

Law Enforcement of Spatial Planning Violations to Support Investment Balance and Environmental Sustainability in the Special Capital Region of Jakarta

Wahyu Nugroho¹✉, Erwin Syahrudin², Fahririn³

¹ Universitas Sahid Jakarta, Indonesia

² Universitas Bhayangkara Jakarta Raya, Indonesia

³ Universitas Sahid Jakarta, Indonesia

✉Corresponding email: wahyulaw86@yahoo.com

Abstract

The problem in this research is first, what is the monitoring mechanism that the government has implemented for business actors regarding the use of space in Jakarta? and second, how is law enforcement for spatial planning violations in Jakarta oriented towards environmental sustainability? This research aims to analyze supervision mechanisms and law enforcement regarding spatial planning violations to support the balance of investment and environmental sustainability in Jakarta. The research method used is normative and empirical juridical research, through an inventory of regulations related to spatial planning and the environment and looking at their implementation in law enforcement. The data collection technique is sociolegal, through interviews with local governments, with qualitative descriptive analysis. The research results show that first, the monitoring mechanism that the government has implemented for business actors regarding the use of space in Jakarta is carried out actively and passively. Passive supervision takes the form of following up on public complaints, and supervision of permit documents that have been issued, one of which is environmental document permits, Environmental Impact Analysis. Apart from that, carry out preventive actions through preventive instruments through AMDAL, environmental permits, and environmental monitoring efforts. These various preventive efforts are followed by a monitoring system for Amdal permits and other environmental documents that have been issued in investment activities. Apart from that, active supervision is also carried out by conducting field inspections through a random sampling system of several business activities.; second, law enforcement against violations of spatial planning in Jakarta which are oriented towards environmental sustainability in Jakarta through the provision of administrative sanctions, including written warnings, and government coercion in the form of sealing buildings, demolishing buildings, and closing water channels. This administrative sanction is carried out in stages. Apart from that, law enforcement also involves community participation.

Keywords: Law Enforcement, Spatial Planning, Jakarta, Supervision, Environmental



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Abstrak

Permasalahan dalam penelitian ini adalah pertama, bagaimana mekanisme pengawasan yang dilakukan pemerintah terhadap pelaku usaha terkait pemanfaatan ruang di Jakarta? kedua, bagaimana penegakan hukum terhadap pelanggaran tata ruang di Jakarta berorientasi pada kelestarian lingkungan hidup? Penelitian ini bertujuan untuk menganalisis mekanisme pengawasan dan penegakan hukum terhadap pelanggaran tata ruang untuk mendukung keseimbangan investasi dan kelestarian lingkungan hidup di Jakarta. Metode penelitian yang digunakan adalah penelitian sociolegal, melalui inventarisasi peraturan-peraturan terkait penataan ruang dan lingkungan hidup serta melihat implementasinya dalam penegakan hukum. Teknik pengumpulan datanya adalah penelitian kepustakaan dan penelitian lapangan, melalui wawancara dengan pemerintah daerah, dengan analisis deskriptif kualitatif. Hasil penelitian menunjukkan bahwa pertama, mekanisme pengawasan yang dilakukan pemerintah terhadap pelaku usaha terkait pemanfaatan ruang di Jakarta dilakukan secara aktif dan pasif. Pengawasan pasif berupa tindak lanjut pengaduan masyarakat, dan pengawasan terhadap dokumen izin yang telah diterbitkan, salah satunya dokumen izin lingkungan hidup, Analisis Mengenai Dampak Lingkungan. Selain itu, melakukan tindakan preventif melalui instrumen preventif melalui AMDAL, izin lingkungan, dan upaya pemantauan lingkungan hidup. Berbagai upaya preventif tersebut diikuti dengan sistem pemantauan izin amdal dan dokumen lingkungan hidup lainnya yang telah diterbitkan dalam kegiatan penanaman modal. Selain itu, pengawasan aktif juga dilakukan dengan melakukan pemeriksaan lapangan melalui sistem random sampling terhadap beberapa kegiatan usaha; kedua, penegakan hukum terhadap pelanggaran tata ruang di Jakarta yang berorientasi pada kelestarian lingkungan hidup di Jakarta melalui pemberian sanksi administratif antara lain teguran tertulis, dan paksaan pemerintah berupa penyegelan bangunan, pembongkaran bangunan, dan penutupan saluran air. Sanksi administratif ini dilakukan secara bertahap. Selain itu, penegakan hukum juga melibatkan partisipasi Masyarakat.

