

Existence of Master Harbor in Authority of Action and Settlement Case of Shipping

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Abstract

This study aims to analyze the authority of the Harbor Master in the prosecution and resolution of cases in the field of shipping based on Law Number 17 of 2008 concerning Shipping. This research is normative legal research with the consideration that this research departs from the analysis of legislation. The approach method used in this study is the legislative approach, conceptual approach and case approach. Legal material collection techniques with library studies. The method of analysis uses interpretation. Based on the results of the study, it can be explained that Harbor Master has the authority to carry out sea patrols, carry out instant chases, stop and inspect ships in the sea and conduct investigations. The procedure for prosecuting cases is under the Supervisory Coordinator. If an administrative violation occurs, it will be delegated to the Shipping Court, and if a criminal offense is found, it will be delegated to the Public Prosecutor. Based on the description above, for the future, it needs to be regulated to support the authority of the Harbor Master in law enforcement and enforcement in the field of shipping of the Head Office of the Directorate General of Sea Transportation, to give the Office of the harbor Master each province or region (representative), both from the facility special investigation and budget to support the enforcement and investigation process of a criminal case in the field of shipping, which so far has only been limited to the Class I Master harbor office.

Keywords: Harbor Master, Enforcement, Shipping.

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INTRODUCTION

Indonesia is a maritime country that has thousands of islands with vast territorial sea areas. requires sea transportation facilities to be very important, because to connect between cities with one another city, especially one island with another island, a transportation means needed to reach that destination. In order to improve the smooth transportation between Lombok island and Bali island or vice versa, the Lembar Harbor was built in 1976. Lembar Harbor in Lombok Island has a very important role for sea transportation services in facilitating the flow of goods and people from the original port to the destination port even between countries. Tourism economic development in the island of Bali and Lombok is estimated that the need for transportation services from year to year is always increasing, to anticipate these conditions, the optimal crossing system requires operating standards so that sea transportation safety in sailing can be guaranteed. Shipping is carried out with the aim of expediting the flow of people and /or goods through the waters by prioritizing and protecting the transportation of the waters in order to facilitate national economic activities, foster a spirit of happiness,

uphold the sovereignty of the country, create competitiveness by developing national water transport industries, support movement and encourage the achievement of development national, strengthen the unity and unity of the nation in the framework of reviewing archipelago insight and increasing national security.

Ports consisting of land and/or waters with certain limits as concession activities which are used as a place for leaning boats, boarding and boarding, and / or loading and unloading of goods, in the form of terminals and berths of ships equipped with shipping safety and security facilities and port support activities as well as intra-location and inter-sea transportation modes.

The port has the following functions [¹]:

- As a node in the transportation network according to the hierarchy

¹Santoso Banu, *Port terminal Operation*, AKPELNI, Semarang, 1998, hlm 9

- The gateway to economic activity
- Place to transfer transportation modes
- Supporting industrial activities and/or trade
- Distribution, production and consolidation of cargo and goods
- Realizing the insight of the archipelago and the sovereignty of the State.

To meet the needs of various vessels, a good port must have the equipment needed by the ship to enter the port for a purpose, namely [²]:

Supporting facilities, namely:

- Quite deep waters where ships can anchor calmly
- Pier or kade or landing bridge where the ship can lean steadily
- Buoys to delay ships that are waiting for their turn or for other purposes.
- Warehouses and/or place or field of stockpiling to store goods that will be lowered from, or raised to the ship (dismantled or loaded)
- Fresh water supply facilities for ships and passengers and crew members.
- Electricity distribution facilities.
- Fuel facilities for ships.
- Boat guide facilities (loads, pilots), tug boats and other equipment needed to carry ships in or out of ports or move ships that are in port.
- Cargo handling facilities

A good organization, covering many areas of government administration that regulates administrative requirements in their respective environments, which are represented by each agency, namely:

- Port administrator (harbor master)
- Customs and excise
- Immigration.
- Quarantine animals and plants.

