the investigation. Law enforcement officers in Central Java regional police are investigating. Furthermore, the file transferred to the Public Prosecutor (Attorney). In the indictment, prosecutors demanded that unity suspects alternative indictment violated article 49 paragraph (2) of Act Number 30 Of 2009 on Electricity or Second violation of Article 54 paragraph (1) of Law Number 30 Of 2009 on Electricity. The alternative charges Article juridical formulation as follows:

a) Article 49 paragraph (2) of Law Number 30 Of 2009

*"Anyone who does the electricity supply business without an operating license as referred to in Article 22 shall be punished with imprisonment for a period of 5 (five) years and a maximum fine Rp4.000.000.000,00 (four billion). "*

b) Article 54 paragraph (1) of Law Number 30 Of 2009

*"Each person operating the installation of electricity without operational acceptance certificate referred to in Article 44 paragraph (4) shall be punished with imprisonment of five (5) years and a maximum fine of Rp 500,000,000.00 (five hundred million rupiah). "*

Article 54 paragraph (1) of this, can not be separated from its parent clause of Article 44 paragraph (4) with the juridical formulation as follows: *"Each operating power installations must have a certificate of operation acceptance"*.

In the case of proof at trial through the testimony of witnesses, experts and evidence underlying the judge ruling on the following considerations:

- The judges believe every person has fulfilled the elements. In the study the authors, the element of every person in accordance with the concept of strict liability or criminal liability absolute. Strict liability asserted that the element of error does not need to be proven by the plaintiff as the basis for the payment of compensation. This provision is a *lex in a lawsuit concerning unlawful acts in general*. The size of compensation that can be charged to the polluter or the destroyer of the environment under this Article may be set to a certain extent.<sup>12</sup>
- Defendant has proven to meet all the elements of a 54 paragraph (1) of Law Number 30 Of 2009 on Electricity alternative charges both public prosecutors and during the hearing in court is not obtained any justification or forgiveness to remove the guilt of the accused, and also it is not there any clue if the defendant insane or crazy so that the defendant must be regarded as someone who could be responsible, therefore the defendant accountable for his actions.
- Based on the facts revealed at the hearing proved the Government in this case the Department of Energy and Mineral Resources of Semarang has yet been held Socialization of Law Number 30 Of 2009 on Electricity to the users of electricity.

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<sup>11</sup> *Resume Perkara No 63 /Pid.Sus/2015/PN Smg*

<sup>12</sup> *Elucidation of article 88 of Law Number 32 of 2009 on the Protection and Environmental Management.*

Then in this case Semarang District Court decided:

- The defendant stated Ir. CS bin LSA has been proven legally and convincingly guilty of committing a crime, "without the right to operate the installation of electricity without operational acceptance certificate;
- Convict the accused therefore by imprisonment for 8 (eight) months and a fine of Rp.5.000.000,00- (five million), provided that if the fine was not paid to be replaced by imprisonment for 1 (one) month;
- Establish imprisonment of not need to be undertaken in the future unless there is another order in the Court decision before the expiry of probation for 1 (one) year for the accused commit a criminal act

Authors examine considerations of fact of the trial judge that "The government in this case the Department of Energy and Mineral Resources of Semarang has yet been held Socialization of Law Number 30 Of 2009 on Electricity to the users of electricity". This phrase is surprising because Law Number 30 Of 2009 on Electricity was enacted in 2009, while it after so many years of enforced socialization no provisions relating to the legal norms that govern them. Nonetheless if Legal Fiction theory perspective as an analysis of the problem, the lack of socialization of the criminal provisions in the Act Number 30 of 2009 on Electricity does not remove the entry into force of the legal norm. More wise again,

The next author study is how law enforcement related to future criminal power installations operate without a certificate of operation acceptance (SLO). According to the author of the Constitutional Court Number 58 / PUU-XII / 2014, becoming a new basis in view of the legality of Act Number 30 of 2009 on electricity. The main points in the verdict that regulate the following: (1) The provisions of criminal contained in Article 54 paragraph (1) of Law Number 30 Of 2009 on Electricity is a function of the threat of criminal sanctions in the field of administrative law as the ultimate weapon or *ultimum remedium*, that is not necessary used when the administrative sanction is effective, otherwise the new criminal sanctions to be used if the administrative sanctions are ineffective because even though the administrative sanction has been enforced, nonetheless a violation of law in Article 44 paragraph (4) and Article 54 paragraph (1) of Law Number 30 Of 2009 on Electricity. According to the Court, if the sanction of imprisonment as provided for in Article 54 paragraph (1) of Law Number 30 Of 2009 on Electricity is *ultimum remedium* then sanction of imprisonment can not be imposed cumulatively in conjunction with financial penalties. (2) Violation of administration in the absence of SLO in electrical installations is not the crime of murder, human rights violations, or theft which eliminates the rights of others. If the sanction of imprisonment as provided for in Article 54 paragraph (1) of Law Number 30 Of 2009 on Electricity is *ultimum remedium* then sanction of imprisonment can not be imposed cumulatively in conjunction with financial penalties. (2) Violation of administration in the absence of SLO in electrical installations is not the crime of murder, human rights violations, or theft which eliminates the rights of others. If the sanction of imprisonment as provided for in Article 54 paragraph (1) of Law Number 30 Of 2009 on Electricity is *ultimum remedium* then sanction of imprisonment can not be imposed cumulatively in conjunction with financial penalties. (2) Violation of administration in the absence of SLO in electrical installations is not the crime of murder, human rights violations, or theft which eliminates the rights of others.