Kata Kunci: *Penegakan Hukum, Penataan Ruang, Jakarta, Pengawasan, Lingkungan*

A. Introduction

Environmental conditions in Indonesia have many natural disasters that occur in various regions, one of which is due to spatial planning violations. The rapid development of urban areas, in addition to having a positive impact on economic development, on the other hand, can lead to environmental problems¹. The cause of limited land in urban areas, in the end, there was a transfer of functions that were supposed to be conservation areas and green

¹ Muhar Junef, Penegakan Hukum Dalam Rangka Penataan Ruang Guna Mewujudkan Pembangunan Berkelanjutan (Law Enforcement Within the Scope of Spatial Lay-Out for the Purpose of Sustainable Development). *Jurnal Penelitian Hukum De Jure*, Volume 17, Nomor 4, (2017) 373-390

open spaces were used as investment areas, and the rest were residential areas. As a result, the water catchment area is getting narrower resulting in an increase in surface runoff and erosion, which then impacts the silting (narrowing) of the river, so that the water overflows and triggers flooding². In addition, it is also because spatial planning is not accompanied by a feasibility study³. Violations committed by everyone especially business actors to launch their investment in spatial planning in the Special Capital Region of Jakarta area will have a serious impact on environmental sustainability, land conversion, and increasingly narrow green open space so strict law enforcement is needed by the DKI Jakarta Provincial Government.

In the context of regulation, the Regional Regulation of the Special Capital Region of Jakarta Number 1 of 2012 concerning the 2030 Regional Spatial Plan has been regulated. One of the objectives stated in the regional regulation is the realization of the integrated utilization and control of the utilization of land space, sea space, and air space, including space below the ground and the water surface, taking into account the condition of the city of Jakarta as a delta city and the carrying capacity of natural resources and the carrying capacity of the environment in a sustainable manner. This Regional Regulation on Spatial Planning and Territory was followed up in the Provincial Regulation of the Special Capital Region of Jakarta Number 1 of 2014 concerning Detailed Spatial Planning and Zoning Regulations.

² Mangapul Parlindungan Tambunan, Departemen Geografi Fakultas Matematika dan Ilmu Pengetahuan Alam Universitas Indonesia, Kaitan Penggunaan Lahan Perkotaan Dengan Banjir (Studi kasus: di Provinsi DKI Jakarta tahun 1996, 2002, dan 2007). *Makalah Seminar Nasional dan Pertemuan Ilmiah Tahunan XIV Ikatan Geografi Indonesia*, (Singaraja Bali: Universitas Pendidikan Ganesha, 2011).

³ Murdiyanto & Tri Gutomo, Bencana Alam Banjir dan Tanah Longsor dan Upaya Masyarakat dalam Penanggulangan. *Jurnal Penelitian Kesejahteraan Sosial*, Vol. 14 No. 4, (2015), 437-452

In some cases of violations related to regional spatial planning and detailed spatial planning in DKI Jakarta, including violations in the use of space in the TB Simatupang Corridor and Kasablanka Corridor in DKI Jakarta Province which were previously agreed upon on October 21, 2020. Violation of the Regional Regulation of the Regional Province Specifically for the Capital City of Jakarta Number 1 of 2014 concerning Detailed Spatial Planning and Zoning Regulations, namely in the form of Concrete Batching Plant (CMP) activities located in trade and service zones and one location is a shopping center activity that needs to make adjustments to space utilization permits⁴. The violation is then required to enforce spatial planning law through the Directorate General of Land and Spatial Control and Control, the Ministry of Agrarian Affairs, and Spatial Planning together with the DKI Jakarta Provincial Government.

The concept of regional autonomy in carrying out spatial planning should be carried out synergistically between the central government, provincial governments, and district/city governments, to provide opportunities to maintain and develop the heterogeneity of natural resource functions and the restoration of environmental functions itself. The existence of a critical study of the contents of the provisions of Law Number 26 of 2007 concerning Spatial Planning is aimed at ensuring the achievement of spatial planning objectives that can provide a clear, firm, and comprehensive basis so that there is a guarantee and legal certainty in the implementation of spatial planning without any parties involved aggrieved party.⁵

⁴ Regional Kontan. Melanggar pemanfaatan ruang, Pemprov DKI kirim surat peringatan ke tiga lokasi ini. <https://regional.kontan.co.id/news/melanggar-pemanfaatan-ruang-pemprov-dki-kirim-surat-peringatan-ke-tiga-lokasi-ini>, (2020).