In the shipping world, it is necessary to guarantee the sailing of passengers and goods, in order to create the condition of ships that can operate as expected, the ships must be sea worthy. Legislation plays an important role in regulating and formulating government policy policies in people's lives. The skipper as the highest leadership holder on the ship is responsible for operating a safe and safe vessel as stated in article 138 of Law number 17 of 2008 concerning shipping, the captain must be on board during sailing. Before the ship sails, the skipper is obliged to ensure that the ship meets the requirements of sea worthiness and reports the matter to the harbor master. The Harbor Master is a port government official who is appointed

by the minister and has the highest authority to carry out and supervise the fulfillment of the provisions of legislation to ensure shipping safety and security. According to law number 17 of 2008 concerning shipping in Chapter I concerning General Provisions of article 1 paragraph (1), it is stated that Shipping is a unitary system consisting of transportation in waters, ports, safety and security, and maritime protection. In paragraph (32) it is stated that Shipping Safety and Security is a condition of fulfilling safety and security requirements concerning transportation in the sea, port, and maritime environment. Paragraph (33) states that the feasibility of a ship's sea is the condition of a ship that fulfills the requirements of ship safety, prevention of water pollution from ships, load lines, loading, welfare of the crew and passenger health, ship legal status, safety management and prevention of ship pollution. and security management of ships to sail in certain waters.

In paragraph (34) it is stated that ship safety is a condition of a ship that meets material, construction, building, machinery and electrical requirements, stability, arrangement and equipment including auxiliary equipment and radio equipment, ship electronics, as evidenced by a certificate after inspection and testing . And in paragraph (41) it is stated that the skipper is one of the crew members who becomes the highest leader on the ship and has certain authority and responsibility in accordance with the provisions of the legislation. In Law Number 17 of 2008 concerning Shipping also has sanctions, both in the form of administrative, civil and criminal sanctions, it is intended to confirm the opinion of legislators that a number of fundamental social values want to be strengthened and protected [³].

In these laws there are several acts against the law or detrimental to those not given civil or administrative sanctions but criminal sanctions, so it can be estimated that according to the legislators only criminal sanctions can effectively protect the intended basic social values. Law Number 17 of 2008 concerning shipping itself is actually not a criminal law, but a law which includes administrative sanctions and criminal sanctions.

Criminal provisions in law 17 of 2008 concerning Shipping provide guarantees for the implementation of safe sea transportation and the development of sea transportation which ultimately supports economic growth so that it does not become a barrier to the implementation of sea transportation or shipping in order to serve the mobility of people, goods

²Elfrida Gultom, *Refungsionalisasi Pengaturan Pelabuhan Untuk Ekonomi Nasional*, Jakarta, Raja Grafindo Persada, 2007, hlm. 64.

³Mardjono Reksodiputro, *Pembaharuan Hukum Pidana*, Kumpulan Karangan Buku Keempat, (Jakarta: Pusat Pelayanan Keadilan dan Pengabdian Hukum Universitas Indonesia, 2007), hal. 122

and services connecting inter-island economic activity and international relations.

The above has been explained that the safety and appropriateness of marine vessels is very supportive in shipping safety and security, taking into account the development of technology and science aimed at increasing safety, a role for the Marine Inspector in supervising the implementation of shipping safety rules is needed. and the continuity of a ship continuously which starts when the design ship builds up to completion, from the vessel not operating until the ship is loaded/scrap.

Supervision of ship marine feasibility, especially crossing vessels, needs more accuracy and high accuracy due to transporting large numbers of passengers so that the safety equipment owned by the ship is truly safety. Based on the Minister of Transportation Regulation No. PM 36 of 2012 concerning the structure and organization and work procedures of the harbor Master and Port Authority Office as one of the technical implementation units within the Directorate General of Sea Transportation.

In recent years shipping accidents have never diminished, even the causes of marine accidents seem to be repeated. The causes of these accidents include bad weather, overloaded ships or ships that cannot maintain the viability of their ships. In shipping there are at least two causes of accidents. First the condition of the ship's fleet itself. Ship ships used as multimodal sea transportation are made without the required safety standards. In addition, the ship fleet in Indonesia is a used ship purchased from other countries, and shipping and use of vessels that are not in accordance with international regulations. In general, the age of used ships purchased and used on shipping in Indonesia is usually old and not screen-worthy anymore. Because this is included in the category of internal factors, meaning that the cause of the ship accident was realized from the condition of the ship.

The second cause is the operational use of these vessels. This cause arises because of the weak supervision of shipping safety standards. This cause is included in the external factor, which means that the cause of the ship accident is realized by the reason that it can affect the safety and security of the ship. But usually in cases of ship accidents in Indonesia, the biggest consequence of accidents is the overload resulting from a lack of knowledge of the ship's crew and supervision of the authorities in the supervision.

Human error or caused by natural factors. Indonesian waters are those that have geographical and territorial conditions that are not good in certain seasons. High waves, strong winds and swirls of swirling currents in the middle of the sea that hold many mysteries and phenomena. Therefore, a

knowledgeable, experienced and capable ship crew. As well as the role of ship owners to supply equipment for ship maintenance and always equip their ships with safety equipment in accordance with what is required domestically or internationally.