Thus, the decision of the Constitutional Court ruling of Kabul qualified as unconstitutional parole. This means that articles petitioned tested at the time of the verdict was read is unconstitutional, but the article would be constitutional if the conditions set by the Court are met. Conditions are formulated in the judgment with the phrase "imprisonment of five (5) years and" in Article 54 paragraph (1) of Law Number 30 Of 2009 on Electricity (Official Gazette of the Republic of Indonesia Of 2009 Number 133, Supplement to the State Gazette of the Republic of Indonesia Number 5052) is contrary to the Constitution of the Republic of Indonesia Year 1945 to the extent not understood,

Summary idea of both the ruling is considered a sense of justice which developed in the community, with the enactment of Legislative Policy Act Number 30 of 2009 on Electricity still leaves a gap Injustice. So anyone has the right to voice improvement of the criminal justice system of Law Number 30 Of 2009 on Electricity, the community response (once used as actors) has moved that there were problems of justice that is felt when Act Number 30 Of 2009 on Electricity applicable in the legal system positively. Such gesture applicable law, the law is always out of the event. Messages from these events, according to researchers are based law enforcement approaches *ultimum remedium* ahead and legal sanctions fines for offenders provisions of the SLO.

### **3.2 Factors Affecting Law Enforcement Crime Operate Without Electricity Installation Eligible Certificate of Operation**

Study authors from various juridical aspects, sociological and philosophical found that law enforcement criminal offenses operate electrical installation without SLO influenced by:

- Legal aspects of Substance (Substance Law); In this aspect, the juridical formulation partly explains that criminal laws of electricity on Law Number 30 Of 2009 on Electricity was decided by the Constitutional Court ruling of parole unconstitutional. The implication is criminal as *remedium ultimum* approach, thus qualifying criminal offense is no longer a crime but a violation. Thus power installations operate without SLO can no longer subject to penalty of imprisonment.
- Legal aspects Structure (Legal Structure); Legal structures associated with the implementation of Act Number 30 Of 2009 on Electricity, including law enforcement officers, government bureaucracy in this case is the ministry of Energy and Mineral Resources (energy and mineral resources). Factors that affect the law enforcement agencies is the absence EMR PPNS in Central Java Provincial Office of Energy and Mineral Resources, Department of Energy and Mineral Resources should propose to the Ministry of Energy and Mineral Resources that an employee in the Office of Central Java Prov existing EMR filed as investigators and given electric field of electricity related education.<sup>13</sup> While the factors that influence in Central Java Police investigator's perspective is that "at the time of the investigation at a company or business entity, they pleaded" not aware of any obligation to have SLO ", businesses

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<sup>13</sup>Interview with Milladunna Dzikron as employees at the Department of Energy and Mineral Resources in the Middle Java Provincial Electricity Sector and the Environment, on May 26, 2019

also argue why no prior socialization.<sup>14</sup> While the interested parties related certificate of operation acceptance ie PLN and Konsuil explained that consumers in terms of electrical installation new usually use the services of BTL (Electric Power Bureau), where the requirements of relevant documents installation in pasrahkan to BTL, and the consumer only wants electricity can be lit , without knowing what the SLO, and usually BTL charge of SLO as a requirement, as published was not handed over to the customer or consumer "<sup>15</sup>

The fact is, according to the author that the socialization of legislation problematic electricity, or are still deficiencies in the Provincial and City.

- *Legal Aspects of Culture* (Culture Law); Legal culture of society in view the laws on electricity, most do not know because education and socialization of legislation that has not been effective and the interests of society. In addition the culture of law enforcement officers, both police investigators, investigators EMR and related agencies SLO i.e. PLN Konsuil and explained that the lack of inter-agency coordination system with the user community guard occurs negative synergy in the implementation of the SLO in the community.