⁵ Juniarso Ridwan dan Achmad Sodik, *Hukum Tata Ruang Dalam Konsep Kebijakan Otonomi Daerah*, (Bandung: Nuansa, 2016).

Spatial planning policies are currently shifting nationally and regionally up to the Detailed Spatial Planning Plan stipulated through Regional Head Regulations, and derivative regulations through Government Regulation Number 21 of 2021 concerning Implementation of Spatial Planning. For now, in DKI Jakarta there is Regional Regulation Number 1 of 2012 concerning the 2030 Regional Spatial Plan, and the general provisions for spatial planning for the Jakarta area are then implemented further and in detail in Regional Regulation Number 1 of 2014 concerning Detailed Spatial Planning Space and Zoning Regulations. Some of its functions are as a tool for controlling space utilization, a reference for space utilization activities, and technical guidance in granting space utilization permits.

Spatial planning defines a space with an approach to its function and designation. In the current regulatory mandate, the preparation of spatial plans must be based on strategic environmental studies.⁶

Spatial planning policy, in general, cannot be seen from one field of study, but from a comprehensive study because it involves environmental issues, ecosystems, and human activities.⁷

Sanctions are an important part of the legislation. The regulation of sanctions in the body of laws and regulations is intended so that all provisions that have been formulated (regulated) can be carried out in an orderly manner and are not violated. Legislation in the field of administrative law always authorizes government agencies to

⁶ Maret Priyanta, Integrated Environmental Law System Strategies to Adapt Climate Change Impact From Energy Resilience in Indonesia, *Jurnal Dinamika Hukum* 17 (3), 296-307. See also Maret Priyanta. *Pengelolaan Hutan Berkelanjutan Dalam Kerangka Pembaruan Sistem Hukum Lingkungan dan Penataan Ruang Berbasis Perubahan Iklim. Ringkasan Disertasi*. Bandung: Program Doktor Ilmu Hukum Universitas Padjadjaran, (2017).

⁷ Wahyu Nugroho, Reorientasi Kebijakan Pemerintah Daerah dalam Penerapan Otonomi Daerah di Bidang Pertanahan dan Penataan Ruang, *Jurnal Legislasi Indonesia*, Vol. 12 No. 2, (2015), 1-19.

enforce sanctions, when there is a violation of applicable administrative law norms. Administrative sanctions and their enforcement will thus be the starting point in the implementation carried out by government agencies which often create specific legal relationships with citizens and civil law entities.⁸

The research method used is normative and empirical juridical research, through an inventory of regulations related to spatial planning and the environment and looking at their implementation in law enforcement. The normative data is carried out by taking an inventory of regulations and policies for handling and enforcing the law on various violations of spatial planning in DKI Jakarta committed by investors in the use of space for business activities. The regulations referred to are Regional Regulation Number 1 of 2012 concerning Regional Spatial Planning 2030, and Regional Regulation Number 1 of 2014 concerning Detailed Spatial Planning (RDTR) and Zoning Regulations (PZ). This type of research is a collaboration between normative juridical and empirical juridical research⁹. The data collection technique is through literature and interviews with the DKI Jakarta Provincial Government, namely the Department of Human Settlements, the Department of Spatial Planning and Land, and the Department of the Environment, as well as using qualitative juridical analysis.

The problems in this research are *first*, what is the monitoring mechanism that the government has implemented for business actors regarding the use of space in Jakarta? *Second*, how is law

⁸ Sri Nur Hari Susanto, Karakter Yuridis Sanksi Hukum Administrasi: Suatu Pendekatan Komparasi. *Administrative Law & Governance Journal*, Vol. 2 No. 1, (2019), 126-142

⁹ Mukti Fajar & Achmad Yulianto, *Dualisme Penelitian Hukum Normatif*. (Malang: Bayumedia Publishing, 2005) hal.30-33

enforcement for spatial planning violations in Jakarta oriented towards environmental sustainability? This research aims to analyze supervision mechanisms and law enforcement regarding spatial planning violations to support the balance of investment and environmental sustainability in Jakarta.

B. Method

The research method used is socio-legal research, through an inventory of regulations related to spatial planning and the environment and looking at their implementation in law enforcement. The data collection technique is library research and field research, through interviews with local governments, with qualitative descriptive analysis.