The causes of accidents that often occur today are a combination of factors of human error, natural factors and the ship itself. In the employment relationship in the field of sea transportation, we recognize 3 (three) groups of people, namely: ship businessmen or shipping companies, captain and crew members, either as ship officers or sailors. In accordance with the provisions governing the qualifications of people working on board / crew of the ship (manila amendments in 2010). People involved in working on ships must cooperate with each other so that the purpose of the voyage is met. The three parties involved are generally bound by a certain agreement, and must have certain permits to be able to work together in a shipping business. In the Commercial Code mentioned in Article 341 that the skipper is the leader of the ship. So that as the leader of the ship, it is expected that the skipper can fulfill his responsibilities as required by law [⁴].

The responsibility of all parties involved in the occurrence of shipping accidents. Where the skipper as the highest leader on the ship is fully responsible for the ship. The risk of a ship accident in operating/sailing is still there, therefore it requires continuous and strict vessel supervision of sea transportation and to guarantee and protect passenger safety and security according to Article 58 of Government Regulation No. 51 of 2002 concerning Shipping, that the owner, operator, the captain or ship leader is obliged to maintain and maintain his ship so that the vessel is operated while still fulfilling the requirements of ship safety and in accordance with the data contained in the ship's certificate. With the development or increasing needs of people for sea transportation, it will clearly increase the number of ships that will increase. The Chair of the Shipping Court, Peni Pudji Turyanti explained that from 2014 to 2016, the Shipping Court had completed 85 cases of ship accidents and the remaining 6 cases would be resolved. According to data from the Directorate General of Sea Transportation recorded from 2014 - 2016 there were 403 ship accidents [⁵].

The accident was generally caused by human error and resulted in material losses as well as a

⁴Andrea Nathaly Sitompul, "*Pertanggungjawaban Nakhoda dan Pengangkut Terhadap Peristiwa Kecelakaan Kapal (Tinjauan KEPUTUSAN Mahkamah Pelayaran No. 973/051/XII/MP-08)*", (*Skripsi Sarjana Fakultas Hukum Universitas Indonesia*, Jakarta: 2010) hlm 6-8.

⁵ <http://dephub.go.id/indonesia-sebagai-negara-maritim>.

significant number of human lives. The very dominant human error in ship accidents in Indonesia is evidenced from the results of research by the Shipping Court where there were five parties, both directly and indirectly, which contributed to ship accidents in Indonesia, namely The Crew and 80.9% of shipowners 8.7% harbor master 1.8% classification bureau 3.1% and guide 5.5% [6].

The increase in ship accidents can be ascertained that regulations or domestic regulations or international conventions are not adhered to, Law 17 of 2008 concerning Shipping and conventions of the International Maritime Organization by ship crew and ship operators in this case the company. Accountability for ship accidents at sea or sinking requires handling through special / special institutions. Intended to find out the causes of accidents and determine whether there is any negligence in carrying out the professional standards of the sea which is carried out by the captain or crew. Thus, based on the results of the examination, steps can be taken to prevent ship accidents with similar causes.

Besides that, it is a form of guidance and supervision for personnel in the marine/shipping profession. Although the number of ship accidents is quite high, the handling of ship accident incidents in general is still administrative and documentative which does not solve the root problems of shipping safety. The existence of the Court of shipping in Indonesia is inseparable from the role of the Dutch East Indies government while still in power in Indonesia. The court of shipping was formed for the first time based on the ordinance op raadvoor de Scheepvaart (Staatsblad 1934 No.215) which came into force on 1 April 1938. The position of the court during the Dutch East Indies was in the Department of Marine Marine. Given that only one court of shipping has been in Jakarta, while the extent of its jurisdiction covers all of Indonesia, the Court of shipping is sure to carry a very heavy duty burden [7].

The shipping court that is competent in handling ship or shipping accidents in Indonesia is currently only able to provide disciplinary action against the captain's code of ethics. As an Indonesian archipelagic country, there is no maritime court or admiralty court like other countries. Shipping Court and Harbor Master officials who have the authority to carry out the examination of the professional code of ethics of the skipper and/or other crew members in any ship

accident which is mandated by Law 17 of 2008 concerning Shipping [8].

