

Analysis of the Factors Causing Violations of Sailing Without a Sailing Permit Under the Supervision of Syahbandar

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Abstract

Shipping is a strategic sector in the national transportation system that demands a guarantee of safety, security, and order, especially in archipelagic countries such as Indonesia. Law Number 17 of 2008 concerning Shipping places Syahbandar as a government official at the port who has the highest authority in supervising the seaworthiness of ships and the issuance of Sailing Approval Letters (SPB). However, in practice, ship shipping without SPB is still found even though it is within Syahbandar's supervision area. This study aims to analyze the authority of Syahbandar in shipping supervision, identify the factors that cause shipping without SPB, and examine the legal implications of these violations. The research method used is normative juridical with a legislative and conceptual approach, and is supported by secondary legal material in the form of research results on the supervision of Syahbandar at Tembilahan Port. The results of the study show that normatively the authority of Syahbandar has been comprehensively regulated, but the effectiveness of its implementation is still constrained by institutional limitations, weak administrative and managerial systems, and low legal awareness of shipping actors. This condition causes the obligation to have an SPB often ignored and supervision has not run optimally. The legal implications of shipping without SPB are serious because they are qualified as a criminal offense, but weak law enforcement causes sanctions to not have a deterrent effect. The conclusion of this study emphasizes that the main problem lies in the implementation and enforcement aspects of law, so it is necessary to strengthen the role of Syahbandar, increase supervisory capacity, and apply consistent sanctions to ensure safety and compliance with shipping laws.

Keywords : Shipping Violations; Sailing Approval Letter; Supervision Syahbandar

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Introduction

Shipping is an integral part of the national transportation system which has a strategic function in supporting regional connectivity, logistics distribution, and the efficient movement of people and goods. [1]

In an archipelagic country like Indonesia, sea transportation not only functions as a means of mobility, but also as an instrument of regional unification and the main driver of national economic activity. [2]

Therefore, the implementation of shipping is required to fulfill the principles of safety, security, and order as an absolute prerequisite for the realization of a reliable, sustainable, and equitable sea transportation system. Shipping safety is essentially a public *interest* that involves the protection of human lives, property, and the preservation of the maritime environment. [3]

Every negligence in the implementation of shipping has the potential to cause systemic impacts, ranging from marine accidents, economic losses, to the degradation of public trust in the state in carrying out its supervisory function. Therefore, the state is present through legal instruments to strictly regulate shipping activities, including supervision of ships before, during, and after shipping.

Law Number 17 of 2008 *jo* Law Number 66 of 2024 affirms Syahbandar as a representative of the country that has the highest authority in ensuring the safety and security of shipping. Its authority includes checking the seaworthiness of ships, supervising documents and crew of ships, controlling shipping traffic, and granting or refusing sailing permits as part of shipping law enforcement. [4]

One of the most crucial legal instruments in the shipping supervision system is the Sailing Approval Letter (SPB). SPB is a concrete form of state administrative action that marks that a ship has met all legal, technical, and administrative requirements to sail safely. [5]

Article 219 of Law Number 17 of 2008 *jo* Law (UU) Number 66 of 2024 The Third Amendment to Law Number 17 of 2008 concerning Shipping expressly requires every ship that will sail to have an SPB issued by Syahbandar after a thorough inspection of the ship's seaworthiness and compliance with laws and regulations in the shipping sector. [6]

Thus, SPB cannot be seen as just a formal document, but as a preventive instrument to prevent accidents and violations of the law at sea.

Empirically, a comprehensive shipping legal framework has not been fully effective, because ships are still found sailing without a Sailing Approval Letter even though they are within Syahbandar's supervisory area. This condition shows that there is a gap between legal norms (*das sollen*) and the practice of organizing shipping in the field (*das sein*). [7]

Normatively, Syahbandar has broad authority to postpone or prohibit the departure of ships that do not meet the requirements, but unauthorized shipping shows that the problem is not only normative, but also related to structural, institutional, and cultural factors, such as limited supervision, weak internal control, low legal awareness, and tolerance for repeated violations. [8]

This condition is a serious problem because shipping without SPB is not only an administrative violation, but also has criminal implications and high safety risks. When ships sail without official permission from Syahbandar, the state's function in ensuring shipping safety is reduced, and the potential for marine accidents is even greater. [9]

In other words, the weak compliance with SPB obligations reflects the lack of optimal effectiveness of Syahbandar's supervision as the front line of shipping law enforcement.

This study aims to analyze the juridical and institutional factors that cause the continued occurrence of shipping without a Sailing Approval Letter under the supervision of Syahbandar, assess the effectiveness of its role in ensuring compliance with shipping laws, and identify supervision gaps as the basis for recommendations to strengthen national shipping safety governance.