C. Result & Discussion

1) Government monitoring mechanisms that have been implemented for business actors regarding compliance with space use and processing of environmental permits in the Special Capital Region of Jakarta

Various investment activities in DKI Jakarta are influenced by the spatial planning system according to its designation. The legal instruments for spatial planning in DKI Jakarta are through the Regional Regulation of the Special Capital Region of Jakarta Number 1 of 2012 concerning the 2030 Regional Spatial Planning, and the Regional Regulation of the Province of the Special Capital City of Jakarta Number 1 of 2014 Detailed Spatial Planning and Zoning Regulations. Currently, concerning Job Creation regarding Law Number 11 of 2020 in conjunction with Law Number 6 of 2023 concerning Job Creation and its implementing regulations, Detailed Spatial Planning Plan (RDTR)

and its implementing regulations, Detailed Spatial Planning (RDTR) legal instruments in the form of Regional Head Regulations (Governor Regulations, Regent or Mayor Regulations)¹⁰.

The Regional Regulation Formation Agency of the DKI Jakarta Regional People's Representative Assembly has agreed on the proposal to revoke Perda Number 1 of 2014 concerning Detailed Spatial Planning and Zoning Regulations (RDTR-PZ). The revocation of the regional regulation was agreed upon in light of the stipulation of Governor Regulation Number 31 of 2022 concerning Detailed Spatial Planning and Zoning Regulations (RDTR-PZ). By Law Number 6 of 2023 concerning Job Creation, spatial and zoning regulations are mandated to be regulated in the form of Regional Head Regulations. These provisions are then further regulated in Government Regulation Number 21 of 2021 concerning the Implementation of Spatial Planning¹¹.

Investment activities in DKI Jakarta, of course, consider the aspects of the carrying capacity and the carrying capacity of the environment. Before the permit is issued by the local government through the Investment Agency and One-Stop Integrated Service, there is a regional spatial plan from a macro to a micro scale that needs to be reviewed by the spatial planning office. Every business activity or investment has an environmental impact by using a measuring instrument for carrying capacity and carrying

¹⁰ The Author's interview with Ari Budi Christanto, Sub-Coordinator for Investigation Affairs at the Enforcement Section of Space Utilization Violations, Department of Human Settlements, Spatial Planning, and Land of DKI Jakarta Provincial Government, on May 31, 2022, at 13:30 WIB, in his office.

¹¹ Kompas, Bapemperda DPRD DKI Sepakat Perda RDTR Peraturan Zonasi Dicaput. <https://megapolitan.kompas.com/read/2022/08/16/06164871/bapemperda-dprd-dki-sepakat-perda-rdtr-peraturan-zonasi-dicaput>

capacity of the environment based on the law on environmental protection and management. This environmental study was made by the government through the Strategic Environmental Assessment, by their respective authorities both at the central level through the Ministry of Environment and Forestry and at the provincial level through the Environmental Service and at the district/city level. The results of the study will be integrated into the spatial planning system up to the level of detailed spatial planning. This is to ensure that investment activities are by the use of space and in sync with strategic environmental studies to ensure a balance of investment with the social environment of the surrounding community and the environment. The issuance of the detailed spatial plan has been approved by the spatial planning and investment planning department on a macro scale. In an example of a building for business activity, there must be an environmental impact analysis (AMDAL) for a large-scale¹².

Investment activities in DKI Jakarta, which are mostly used for offices, both for the procurement of goods and services, need to be evaluated. This is to harmonize the detailed spatial plan with the strategic environmental study that has been determined by the government. Conformity is required during the permit issuance process with the use of space. Before the issuance of a location permit, it is necessary to arrange zones that are regulated through a spatial plan as the basis for determining the location. Location publishing through Online Single Submission (OSS) can be applied automatically if it meets certain conditions and has a digital map of a detailed spatial plan that is integrated

¹² The Author's interview with Ari Budi Christanto, Sub-Coordinator for Investigation Affairs at the Enforcement Section of Space Utilization Violations, Department of Human Settlements, Spatial Planning, and Land of DKI Jakarta Provincial Government, on May 31, 2022, at 13:30 WIB, in his office.

with OSS¹³. Permits whose designations or sub-zones are based on the detailed spatial plan are for offices, then the allocation of utilization is for offices, but in reality, it could be an office sub-zone for activities other than offices, for example building a hotel. Hotels may be built in office sub-zones, but some requirements are on the carrying capacity and capacity of the environment.