### 3. Closing

#### 3.1. Conclusion

Based on the above discussion, the authors concluded as follows:

- Crime law enforcement operate Installation Power Without Eligible Certificate of Operation, originated from Central Java Police open investigation investigator through the interview method, with the results of the manual evidences of the offense electricity. At this stage of the prosecution, the public prosecutor indicted the suspect in the first alternative charges which violates Article 49 paragraph (2) of Law Number 30 Of 2009 on Electricity or second violation of Article 54 paragraph (1) of Law Number 30 Of 2009 on Electricity. The decision of Court panel decided imprisonment for 8 (eight) months and a fine of Rp.5.000.000,00- (five million rupiah). Law enforcement needs to be put forward next to the administration of criminal sanction is a fine.
- Factors that affect the Crime operate Installation Power Without Certificate Eligible Operations is a factor from the perspective of legal substance is still a lack of socialization of Law Number 30 Of 2009 on Electricity is still weak, criminals who do not know about the legal norms in the Act Number 30 of 2009 on Electricity. Legal perspective structure, the role of agencies or institutions involved in the implementation of legislation (PUU) electricity underactive proclaim its mandatory policy. This is evident in the fact of the trial in the case operate Installation Power Without Surgery Eligible Certificate. Besides indicators beginning of this case, stems from an open investigation with interview method, to criminal electricity. It appears that the coordination between agencies 'bodyguard' SLO weak coordination, and ironically the official level EMR region does not have investigators in the field of

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<sup>14</sup> Interview with Didik Aipda Nurcahyo, SH (IV Ditreskrimsus Subdit member of the Central Java Police), on May 28, 2019

<sup>15</sup> Interview with Agung Setiawan as PLN Area Technical Staff Semarang, on May 28, 2019.

electricity. Perspective explains that the legal culture of society power users do not know about SLO in detail both its laws and regulations and habits of the citizens who just "knew right" electricity affairs.

### 3.2. Suggestion

Based on the above conclusions the authors suggest the following:

- To be created for a website or internet applications Integrate between PLN, Ministry of Energy, and also institute technical installations appointed by the Minister, and related institutions other relating to licensing which in those applications requiring the maintenance of the Certificate Eligible Operations prior to PLN supply power, either for new installations and additional electrical power, besides that it would be known to a person or entity already has a Certificate of Eligible Operations or have not seen from the application so that there is a control function of each agency.
- Fore so that countermeasures against criminal acts operate Installation Power Without Certificate Eligible Operation (SLO) can run more optimally function of the Department of Energy and Mineral Resources not only guidance functions in society, but it should be designated the Civil Servant Investigators (investigators) in the institution as a complement duty investigations police, together with the PLN as the distributor of electricity and supervision in the use of electricity installations.

### 4. References

- [1] Barda Nawawi Arief, 2001, *Aspek Hukum Pidana dalam Hukum Ketenagalistrikan, Bahan Ceramah pada "Pendidikan dan Pelatihan Hukum" PT PLN Perseroan Distribusi Jawa Timur*, Surabaya, 29 Maret 2001.
- [2] Kartika Nur Kusuma, *Studi Fenomenologi Seksualitas Transgender Wanita di Samarinda*, Jurnal Psikoborneo, Vol 4, No. 2.
- [3] Soerjono Soekanto, 1983, *Faktor-faktor yang Mempengaruhi Penegakan Hukum*, UI Press, Jakarta.
- [4] Sugiyono, 2009, *Metode Penelitian Kuantitatif, Kualitatif dan R&D*, Alfabeta, Bandung
- [5] Act Number 30 Of 2009 on Electricity
- [6] Act Number 32 of 2009 on the Protection and Environmental Management.
- [7] Regulation of the Minister of Energy and Mineral Resources Number 10 Of 2016 on the Amendment to Regulation of the Minister of Energy and Mineral Resources Number 5 of 2014 on Procedures for the Accreditation and Certification of Electricity
- [8] Regulation of the Minister of Energy and Mineral Resources Number 27 Of 2017 about the level of service quality and cost associated with the Distribution of Electricity by PT Perusahaan Listrik Negara (Persero).
- [9] Constitutional Court Decision Number 58 / PUU-XII / 2014 2014
- [10] Resume Perkara No 63 /Pid.Sus/2015/PN Smg.
- [11] Wardani, Koko Arianto dan Wahyuningsih, Sri Endah, *Kebijakan Formulasi Hukum Pidana Mati Terhadap Pelaku Tindak Pidana Korupsi Di Indonesia*, Jurnal Hukum Khaira Ummah, Vol. 12. No. 4 Desember 2017.