Based on the above background, the following problems can be formulated:

1. What is the Authority of Syahbandar in Shipping Supervision?
2. What are the factors that cause shipping without a sailing approval letter?
3. What are the legal implications of shipping without a sailing approval letter

Research Methodology

This research uses a normative juridical method with a legislative approach to Law Number 17 of 2008 and Law Number 66 of 2024 and its implementing regulations, as well as a conceptual approach regarding the authority of Syahbandar and the principle of shipping safety.[10]

Primary legal material is in the form of regulations in the shipping sector, especially related to Sailing Approval Letters and their sanctions, while secondary legal materials come from literature and scientific journals. The analysis is carried out qualitatively through systematic interpretation and legal argumentation to obtain logical and coherent conclusions.

Results

1. Authority of Syahbandar in Shipping Supervision

Based on Law Number 17 of 2008 concerning Shipping, Syahbandar is a government official at the port who has the highest authority in supervising the seaworthiness of ships and ensuring the safety, security, and order of shipping. Article 207 paragraph (1) affirms this function, thus placing Syahbandar as the representative of the country responsible for ensuring that every shipping activity meets legal and safety standards. [11]

Article 208 of Law Number 17 of 2008 stipulates that Syahbandar's authority includes the supervision of ship seaworthiness, ship traffic in port waters, loading and unloading activities, and the fulfillment of shipping safety and security requirements. This provision shows that Syahbandar's supervision is administrative as well as technical-operational, including physical inspections of ships and shipping activities. [12]

The implementation of supervision by Syahbandar is carried out in stages in three main stages, namely when the ship arrives at the port, as long as the ship is in the port waters, and before the ship is departed. [13]

The supervision stage before the ship sails has a strategic position because in this phase Syahbandar conducts a final check on the completeness of documents and the ship's seaworthiness. This obligation is directly related to the issuance of a Sailing Approval Letter as an absolute requirement for ships to leave port.

Article 219 paragraph (1) of Law Number 17 of 2008 requires every ship to have a Sailing Approval Letter issued by Syahbandar, which is authorized to postpone or reject departure if administrative, technical, and safety requirements are not met. SPB functions as a preventive instrument to ensure shipping safety through comprehensive supervision, including document inspection, ship seaworthiness, crew competence, cargo capacity, and readiness of safety and communication equipment on an ongoing basis. [14]

Empirical facts, such as the case of the shipwreck in the Sipora Strait in July 2025, show that Syahbandar's supervision has not been optimal, as seen from the fact that ships are still operating without a Sailing Approval Letter, exceeding passenger capacity, and not meeting safety standards. This incident confirms that preventive surveillance is not sufficiently administrative, but requires physical surveillance and consistent patrols to prevent violations before the ship sails. [15]

The statement of the West Sumatra Ombudsman emphasized that weak supervision of licensing and safety standards showed that the main problem lay in the implementation of Syahbandar's authority. [16]

Although legal norms have given clear authority, supervision has not been carried out effectively and firmly, and there is even tolerance for violations, including the use of

unlicensed vessels by public officials, which has the potential to normalize violations and undermine the authority of shipping laws.

Syahbandar's authority in normative shipping supervision has been formulated comprehensively, but the effectiveness of its implementation still faces serious challenges. [17]

This gap between norms and practices is an important basis for further examining the factors that cause the continued occurrence of ship shipping without a Sailing Approval Letter even though it is under the supervision of Syahbandar.

2. Factors Causing Shipping Without a Sailing Approval Letter

Shipping without a Sailing Approval Letter shows the problem of legal effectiveness, because norms only function if they are carried out consistently and complied with. According to Soerjono Soekanto, the effectiveness of the law is influenced by five factors, namely the law, law enforcement, facilities and infrastructure, society, and culture, which is relevant to explain that violations still occur even though it has been strictly regulated in Law Number 17 of 2008 concerning Shipping. [18]

The institutional factor of Syahbandar reflects the problem in the aspect of law enforcement and supporting facilities as stated by Soerjono Soekanto. The results of the study on the supervision of Syahbandar at Tembilahan Port show that the limited number and capacity of human resources, especially patrol officers and shipworthiness inspectors, has a direct impact on the weak supervision of shipping. [19]

This condition causes supervision to not be carried out comprehensively and continuously, thus opening up opportunities for ships to sail without going through the inspection process and issuance of a Sailing Approval Letter. This situation shows that the existence of clear legal norms does not necessarily guarantee compliance if it is not supported by adequate institutional capacity.