Investors must understand the provisions of the relevant laws and regulations because they relate to compliance, negligence, or even violations about investments that use space that is not by its designation. Investments in DKI Jakarta are mostly office buildings, so it is necessary to pay attention to apart from spatial regulations, it also has to do with Law No. 28 of 2002 concerning Buildings. The characteristics of buildings for office investment are different from apartments and hotels for investment activities. Whether investing in offices, apartments, or hotels, even though the economic value of the investment is high, investors are still required to comply with legal instruments for spatial planning and environmental management. In the case of a batching plan business permit or a concrete casting business that exists at several points in DKI Jakarta adjacent to some buildings for offices, it is allowed with a conditional limited permit. From the environmental aspect, the concrete casting business on the one hand has a major impact on environmental pollution in the vicinity, while on the other hand, for the construction of infrastructure projects, the concrete casting location is designed not too far from the project location, because it will affect the quality of the project the resulting product. Licensing legal instruments and any laws and regulations related

¹³Surya Dini Hastuti, Pengendalian Pemanfaatan Ruang Melalui Izin Lokasi Dalam Rangka Perolehan Tanah Yang Diperlukan Usaha. *Jurist-Diction*, Vol. 3 No. 3, (2020), 1099-1121, DOI:10.20473/jd.v3i3.18640

to investment activities in DKI Jakarta, in its implementation, evaluations need to be carried out, not only concerned with investment¹⁴.

The existence of a batching plan investment activity in Jakarta which is included in the industrial business category produces processed concrete products, there is smoke waste. Therefore, these activities must be located outside the residential/office area, but in reality, this activity is very supportive of national strategic programs, for example, the construction of the Mass Rapid Transit (MRT) train project and so on, the batching plant industry should not be too far away, because to support the project, requires cast concrete, so it is not possible to travel long distances.

In carrying out the supervisory function, the supervisory system is carried out in stages from each stage of the environmental document and by its authority. Environmental documents, in the form of EIA, are supervised by the DKI Jakarta Provincial Environment Service, while the Environmental Management Efforts-UPL-UPL documents are supervised by the Environment Sub-Department in each administrative city in the DKI Jakarta area. For example, the North Jakarta Environment Agency supervises the Environmental Management Efforts-Environmental Monitoring Efforts (UKL-UPL) for investment activities in the use of coastal areas that have environmental impacts. Then the Environmental Management Statement

¹⁴ The Author's interview with Ari Budi Christanto, Sub-Coordinator for Investigation Affairs at the Enforcement Section of Space Utilization Violations, *Department of Human Settlements, Spatial Planning, and Land of DKI Jakarta Provincial Government*, on May 31, 2022, at 13:30 WIB, in his office.

document is supervised by the Environmental Implementation Unit at the District level¹⁵.

The results of the interview are a form of supervision based on licensing instruments owned by business actors or investment activities. If it is found that investment activities do not have environmental permits, the government will take coercive measures or order them to immediately apply for environmental permits. The current problem in Jakarta is the number of mixed zones in space or areas so that investment activities often violate spatial planning and are not complied with in terms of environmental management. Regional regulations on spatial planning and detailed spatial plans become references in carrying out supervision and law enforcement whose object of supervision is investment activities.

Violations of spatial planning and zoning ultimately cause environmental impacts, both air pollution, and water pollution. In addition, the existence of the mixed zone cannot be separated from changes to the detailed spatial plan carried out by the spatial planning office. There were several business activities in that location which turned out to be some settlements, this finding was complained about by the community about the existence of the mixed zone. Industrial activities that were originally far from settlements are now close to settlements, so residents directly feel the environmental impact and interfere with daily community activities¹⁶.

¹⁵ The Author's interview with Susanto, Head of Legal Supervision and Compliance Division, *DKI Jakarta Provincial Government Environment Service*, on July 12, 2022, at 14.30 WIB in his office.

¹⁶ The Author's interview with Wishnu Widhiana, Sub-Coordinator for Environmental Monitoring Affairs, *DKI Jakarta Provincial Environmental Service*, on July 12, 2022, at 14.30 WIB in his office.

