

Legal Protection Against Expeditions for Delivery of Prohibited Goods

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Abstract

Legal protection for freight forwarders is essential to prevent the delivery of prohibited goods that can cause financial loss, reputation and legal risk. This study aims to find out the mechanisms and procedures for legal protection that can be carried out by expedition companies when involved in the delivery of prohibited goods and to find out the various forms of legal liability that can be faced by expedition companies when involved in the delivery of prohibited goods, including laws related to expeditions and prohibited goods regulations. This research uses a normative legal research method that focuses on applicable norms or rules, whether in the form of laws, ethics, morals, or standards adopted by society or institutions. The results showed that the Merauke POS Office and Lion Parcel Merauke have implemented legal protection mechanisms, such as confirmation of package contents and rejecting prohibited items. The application of SOPs facilitates the management of delivery of goods, documents, and schedule arrangements. In addition, dispute resolution can be done through court or non-court channels according to the agreement of both parties. Expedition companies must ensure compliance with freight forwarding regulations, with division leaders responsible for implementing legal protection in accordance with applicable laws.

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Note: The total of word accounts in the abstract should not be more than 300 words



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Introduction

Along with the development of the times and the increasingly advanced era of globalization, various activities have become easily accessible. Starting from transportation services to shipping goods, all of these processes are no longer constrained by significant obstacles. Progress in the field of transportation also encourages the development of legal science, both in the aspect of legislation and in

the practice of transportation customs. This is because Indonesia is basically a State of Law, in accordance with Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that "The State of Indonesia is a State of Law", which means that all aspects of the life of the nation, state and society are based on applicable law. Likewise with the development of customary law, where many behaviors are formed into habits in transportation related to the implementation of the transportation itself. Technological developments in the field of shipping are also strongly influenced by advances in the mechanically driven shipping sector.

In general, expedition refers to the process of shipping goods from one location to another that is quite far away. Goods sent can be both small and large items. Using expedition services will simplify the process of shipping goods from one place to another. Expeditions are companies that focus on shipping goods and are a type of public service that facilitates the shipping process. Delivery of goods occurs because of the need to send goods from one location to another. Usually, the delivery of goods occurs due to buying and selling transactions or to meet the needs of goods in other places.

Freight forwarding services (expeditions) can be a solution for those who want convenience and practicality in sending goods, especially when the goods must be sent to areas that are difficult to reach directly by the community. In terms of shipping goods, shipping service providers are able to reach various regions smoothly. The process of shipping goods also provides convenience and efficiency for the community in carrying out daily activities. The high need of the community for goods delivery services opens up its own business opportunities for expedition actors. This can be seen from the many companies that develop businesses in the field of shipping goods, such as Pos Indonesia, TIKI, JNE, Sicepat, J&T Express, Ninja Xpress, Indah Logistik and others. Competition between expedition companies in Indonesia encourages these companies to innovate and provide convenience in goods delivery services.

In the context of logistics and transportation, expediting often refers to the delivery of goods or commodities from one location to another using various transportation methods such as land, sea, air, or a combination of the three. This process involves the careful management of organizing, packaging, shipping, and monitoring the goods during the journey to ensure safe and timely arrival of the goods. Expeditions are not only related to the field of logistics, but can also refer to specialized trips or missions in various contexts such as scientific, adventure, exploration, and social. The objectives of an expedition can be very diverse, ranging from achieving commercial goals with efficient delivery of goods to the search for new knowledge or valuable experiences in the context of scientific exploration or research.

In Indonesia, freight forwarding services are divided into several types based on the estimated delivery time and size of the goods. Usually, expedition companies provide

packages such as regular, express, economy, special cargo, economy cargo, and important documents. In the process of shipping goods, sometimes mistakes occur such as damage to goods, shipping errors, delivery of prohibited goods and so on. Therefore, legal protection plays an important role in protecting companies in the context of shipping goods.