The harbor office of the Master and the Port Authority plays a very important role in securing and enforcing the law in the territorial waters mandated in Law No. 17 of 2008 concerning Shipping, where it is clearly stated that the Harbor Master has the main duty to carry out supervision and law enforcement in the field of safety and shipping security and coordination of government activities in the Port. and carry out prosecution or investigation in the field of shipping, shipping violations and shipping crimes in both the Criminal Procedure Code and Law No. 17 of 2008 concerning Shipping, Article 283 paragraph (1) investigators as referred to in Article 282 are authorized to conduct criminal investigations in the field of shipping [9].

Crimes in the Sea are criminal acts that occur at sea and cannot occur on land, distinguished from general crimes that occur at sea. Crime in the sea becomes a special criminal act that implies that a criminal offense in the sea has its own specificity, covering all elements of criminal acts (subject, error, is against the law, contrary to the law, and other elements such as place, time and other circumstances) [10].

Because it is a special crime also called a special offense, an offense outside the Criminal Code, the resolver also has specificity that deviates from the general criminal code (KUHP) while the procedural law also has deviations from the Criminal Procedure Code and even law enforcement. in the form of the sea which has an international nature while the procedure for prosecuting crimes in the sea is different because it uses ships, but both the Criminal Code and the Criminal Procedure Code still cover criminal acts at sea.

RESEARCH METHODS

The type of research that the author uses is normative legal research using the method of approach The statute approach, conceptual approach, case approach. Legal materials in this study are primary materials, namely research materials in the form of statutory provisions, Commercial Law, Law Number 17 Year 2008 concerning Shipping, Government Regulation Number 51 of 1998 concerning Vessel Accident Examination and Judgment of Judges

⁸Direktorat Jenderal Hubungan Laut, *klasifikasi kapal*, divisi survey, BPSDM, Jakarta, 2013, hlm 49

⁹Article 30 Paragraph (3) Ministerial Regulation Number 36 of 2012 concerning Work Procedure and Organization of the Port Authority and Port Authority Office

¹⁰Anwar Chairul, *Hukum Internasional*, Horizon Baru Hukum Laut Internasional, Konvensi Hukum Laut 1982, Jakarta, 1989.

⁶Trijotho sukristiyono, "*tanggung jawab nakhoda dalam tindak pidana pelayaran*" (Tesis Magister Hukum Fakultas Hukum Universitas Mataram, Mataram: 2016), hlm 10.

⁷ ETTY R. AGOES, S.H., LL.M, *Yuridiksi Dan Kompetensi Mahkamah Pelayaran*, DepHumHam, Jakarta, 2005

Shipping Court. Secondary legal materials that I use consist of books, magazines, newspapers, articles and internet media that discuss the existence of Harbor Master in the authority to prosecute cases in the field of shipping. Tertiary legal materials, which provide clues to the explanation and understanding of primary and secondary materials such as the large Indonesian dictionary and encyclopedia. legal material collection used is a documentation study, namely by recording information from legal material relating to the existence of the Harbor Master in the authority to act and resolve cases in the shipping field based on Law Number 17 of 2008 concerning shipping. Analysis of legal materials that the author did in this study, namely secondary legal materials analyzed by interpreting legal material activities which are activities to collect and compile concepts or articles contained in a regulation so that it can be tracked and easily traced the results of research in analysis, interpreted which includes systematic interpretation, grammatical interpretation, teleological interpretation, futuristic / anticipatory interpretation.

RESULTS AND DISCUSSION

Settlement Authority in the field of administration

The definition of crime in the sea is a crime that can only occur in the sea and cannot occur on land, distinguished from general crimes that occur in the sea. Starting from this understanding, the consequence arises, namely that a criminal offense in the sea becomes a special criminal offense which implies that a criminal offense in the sea has its own specificity. This specificity can occur including all elements of criminal acts (subject, error, is against the law, contrary to the law, and other elements such as place, time and other conditions).

Harbor Master checks every ship accident to find information and/or preliminary evidence of a ship accident. Inspection of a ship accident is a preliminary examination. Preliminary inspection of the accident is carried out by the Harbor Master or designated government official. The results of the preliminary inspection of the ship accident can be forwarded to the Shipping Court for further investigation.

Authority of Enforcement in Shipping Crimes

In order to ensure that there has been a criminal offense in the sea, the Harbor Master conducts an action phase, namely termination, inspection of the ship and carrying the ship to the nearest port. These three things are arrests, compared to arrests according to the Criminal Procedure Code.