Based on the provisions governing spatial planning and the environment, an environmental permit instrument can be issued if it is by zoning or space utilization. Now the environmental permit has been changed to environmental approval in Law Number 11 of 2020 (now Law No. 6 of 2023) concerning Job Creation and its implementing regulations. An example of a current case in DKI Jakarta is a concrete batching plant or investment/business activity in the field of concrete processing, which violates the zoning plan and has environmental impacts. The action taken for the violation is a joint action between the spatial planning office and the DKI Jakarta provincial environmental service through administrative sanctions, based on the Unloading Order, to carry out the demolition of the concrete batching plant activities¹⁷.

Every business activity or investment must first ensure the suitability of the investment activity with the use of space. The authority to carry out this conformity is the Office of Spatial Planning. If there is a discrepancy in investment activities in the use of space, or there is a potential for violation of spatial planning and environmental instruments are not fulfilled, then the permit will not be issued by the environmental service. The government (service) has no interest in investment activities, except for the license holder who has an interest in the business activities to be carried out. Therefore, the government supervises and enforces the law on various permits that have been issued for space utilization and environmental management.

¹⁷ The Author's interview with Wishnu Widhiana, Sub-Coordinator for Environmental Monitoring Affairs, *DKI Jakarta Provincial Environmental Service*, on July 12, 2022, at 14.30 WIB in his office.

About spatial planning and the environment, and enforcement of spatial planning laws that are oriented toward environmental sustainability, 3 (three) main aspects must be considered in spatial planning, namely: a) Aspects of the physical environment in general and natural resources in particular that are utilized. ; b) Community aspects including aspirations as beneficiaries; and c) Aspects of managing the physical environment by the government assisted by the community, taking into account and considering the conditions and potentials of the physical environment as well as the needs of the community so that the use of the space can be carried out sustainably¹⁸.

The Department of the Environment carries out active and passive supervision. Passive supervision is in the form of follow-up to public complaints, and supervision of permit documents that have been issued, one of which is permits for environmental documents, Environmental Impact Analysis (EIA/AMDAL). In addition, taking preventive actions through prevention instruments through EIA, environmental permits, and Environmental Management-Monitoring Efforts. These various preventive measures are followed by a monitoring system for the Amdal permit and other environmental documents that have been issued in their investment activities. In addition, active supervision is also carried out by checking in the field through a random sampling system to several business or investment activities. The results of supervision are followed by administrative law enforcement.

One of the prevention and control instruments on environmental documents is the Environmental Impact Analysis.

¹⁸ Suwitno Yutye Imran. Fungsi Tata Ruang Dalam Menjaga Kelestarian Lingkungan Hidup Kota Gorontalo. *Jurnal Dinamika Hukum*, Vol. 13 No. 3, (2013)457-467, DOI: <http://dx.doi.org/10.20884/1.jdh.2013.13.3.251>

The EIA instrument can supervise the planned activities carried out by the investor, for example in terms of water use and quality, or example in terms of wastewater management. This is done to check or synchronize several activities that have been described in the EIA document with business activities or investments that have been made based on facts in the field.

2) Law enforcement for spatial planning violations in Jakarta oriented towards environmental sustainability

According to Satjipto Rahardjo, law enforcement is essentially the enforcement of these abstract ideas or concepts. Law enforcement is an attempt to turn these ideas into reality¹⁹.

Law enforcement is very essential and substantial in a state of law, law enforcement is the process of making efforts to enforce or function legal norms as behavioral guidelines in traffic or legal relations related to society and the state²⁰. Law enforcement can be viewed from two angles, namely from the point of view of the subject and object. From the point of view of the subject of law enforcement, it can be interpreted as law enforcement broadly and narrowly. In a broad sense, the law enforcement process can involve all legal subjects. Anyone who carries out normative rules by doing something or not doing something based on the norms of the applicable law means that the person concerned has done or implemented the rule of law. In a narrow sense, law enforcement is only carried out by law enforcement officials to guarantee and ensure that a rule of law runs as it should, and in ensuring the enforcement of the law, law enforcement officials are allowed to use coercive power²¹.

¹⁹ Satjipto Rahardjo, *Masalah Penegakan Hukum Suatu Tinjauan Sosiologis*, (Bandung: Sinar Baru, 2009), 20-23.