Based on the theory of administrative supervision by Philipus M. Hadjon, supervision functions to ensure government actions in accordance with the principles of legality and good governance principles through a system of internal control, coordination, and transparent and accountable procedures. [20]

The findings at Tembilahan Port show that weak internal control and coordination in the municipal environment causes the supervisory function to be not optimal, thus opening up opportunities for negligence and potential irregularities in the supervision process and issuance of Sailing Approval Letters. [21]

According to Lawrence M. Friedman's theory, the effectiveness of law is determined by the harmony of legal structure, substance, and culture. [22]

In the context of shipping, the obligation of the Sailing Approval Letter has been strictly regulated in Law Number 17 of 2008 and supported by the Syahbandar institution, but its implementation has not been optimal due to weaknesses in the performance aspects of legal structure and culture, so that the norms have not been effective

The factor of legal awareness of shipping perpetrators reflects the problem of legal culture as stated by Lawrence M. Friedman. [23]

The legal awareness of ship owners and captains on the importance of the Sailing Approval Letter is still relatively low. Sailing permits are often perceived as an administrative formality, rather than as a safety instrument that has legal and technical implications. Soerjono Soekanto explained that the low legal awareness of the public will have direct implications for the low level of compliance with the law. [24]

A short-term economic orientation that prioritizes financial gain encourages shipping operators to ignore legal requirements for the sake of time and cost efficiency.

Low compliance with the obligations of the Sailing Approval Letter is influenced by the weak consistency of sanctions enforcement, so that the law loses its deterrence as described in the deterrence theory. Repeated violations show that the problem lies not only in norms, but also in institutional, administrative, and legal awareness factors. This emphasizes that

strengthening Syahbandar's supervision needs to be directed not only at regulation, but also at improving institutional structures and improving the culture of legal compliance in shipping practices. [25]

3. Legal Implications of Shipping Without a Sailing Approval Letter

Shipping without a Sailing Approval Letter is a serious violation that threatens human safety, the protection of the marine environment, and the order of marine transportation. Law Number 17 of 2008 through Article 323 qualifies the act as a criminal offense that can be subject to prison sanctions and fines, confirming that the obligation of a sailing license has binding legal force. [26]

Criminal sanctions in Article 323 of the Shipping Law show that shipping without a Sailing Approval Letter is not just an administrative violation, but a high-risk act because it ignores the results of seaworthiness supervision and safety standards. The absence of SPB indicates the malfunction of Syahbandar's preventive mechanism, thereby increasing the potential for marine accidents. [27]

The legal implications of shipping without SPB not only stop at the criminal liability of shipping perpetrators, but also touch on aspects of administrative and institutional responsibility. [28]

The Shipping Law gives the authority to Syahbandar to postpone or prohibit the departure of ships that do not meet the safety requirements as stipulated in Article 219 and Article 220. If shipping without SPB continues to occur in the port supervision area, this condition raises serious questions about the effectiveness of the implementation of Syahbandar's authority as an official responsible for shipping safety and security.

Research at Tembilahan Port shows that weak supervision and enforcement, especially due to the dominance of administrative inspections rather than physical supervision, leads to low compliance with sailing permits and non-optimal implementation of sanctions. [29]

This condition is in line with Lawrence M. Friedman's theory that the effectiveness of law enforcement depends on the harmony of legal substance, structure, and culture, where the main problem lies in the lack of optimal aspects of legal structure and culture even though norms have been strictly regulated. [30]

Weak law enforcement against shipping without SPB also has an impact on the loss of the deterrent effect. Deterrence theory explains that legal sanctions will only be effective if they are applied definitively and consistently. [31]

When violations of the sailing permit are not dealt with strictly, shipping perpetrators tend to repeat their actions because they consider the legal risks to be less than the economic benefits obtained. [32]

This condition is in line with the empirical finding that unlicensed shipping still occurs even though criminal threats have been clearly regulated in the law.

Sailing without a Sailing Approval Letter weakens legal protections for passengers because the ship operates outside of safety oversight mechanisms. The implications are multidimensional, including criminal, administrative, and public safety aspects. Therefore, the effectiveness of sanctions in the Shipping Law requires strong field supervision and consistent law enforcement by Syahbandar to prevent the recurrence of sailing permit violations.

Conclusion

1. The authority to supervise shipping by Syahbandar has been comprehensively regulated in Law Number 17 of 2008 concerning Shipping. Syahbandar is placed as a government official at the port who has the highest authority in ensuring the safety, security, and order of shipping, including through the mechanism of monitoring the seaworthiness of ships and the issuance of a Sailing Approval Letter as an instrument of state preventive control. The legal framework shows that normatively there is no regulatory void related to sailing license obligations and shipping supervision authority.
2. The factor of shipping authority without a Sailing Approval Letter still continues to occur

even though it is within Syahbandar's supervision area. This condition is influenced by various interrelated factors, namely institutional limitations in terms of the number and capacity of supervisory human resources, weak administrative and managerial systems of supervision, and low legal awareness of shipping actors. The findings of the study regarding the supervision of Syahbandar at Tembilahan Port confirm that suboptimal supervision and weak internal coordination open up space for violations of sailing permits, thus reflecting the gap between legal norms and implementation practices.

3. The legal implications of shipping without a Sailing Consent Letter are serious because the act is qualified as a criminal offense in Article 323 of the Shipping Law. However, the existence of strict criminal sanctions has not been fully accompanied by consistent law enforcement, so it has not caused an optimal deterrent effect. Weak law enforcement has implications for the decline in the coercion of legal norms and increased risks to passenger safety and shipping order.

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