Termination Procedure

Before stopping the suspected vessel, there must have been suspicion that a crime had occurred at sea according to the Criminal Procedure Code, the allegations stemming from the detection obtained from information from various agencies then to ensure the

introduction of targets with various equipment on the ship such as radar, sonar, direct communication. From the introduction, an assessment was carried out to ensure that the suspected vessel needed to be stopped or not, if the results were certain that a crime had occurred in the sea, it was stopped by the following procedure:

- With a signal to establish communication by raising the flag, with optical lights, with semaphore, or with the radio, if it is not successfully resumed.
- Ordered to stop with the following procedure: by raising the flag (if the weather is bright), with megaphone (if it can be heard), the signal is loud (can certainly be heard), if all that is not heeded, then
- Performed consecutive shots with hollow bullets with live bullets, small caliber into the air, if not heeded too
- Shots into the sea water in the right, left, bow, stern, if even this action is not heeded then do it
- Shots down the boat which are not expected to be occupied by the crew, if they are unsuccessful, then force them to force them to stop.

Examination on board

After the vessel has been stopped, it is assured to examine the evidence on the ship, including inspection of the cargo, the ship, the personnel. Examination on the ship was carried out by a team of examiners chaired by an Officer carrying a warrant from the ship's commander. The team conducts searches on ship documents (physical vessels), cargo as a result of activities (eg fish, wood, sea sand) suspected of the proceeds of crime in the sea. Personnel documents include helmsman certificates, skipper, etc., as well as passports for foreign nationals.

Examination must be witnessed by the skipper and crew of the ship, in an orderly, concise manner, no loss, no damage occurs. From the results of the inspection on the boat, it can be concluded that there is a crime in the sea or not, if the next step occurs.

Bring a catch boat to the port

Harbor Master with its ships patrolling the sea carrying out the duties of enforcing the law of shipping at sea is only part of the tasks of the police so that continuing the settlement is carried out by the apparatus on land and must be handed over to the apparatus on land to the nearest port. The procedure of carrying the ship in several ways, namely by way of ad hoc, escorted and held/delayed. In the Ad Hoc, the understanding was that the Principal was ordered to bring his own ship to the designated port by carrying an ad hoc warrant from the ship's Commander. duplicate 3 (three), one for fishing boats, one for fishing vessels (archives) and one sheet for apparatus on land. This method can only be done on Indonesian-flagged vessels. The second method is escorted, namely the fishing boat is ordered to the designated port but is still escorted by a fishing

vessel (Harbor Master Patrol ship) at a safe distance. To safeguard the safety of some of the Fruit Crew, the fishing vessel was ordered to catch the ship so that the captured ship could not escape.

Other procedures are coupled/delayed if the catch vessel is damaged and cannot walk alone. In special circumstances the fishing vessel is heavily damaged / bad weather which endangers the crew and is unlikely to be delayed so it can be drowned and must be completed with the minutes, reasons and saving the crew.

Conduct Investigation

After arriving on land, the suspect is handed over, the evidence set forth in the file of the examination program equipped with all the minutes consists of the actions of the Patrol Ship Master as an investigator at sea and the investigator's file. But the apparatus on land must be as investigators, in this case the Civil Service Investigator (PPNS) Director General of Sea Transportation/Harbor Master at the local port.

Definition of Harbor Master In Law No. 17 of 2008 concerning Shipping, Harbor Master is a government official in a port appointed by the Minister and has the highest authority to carry out and supervise compliance with the provisions of legislation to ensure shipping safety and security. Article 207 paragraph (1) of the harbor master carries out the safety and security functions of shipping which includes, implementing, monitoring and enforcing the law in the field of water transportation, port, and maritime protection in ports. Article 208 Paragraph (2) in the implementation of law enforcement in the field of safety and security as referred to in article 207 paragraph (1) of the harbor, the Master carries out duties as an officer investigating civil servants in accordance with the provisions of the legislation. As stated in KUHAP CHAPTER IV (Investigators and public prosecutors) in article 6, it is stated that:

Investigators are

- State Police Officer of the Republic of Indonesia;
- Certain civil servant officials who are specifically authorized by law.

The conditions for the rank of officials as referred to in paragraph (1) will be further determined in government regulations.

The Ministry of Transportation in this case the directorate general of sea transportation or Civil Service Investigator (PPNS) of the Directorate General of Transportation is clearly given authority in prosecuting cases in the field of shipping, in the provisions of Article 282 of Law 17 of 2008 concerning shipping, namely;

- In addition to the investigators of the State Police of the Republic of Indonesia and other investigators, certain civil servant officials within the agency whose scope of work and responsibilities in the shipping sector are given special authority as investigators as referred to in this law.
- In carrying out its duties certain civil servant officials as referred to in paragraph (1) are under the coordination and supervision of police investigators of the Republic of Indonesia.