Legal protection is an obligation of the government to ensure security for all citizens, in accordance with the Constitution of the Republic of Indonesia. The state has full responsibility in protecting human rights, as stipulated in Article 28I paragraph (4) of the 1945 Constitution which states that the state, especially the government, must protect, promote, uphold and fulfill human rights.

While parcel delivery has become commonplace, many people don't realize that not all items can be sent through expedition services. Therefore, it is important not to waste time and money by sending items that cannot actually be delivered. Some people may pretend not to know about certain restrictions on certain types of items. In fact, some may even deliberately try to send items that are clearly prohibited and claim them as permitted. Some people may also try to sneak prohibited items into other items they are sending.

Based on the regulations listed in Law No. 38 of 2009 concerning Post, there are rules that prohibit the delivery of certain items because they can pose a potential hazard that is common. In general, there are several items that are prohibited from being sent through expedition services. Armed with Law No. 38 of 2009, there are 5 (five) categories of goods that are prohibited from being sent through expeditions, namely Narcotics, Psychotropic and all forms of illegal drugs, explosive or flammable goods, goods with the potential to pollute the environment, and goods prohibited by law.

Prohibited goods, such as narcotics, illegal weapons and unregulated items, are often smuggled through freight forwarders. This not only hurts shipping companies financially and reputationally, but also puts them in complex legal situations. Many forwarders lack the understanding or adequate mechanisms to detect and prevent the shipment of prohibited goods, resulting in serious legal issues.

Legal protection for freight forwarders in dealing with prohibited goods is a crucial issue that needs attention. This protection includes a clear understanding of the applicable regulations, the legal liabilities that may be faced, as well as mechanisms and strategies to reduce the risk of involvement in the shipment of prohibited goods. In addition, the role of the authorities in providing legal support and guidance is also very important to ensure that shipping companies can carry out their operations safely and in accordance with regulations.

This research aims to analyze the legal protection provided to freight forwarders in the face of prohibited goods shipments. Through this research, it is hoped that practical solutions and strategies can be found that can be implemented by freight

forwarders to protect themselves from legal risks, as well as increase awareness and compliance with applicable regulations.

Methodology

The type of research used in this writing is empirical juridical research, which is a legal research method that focuses more on applicable norms or regulations, whether in the form of laws, ethics, morals, or certain standards adopted by society or institutions. This research aims to understand, and evaluate these norms, and see how these norms are applied in practice. The sampling taken is several expedition places of the Merauke POS Office and Lion Parcel Merauke around Merauke Regency.

The purpose of this sample collection technique is because the author uses the *Purposive Sampling* method, namely data collection by means of the author directly selecting sources deemed appropriate to obtain subjects relevant to the research objectives. The type of data used in this research refers to legal sources that have binding legal force. In this study, the primary legal material used is Law of the Republic of Indonesia Number 38 of 2009 concerning Posts. The data analysis process includes organizing data in the form of structured, clear, and detailed sentences, which are then analyzed to draw conclusions. In this research, qualitative data analysis is used, with an inductive approach to draw general conclusions after first describing specific things, in accordance with the focus of the problems in the research.

Results and Discussion

Legal Protection Mechanisms Applied by Expedition Companies to Avoid Delivery of Prohibited Goods

A legal entity is an entity that has the rights and obligations of an individual, with separate assets, and can file or face a lawsuit in court. A legal entity is often understood as a structure for conducting business, but there are several types, including Limited Liability Companies, Cooperatives, Foundations, and Associations.

There are two types of legal entities when it comes to legal protection for expedition companies: public and private legal entities. Public legal entities are established by the state for public services, such as the Post Office and state-owned enterprises, and are more bound by government regulations. Private legal entities, on the other hand, are established for private or commercial interests, such as private freight forwarders. While they have operational freedom, they still have to abide by the rules regarding the delivery of restricted goods. Each type of legal entity has different legal protection mechanisms.

A legal entity is basically an entity that has rights and obligations like an individual, has separate assets, and can file a lawsuit or be a party to a lawsuit in court. Most

people think of a legal entity as a structure that allows them to carry out business activities, and this understanding is not wrong. However, in terms of function, this legal entity includes various types of entities such as Limited Liability Companies, Cooperatives, Foundations, and Associations.