²⁰ Asshidiqie, Jimly, *Pengantar Ilmu Hukum Tata Negara*, (Jakarta : Raja Grafindo Persada. 2009) Hal.33-35

²¹ *Ibid.*

In the context of law enforcement on spatial planning and administration of licensing in DKI Jakarta against investors in business activities, administrative sanctions are given in stages, ranging from written warnings to government coercion and permit suspension. Some investors are obedient, and some are disobedient in the administration of permits and spatial planning. The level of compliance is caused by various factors, both internal and external. Internal factors from investors about the lack of awareness from business actors about the balance between investment and social support from the surrounding community and environmental management, neglect of various provisions stipulated in regional regulations on spatial plans and detailed spatial plans, and the absence of reporting on business activities that have been carried out.

In addition to internal, and external factors from the government itself, among others: the weakness of an integrated supervision system between agencies, weak socialization, and education, or other forms of preventive efforts by the government against business actors related to legislation in the fields of investment, spatial planning, and environment, the occurrence of sectoral egos and the lack of coordination between related agencies, in this case, the spatial planning service and the environmental service in DKI Jakarta. This has implications for differences in understanding regarding investment objects in business activities that utilize a space or area, and the absence of firmness in the provision of administrative sanctions. Various administrative sanctions include written warnings, government coercion (forced efforts), suspension of permits, and revocation of permits²².

²² The Author's interview with Ari Budi Christanto, Sub-Coordinator for

The law enforcement is through the Spatial Planning Service, the One Stop Integrated Service Investment Service, and the Environment Service, as well as involving the Civil Service Police Unit of the DKI Jakarta Provincial Government, about violations of space utilization. The spatial planning office carries out active surveillance every day in several places. In addition, there is also a supervisory mechanism for permits that have been issued by the Office of Investment and One Stop Integrated Services by their authority. Investment activities for buildings 8 (eight) floors and above are carried out by the provincial government, for buildings from 3 (three) floors up to 8 floors, it is under the authority of the city administration offices in various areas in DKI Jakarta, and for residential houses up to 3 (three) floors. the floor becomes the district authority²³.

Law enforcement through administrative sanctions are carried out by their respective authorities and levels. For example, for an investment in an administrative city-level building, that has obtained an IMB, then checks are carried out in the field to synchronize the permit with the implementation of the development. If in fact, it is not appropriate, then it is included in the category of administrative violation, administrative sanctions are given in the form of sealing and a warrant for dismantling is issued to be dismantled by yourself within 14 days. However, if it is not dismantled within the allotted time, it will be dismantled by a Civil Service Police Unit officer with a limit

Investigation Affairs at the Enforcement Section of Space Utilization Violations, Department of Human Settlements, Spatial Planning, and Land of DKI Jakarta Provincial Government, on May 31, 2022, at 13:30 WIB, in his office.

²³ The Author's interview with Ari Budi Christanto, Sub-Coordinator for Investigation Affairs at the Enforcement Section of Space Utilization Violations, Department of Human Settlements, Spatial Planning, and Land of DKI Jakarta Provincial Government, on May 31, 2022, at 13:30 WIB, in his office.

of 21 days. In addition, the supervisory mechanism also involves the community or local community leaders,

Enforcement of spatial planning law is very important in the spatial planning process. This process is needed to keep the spatial planning that has been planned to be applied obediently so that the development goals are achieved. In terms of economy, law enforcement on spatial planning will have a positive effect not only on economic growth but also on the environment in the area. With an ideal spatial plan, investors will feel safe investing without disturbing other interests. Another positive effect is that the supervision of the issuance of permits is focused on the zoning that has been determined²⁴.

Based on Law Number 32 of 2009 concerning Environmental Protection and Management, there are measures regarding the carrying capacity and carrying capacity of the environment concerning the capacity of the environment surrounding the business or investment activity. For example, in terms of water availability or demand, investment activities must be able to meet water availability and comply with quality standards based on environmental regulations, and investors must look at environmental services around investment activities so that there is a trade-off between investment and contribution to the environment. The central government through the Ministry of Environment and Forestry, involving the DKI Jakarta Provincial Environmental Service, conducts studies on aspects of planning activities or investments that have an impact on the environment, such as the availability of air, and air quality standards, and so on.

²⁴ Muhar Junef, *Loc.Cit.*

The Environment Agency has mapped some areas in DKI Jakarta related to investment locations regarding the carrying capacity and capacity of the environment. Most of the areas in DKI Jakarta are red, which means they are exceeded, in other words, they do not have the carrying capacity and capacity of the environment, causing environmental impacts in the form of water and air pollution. The Environment Agency will tighten several requirements that must be met by business actors. For example, a permit to use water or a permit for waste management. Business actors are not allowed to drill land for water use but must use water sourced from local water companies. The goal is to keep the availability of water sufficient and not minus²⁵.