The authority to prosecute Civil Service Investigator (PPNS) is contained in the provisions of article 283 of Law 17 of 2008 concerning Shipping:

- Investigators as referred to in article 282 are authorized to investigate criminal acts in the field of shipping.
- Investigators of civil servants as referred to in paragraph (1) are authorized:
 - Research, search and collect information relating to criminal acts in the field of shipping;
 - Receive reports or statements from someone about a criminal offense in the field of shipping;
 - Call people to be heard and examined as suspects or witnesses;
 - Conduct arrests and detention of persons suspected of committing a criminal act in the field of shipping;
 - Request information and evidence from people suspected of committing criminal acts in the field of shipping;
 - Photographing and/or recording through audiovisual media on people, goods, ships or anything that can be used as evidence of criminal acts in the field of shipping;
 - Check records and bookkeeping that are required according to this law and other books relating to criminal acts in the field of shipping;
 - Take fingerprints;
 - Search the ship, place and inspect the items contained therein if a criminal offense is suspected in the field of shipping;
 - Confiscating objects suspected of being goods used to carry out criminal acts in the shipping sector.
 - Provide security signs and secure anything that can be used as evidence in connection with criminal acts in the field of shipping;
 - Bring expert witnesses needed in conjunction with case investigations of criminal offenses in the field of shipping;
 - To order to stop a person suspected of committing a criminal act in the field of shipping and to examine a suspect's personal identification
 - Hold a termination of investigation.

Investigators of civil servants as referred to in paragraph (1) shall submit the results of the investigation to the public prosecutor through the police investigator officials of the Republic of Indonesia.

Whereas in the Criminal Procedure Code in article 5 concerning investigative authority, namely;

1) Investigators because they have the authority:

- Receive reports or complaints from someone about a crime;
- Looking for information and evidence;
- Asking to stop someone who is suspected and asking and checking self-identification;
- Hold other actions according to responsible law.

2) At the order of the investigator, the investigator can take the following actions:

- Arrest, prohibition of leaving the place, search and seizure;
- Confiscation and inspection of letters;
- Take fingerprints and photograph someone;
- Bring and confront someone to the investigator.

The main tasks of the civil service investigator (PPNS) in the Directorate General of Religion are in accordance with PM 100 of 2014 concerning Position and Descriptions of the Types of Occupational Activities of the Technical Implementation Unit in the Ministry of Transportation, namely:

- Receive a report of alleged shipping crimes
- Coordinate with the National Police Coordinator and Supervisor (Supervisor)
- Make/type an Investigation Task Order
- Creating / typing the Concept of Investigation Commencement Order (SPDP)
- Conducting Surveillance and Observation Activities on Shipping Crimes
- Conduct inspection of the crime scene
- Conducting the Title of Case with related institutions regarding shipping crime
- Calling parties related to the occurrence of shipping crimes
- Conducting Examination in the form of Minutes of Examination (BAP) against the parties concerned
- Request supporting data related to Shipping Crimes
- Conduct searches on objects suspected of being related to shipping crimes
- Conduct confiscation of objects suspected of being related to shipping crimes
- Provide security signs and secure certain things that can be used as evidence of shipping crimes
- Conduct arrest and detention of persons suspected of committing criminal acts of shipping
- Take a picture and and or record through audio-visual media on ship goods or anything

- Making a resume/conclusion of the results of the conviction of shipping crimes
- Checking/examining the completeness of the case files as a result of shipping criminal investigations
- Submitting the Case File as a result of the Investigation of Shipping Crime to the Prosecutor's Office
- Terminating the Investigation

Legislation concerning shipping is contained in:

- The second book of the Criminal Procedure Code concerning Rights and Obligations arising from Shipping.
- The second book of Chapter XXIX of the Criminal Code concerning Shipping Crimes.
- The third book of Chapter IX of the Criminal Code concerning Shipping Violations.
- Law No. 17 of 2008 concerning Shipping.
- KM 55 of 2006 concerning procedures for examining ship accidents

Position, Task and Authority of investigators of civil servants (PPNS) of the Directorate General

Position of PPNS Directorate General, In carrying out investigations, the PPNS of the Directorate General works based on the work area determined through a decree issued by the Minister who organizes government affairs in the field of law and human rights. In order to carry out the investigation of Shipping Crimes, the PPNS of the Directorate General has the following duties:

- Conduct and compile reports on the results of activities signed by the superior PPNS of the Directorate General and submitted to the Director General.
- Do the case title
- Carry out an investigation of shipping criminal cases in accordance with the laws and regulations;
- Submitting SPDP to the Public Prosecutor through the PPNS supervisory coordinator by attaching LK, the results of the case, and sprindics with a copy of the Director General through the Director of the Sea and Coast Guard Unit.
- Coordinate with relevant agencies in the context of implementing Shipping Criminal Investigations.
- Submitting a report on Investigation of Shipping Criminal Cases to Superiors of PPNS of the Directorate General with a copy of the Director General through the Director of the Ocean and Coast Guard Unit.
- Report SP3 to the Public Prosecutor, Police Investigator and suspect or family or legal counsel with copies to the Director General through the Director of the Sea and Coast Guard Unit.
- Report to the Director General through the Director of the Ocean and Coast Guard Unit, in the case of getting a pretrial lawsuit filed by the suspect through legal counsel.

- Submitting a report on the declared Full Criminal Case (P-21) by the Public Prosecutor to the Director General through the Director of the Ocean and Coast Guard Unit.
- Report the results of the Court's decision on the case handled by the Director General through the Director of the Sea and Coast Guard Unit.

In carrying out the investigation, the Directorate General of PPNS has the following authorities:

- Research, search, and collect information relating to Shipping Crimes;
- Receive reports or statements from the Officers as well as public reports about the alleged existence of Shipping Crimes;
- Call people to be heard and examined as Suspects or Witnesses;
- Make arrests and detain people suspected of committing shipping crimes;
- Request information and evidence from people suspected of committing shipping crimes;
- Photographing and/or recording through audio-visual media on people, goods, ships, or anything that can be used as evidence of the existence of shipping crimes;
- Checking the required records and bookkeeping and other books relating to Shipping Crimes;
- Take fingerprints;
- Search the ship, place and inspect the items contained therein if there is a suspected shipping crime
- Confiscating objects suspected of being goods used for shipping crimes;
- Providing security signs and securing anything that can be used as evidence in connection with Shipping Crimes;
- Bring in experts who are needed in connection with the examination of shipping criminal cases
- Order to stop people suspected of committing shipping crimes and examine the suspect's personal identification
- Hold a termination of investigation; and
- Take other actions according to the law that is responsible.

In Law Number 17 of 2008 concerning Shipping in Chapter XIX concerning criminal provisions there are 53 (fiftythree) articles, namely article 284 up to article 336, while actions that are threatened with criminal sanctions are 51 (fifty one) articles. The legal subject is every person (individual and corporation), skipper, Pandu officer, ship owner and official. In Law No. 17 of 2008 concerning this Shipping does not include differences/classification of types of criminal acts included in violations (Article

560 to Article 569) and crimes (Article 438 to Article 479).

Procedure for Ship Accident Inspection

The procedure for handling ship accidents at the Ministry of Transportation is implemented by the Technical Executor of the local harbor office of the Master and Port Authority. According to Mr. Semuel Tandipasau Darmawan, ST, MA. Head of Section Legal Status and Certification of Vessel as Daily Executive Head of Harbor Office Master Port Sheet through interviews with the author said; "That the preliminary inspection of a ship accident is an investigation or investigation of a ship accident that is carried out on the basis of a ship accident report to find information and / or preliminary evidence of a ship accident, while a further inspection of a ship accident is an investigation or investigation and a trial the event of a ship accident as a follow up to the preliminary examination". Preliminary examination KM 55 of 2006 concerning ship accident inspection, in Article 3 preliminary examination;

- Everyone who is on a boat who knows on his ship has a ship accident, according to his ability to report ship accidents to the limits
 - Harbor Master is the closest port if an accident occurs inside Indonesian waters;
 - The nearest Indonesian Representative Officer and local Government Official who is authorized if the first ship accident or port visited after a ship accident occurs outside of Indonesian waters.
- The obligation to report the ship accident to the Harbor Master or the Indonesian Representative Officer or the authorized State Government Official as referred to in paragraph (1), after the obligation to submit the report by the skipper or the Ship Leader or Ship Officer cannot be implemented.
- The ship accident report as referred to in paragraph (2) may be carried out orally or other written language.

Preliminary inspection of ship accidents carried out by the Harbor Master or Government Official appointed by the Director General can find the information needed from Captain or Ship Leader; Ship Officers; The Crew; Other parties. Not later than 7 (seven) working days from receipt of the Preliminary Examination File (BBAPP) and the completeness of supporting documents and recorded at the Shipping Court, the Chairperson of the Shipping Court determines the Assembly for further inspection of the ship accident case file.