In the context of legal protection that can be applied by freight forwarders to avoid the delivery of prohibited goods, an understanding of the two types of legal entities is essential. Legal entities can be divided into two categories, namely public legal entities and private legal entities, each of which has different roles and responsibilities in relation to legal protection mechanisms in expedition activities.

In general, an expedition is a structured trip with a specific purpose. In business, expedition means a business that provides delivery services for letters, goods, and other shipments. The expedition business aims to send goods from one place to another, and must have a legal license to protect consumers and companies in the transaction.

In an interview with Mr. Yulius Betaubun from Lion Parcel Merauke, he explained the package inspection process. If the package contains prohibited items, the expedition will refuse the shipment. If the package sent is limited, they will inform the applicable provisions. If there is suspicion, the expedition will check the contents of the package. Regulations and policies of freight forwarders play a role in preventing the delivery of prohibited goods. The analysis can be done by referring to three layers of legal theory: Grand Theory, Middle Range Theory, and Application Theory. Grand Theory sees law as a system to create justice and protect society from illicit shipments. Middle Range Theory connects legal rules with operational practices, such as confirming package contents and notifying conditions. Application Theory emphasizes the application of rules in real situations, including the inspection of suspicious packages, to ensure the law is enforced.

The process of shipping goods by freight forwarders is important to fulfill the law and ensure safe delivery. The company's actions constitute legal protection efforts through three layers of theory: grand theory protects the public from prohibited goods, mid-range theory connects the law with operational practices, and application theory directs concrete actions. For example, confirmation of contents and disassembly of suspicious packages to avoid delivery of prohibited goods.

The Manager of PT Pos Cabang Merauke, Mr. Afif Zein As Syidiq, explained that they usually confirm the contents of the package and refuse the delivery of prohibited items. Many people do not know or ignore the prohibition of sending certain items, so dangerous goods shipping violations often occur. SOPs in expedition companies are essential to improve efficiency, reduce errors, and create good service quality. SOPs also help with performance evaluation and future improvements.

If the SOP has been implemented by the expedition and the sender provides false information, the sender may be subject to sanctions under the law. These sanctions include Article 263 of the Criminal Code on forgery of documents and Article 378 of the Criminal Code on fraud, with different prison terms. In the delivery of prohibited goods, the evidence used can be CCTV footage, sender identity documents, and evidence in the package.

It is important for expedition companies to involve all parties in the implementation of SOPs to improve efficiency and success. Good SOP implementation can support the expedition business. Law No. 38/2009 prohibits the shipment of goods that may endanger safety. Prohibited items include narcotics, weapons, valuables, and counterfeit goods.

Regulation of the Minister of Communication and Information Technology Number 4 of 2021 stipulates that expedition businesses must be incorporated in Indonesia. The expedition service business has great profit potential, but it also needs to have official licenses such as SIUJPT and postal operating licenses. Company policies serve as a guide for decision-making and ensure operational consistency.

HR duties include managing employee performance. Performance evaluations are conducted regularly to ensure alignment with company goals. At Lion Parcel Merauke, there are regular briefings to provide information related to business policies and strategies. Performance evaluation is important to maintain the competitiveness and efficiency of the team. Expedition companies must comply with regulations and have responsibility for violations in shipping. Legal protection includes the legality of the company by having the necessary SOPs and permits. Despite legal support, the use of technology in detecting prohibited goods is still limited in practice, and currently the monitoring process is done manually.

Public legal entities are legal entities established by the state or government to carry out public service functions or public interests. Public legal entities function to carry out state duties or public obligations, such as providing services to the public. For example: Post Offices, Government Agencies, or State-Owned Enterprises (SOEs) operating in the expedition and logistics sector. Expedition companies with public legal entities are more bound by government regulations and direct supervision from relevant authorities. Legal protection here focuses more on compliance with regulations set by the state to maintain the safety and smooth running of public services.