Investment business actors make implementation reports every semester, to then be submitted to the DKI Jakarta Provincial Environment Agency on the results of their investment activities. In addition, it is also based on complaints from the public regarding violations of spatial planning and environmental pollution in their investment activities, and the environmental service follows up on these complaints by conducting a field review, as well as providing administrative sanctions in the form of a written warning or subsequent stages of administrative sanctions. The instrument is part of the prevention and control efforts in the context of environmental administrative law which is regulated by law Number 32 of 2009 concerning Environmental Protection and Management and its derivative regulations.

Administratively, environmental enforcement is carried out by the supervision and law enforcement department together with

²⁵ The Author's interview with Adi Darmawan, Sub Coordinator of Technical and Environmental Planning, *Environmental Service of DKI Jakarta Provincial Government*, on July 12, 2022, at 13.30 WIB in his office.

Civil Servant Investigators. Law enforcement is followed by administrative actions by the supervision and law enforcement section with Civil Servant Investigators (PPNS) at the DKI Jakarta Provincial Environmental Service. Various actions have been carried out such as demolition, sealing, the closing of waterways, and so on. The violations that have been committed by business actors are not treating wastewater and exceeding the quality standard. Administrative sanctions against business actors are carried out in stages, starting from written warnings, and government coercive efforts in the form of sealing and closing waterways, for exceeding environmental quality standards²⁶.

Preventive law enforcement on the use of spatial planning that supports environmental sustainability can be carried out by preventing various activities in the form of policy-making that can be indicated as damaging the environmental order and providing awareness to the public and also users of spatial planning about the importance of utilizing spatial planning by needs. Likewise, repressive law enforcement must be taken firmly against anyone who violates the use of spatial planning and the environment, both against policymakers as well as the community and entrepreneurs who are found to be damaging the environment in the form of criminal sanctions (imprisonment and fines), civil sanctions (compensation for compensation). and/or certain actions) and administrative sanctions (government coercion, forced money, and license revocation)²⁷.

²⁶ The Author's interview with Hugo Efraim Tambunan, Sub Coordinator for Law Enforcement Affairs, *DKI Jakarta Provincial Environment Agency*, on July 12, 2022, at 15.00 WIB in his office.

²⁷ Ahmad Jazuli, Penegakan Hukum Penataan Ruang Dalam Rangka Mewujudkan Pembangunan Berkelanjutan, *Jurnal Rechts Vinding*, (2017) Pembinaan Hukum Nasional, hal.23, DOI: <http://dx.doi.org/10.33331/rechtsvinding.v6i2.156>

Various empirical facts in the context of enforcing spatial planning laws in investment activities in DKI Jakarta indicate that there are light and non-firm sanctions for spatial planning violators in investment activities. This has an impact on pollution and or environmental damage, not getting the carrying capacity and capacity of the environment. Therefore, it is necessary to apply severe sanctions to perpetrators of spatial planning violations who are business actors in investment activities, to create a deterrent effect, so that it runs effectively. Supervision and enforcement of spatial planning violations should be oriented towards preserving environmental functions, obtaining environmental support and capacity, and having an integrated system of supervision and law enforcement between agencies within the DKI Jakarta provincial government.

D. Conclusion

Based on the results of the research and discussion above, the authors can conclude:

1. Monitoring mechanism that the government has implemented for business actors regarding the use of space in Jakarta carried out actively and passively. Passive supervision takes the form of following up on public complaints, and supervision of permit documents that have been issued, one of which is environmental document permits, Environmental Impact Analysis. Apart from that, carry out preventive actions through preventive instruments through AMDAL, environmental permits, and environmental monitoring efforts. These various preventive efforts are followed by a monitoring system for Amdal permits and other environmental documents that have been issued in investment activities. Apart from that, active supervision is also

carried out by conducting field inspections through a random sampling system of several business activities.

2. Law enforcement against violations of spatial planning in Jakarta which are oriented towards environmental sustainability in Jakarta through the provision of administrative sanctions, including written warnings, and government coercion in the form of sealing buildings, demolishing buildings, and closing water channels. This administrative sanction is carried out in stages. Apart from that, law enforcement also involves community participation.

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