Procedures for Settlement of Shipping Cases in accordance with Law No. 17 of 2008 concerning Shipping

If in the initial examination found a shipping violation, it will be delegated to the Shipping Court for further investigation until the decision of the Judge of the Shipping Court, HK 208/01/XI/MP 2015 concerning the Permanent Procedure for the Continuing Examination of Ship Accidents. This is one of the efforts to carry out the follow-up inspection of ship accidents effectively and efficiently.

In the settlement of cases in the field of shipping under Law No. 17 of 2008 concerning Shipping has regulated various types of criminal acts in the field of shipping, article 250 paragraph (1) the court of shipping is formed by and is responsible to the Minister. Article 251 The Shipping Court as referred to in article 250, has the function to carry out a follow-up inspection of ship accidents and enforce the professional code of ethics and competency of the skipper and/or officer of the ship after a preliminary examination by the Harbor Master.

The formation of the Assembly as referred to in paragraph (1) shall be carried out by appointing several members of the Shipping Court according to the expertise required in the Continuing Examination of Ship Accidents. Article 18, the composition of the Judge Assembly must be odd in number and at least consist of 5 (five) persons appointed and appointed by the Chairperson of the Shipping Court with a composition consisting of Level I Nautics, Level I Technician, or Level II Technician, Bachelor Shipping Engineering and a Law Degree and chaired by a Level I Nauticist who also serves as a member.

In the book of the 2014 shipping court verdict that was located in the Harbor Master office and the Port Authority there were 49 cases of ship accidents that had been resolved, one of which was the shipping court verdict No.HK.2010 / 24 / VIII / MP.2014 ship accident crashing KM Sarana Utama in the Port of Badas, West Nusa Tenggara. The preliminary investigation process was carried out in the port of Badas and a follow-up examination was carried out by the court of shipping. The chronology of the incident on February 23, 2013, at 08.10 hours, KM Sarana Utama with a crew of 13 (thirteen), carrying 1850 tons of cement in a bag, departing from the south Kalimantan port of Tarjun towards the port of Badas, West Nusa Tenggara. In the event of the accident there were no fatalities or injuries, the cargo was not damaged but paid off under the front of the ship to experience mild deformation. Based on Article 253 of the Republic of Indonesia Law Number 17 Year 2008 concerning Shipping, juncto article 17 of government regulation number 1 of 1998, concerning inspection of ship accidents as amended by regulation number 8 of 2004, in conjunction with article 373 letter (a) of the law trade (KUHD), the shipping court has conducted research and

follow-up inspection of ship accidents to find out the causes of ship accidents and determine whether or not there are errors or omissions in applying the professional standards of the sea as well as imposing administrative sanctions on convicted guilty or negligent.

In this case the shipping court decided on August 14, 2014 in the presence of members of the assembly and secretaries, and without being involved in being caught. Freeing the caught Captain KM Sarana Utama, named Gafar, has ANT III seafarer's expertise certificate in 2004.

CONCLUSIONS AND RECOMMENDATION

CONCLUSIONS

Crime on the Sea is a Special Crime in which in law enforcement in the field of shipping, in the Harbor Master action has the authority that is Carrying out sea patrols, Hot pursuit, dismissing and inspecting ships in the Sea, conducting investigations and prosecution.

Procedures in resolving cases in the field of shipping carried out by the PPNS Directorate General of Sea Transportation as follows The findings from officers or reports of public complaints both in writing and verbally, incident reports (LK), investigations, including TKP, Notification of the start of investigation, summons, arrests, Detention, Search, Confiscation, Examination, Legal Aid, Settlement of case files, Delegation of case files, Termination of investigation, Administration of investigations, Delegation of investigations, If a violation of Shipping is delegated to the Shipping Court, and if found a shipping offense will be delegated to the Public Prosecutor.

RECOMMENDATION

To support the authority of the Harbor Master in prosecuting and enforcing the law in the shipping sector it is necessary to have the head office of the Directorate General of Sea Transportation, for the Office of the harbor Master of each province or region (representative) given, special investigation and budget facilities to support enforcement and investigation criminal in the field of shipping. which so far has only been limited to the Class 1 Master harbor office.

Implementing Operational Standards Procedures between DG Investigators and Coordinators and Supervisors of Civil Servant Investigators to avoid conflicts of authority in processing cases in the shipping sector. Qualifications in the field of examination or investigation within the Directorate General of Sea Relations so that they are always upgraded and given support by superiors.