Private legal entities are legal entities established by individuals or groups with the aim of private or commercial interests. Unlike public legal entities, private legal entities focus on making profits and have no direct role in public services. For example, private expedition companies such as Lion Parcel, JNE, or Tiki. Private law expedition companies, although they have more freedom in their operations, are still required to comply with applicable regulations regarding the delivery of prohibited

goods. The legal protection here is more internal, with an emphasis on company policies and procedures to minimize legal risks related to the delivery of prohibited goods.

Expedition companies that are included in public and private legal entities have different legal protection mechanisms. Public expedition companies tend to be more bound by state regulations and supervision, while private expedition companies have more freedom in determining internal policies, although both must comply with applicable laws, especially in terms of shipping prohibited goods.

Forms of Legal Responsibility Faced by Expedition Companies if Found to Send Prohibited Goods

In law, expedition company businesses have obligations that must be adhered to, and if they violate them, they are fully liable. This responsibility includes Article 1365 of the Civil Code, which states that an unlawful act that harms another person makes the perpetrator obliged to compensate for the loss. To be declared unlawful, there must be elements of the act itself, fault, loss, and causal relationship. Article 1366 of the Civil Code confirms that everyone is also liable for losses due to negligence. The expedition company is responsible for the loss or theft of goods and is obliged to provide compensation to consumers. The company also bears the consequences of its employees' actions. According to Law No. 22 of 2009, disputes can be resolved through court or non-judicial channels. An interview with the Manager of PT POS Merauke Branch stated that division leaders ensure compliance with shipping regulations. Settlement can be done amicably first or by sending a summons before the court.

The Criminal Code (KUHP) provides for criminal liability for forgery of documents. In the context of freight forwarding companies, such as shipping prohibited goods, companies may be subject to the law for various offenses. Under Article 242 of the Criminal Code, if companies falsify documents when shipping prohibited goods, they can be sentenced to imprisonment of up to 6 years or a fine. Document falsification can involve attempts to conceal the type of goods being shipped. In addition to document forgery, there are also violations of shipping regulations. If a company ships prohibited goods without following the applicable regulations, they can be held criminally liable for violations of the freight forwarding law. Criminal sanctions can also occur if it is proven that the company was intentional or negligent in sending prohibited goods. In the event of a major loss, the company could still be criminally liable for lack of security procedures in the shipment.

Expedition companies may also be subject to civil and administrative liability. They may be required to compensate the injured party for the loss caused by the delivery of prohibited goods, and may also be subject to administrative sanctions such as revocation of operating licenses. However, if a company follows the correct

procedures and refuses to deliver prohibited goods, they will not be penalized. The expedition needs to collaborate with law enforcement to uncover the truth and prevent criminal acts. Here is the legal basis for collaboration: Article 184 of the Criminal Procedure Code regulates evidence, Article 75 of the Criminal Procedure Code regulates the role of law enforcement officials, and Article 108 paragraph 3 of Law No. 35/2009 on Narcotics regulates cooperation with non-governmental organizations.

Overall, freight forwarders accept criminal, civil and administrative liability when shipping prohibited goods. Document forgery and sending prohibited goods are two serious legal matters. For Merauke POS Office and Lion Parcel Merauke, criminal liability can occur if proven to have sent prohibited goods. The company could face criminal penalties if it is related to document forgery or if negligence is significant. Civil liability may also arise as a result of losses incurred. Administrative sanctions can be applied for violations of the terms of delivery of goods.

Corporations can be held criminally liable if they benefit from criminal acts, allow criminal acts to occur, or fail to take precautions. It is important for POS Offices and Lion Parcel to implement effective protection mechanisms, conduct package checks, and provide training to employees to comply with applicable regulations.

Conclusion

As a legal entity, forwarders have ways to protect themselves from the delivery of prohibited items, including inquiries about the contents of the package. If there are prohibited items, the package will be rejected, and the applicable provisions will be communicated. SOPs in expedition management help streamline the delivery process. Dispute resolution can be done in court or out of court according to the agreement. The company must comply with shipping regulations and the division head is responsible for preventing criminal acts.

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