

**PPKM EMERGENCY: GOVERNMENT RESPONSIBILITIES
AND NEEDS**

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ABSTRACT

This research is the government's support to implement law number 6 of 2018 concerning Health Quarantine in preventing the spread of the corona virus in Indonesia. A number of positive corona patients in Indonesia have more than 1000 people, the government needs to take over the mandate so that Emergency PPKM is carried out, namely the Enforcement of Restrictions on Community Activities.

Keywords: *Government, Restrictions on Community Activities, Quarantine*

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INTRODUCTION

Starting in July 2021, the City of Medan will implement an emergency PPKM in accordance with the instructions of the Minister of Home Affairs Number 15 of 2021 concerning the Enforcement of Restrictions on Emergency Community Activities for Corona Virus Disease 2019.¹

However, is the instruction a proper legal basis for implementing PPKM? Because seeing the legal basis, the instruction is a

continuation of the restrictions on micro-based COVID-19 emergency community activities. So that we understand, that the development of this covid 19 also appeared Law Number 12 of 2011 in conjunction with Law Number 15 of 2019 concerning the Establishment of Legislation. Thus, the instruction from the Minister of Home Affairs is considered not to have met the proper requirements in the form of a small regulation that is still under the statutory hierarchy and even a piece of policy regulation.²

¹<https://nasional.kontan.co.id/news/ini-alasan-government-tak-select-karantina-territory-like-uu-untuk-tangani-covid-19?page=2> accessed on 18 July 2021

²<https://medan.kompas.com/read/2021/07/12/063350978/ppkm-darurat-di-medan-berlaku-hari-ini-cek-aturan->

By seeking to break the Covid-19 breeding chain in Medan City, the Mayor of Medan, through his staff, asked a number of parties, starting from the TNI, Polri, and Pemko to block several points of roads in the city of Medan.³

This role must be balanced with community participation, for 1 week starting from July 12, 2021 to July 21, 2021, all food stalls, restaurants, cafes, street vendors, malls, places of worship, public facilities, socio-cultural activities are temporarily closed. , public transportation, wedding receptions are temporarily suspended, construction and project locations, long-distance transportation (airplanes, buses, and trains) can show a vaccine card (minimum vaccine dose 1), H-2 PCR for aircraft, H-1 antigen for mode long distance transportation distance.⁴

Emergency PPKM is community obedience which is the key to success in emphasizing the spread of covid 19. However, the reason to examine is whether PPKM is a constitutional guarantee, let alone applying sanctions, there are still other laws relating to health quarantine.⁵

[complete-dan-List-17-location?page=all](#) accessed on July 22, 2021

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<https://id.wikipedia.org/wiki/Karantina> accessed on July 22, 2021

⁴http://jdih.sumutprov.go.id/content/userfiles/2021/INSTRUKSI/Inunjuk_No._9_Tahun_2021.pdf

⁵ Read the full CNN Indonesia article "Emergency PPKM Violators Can Be Sentenced to 1 Year in Prison" in full

Etymologically, the word PPKM is the Enforcement of Restrictions on Community Activities. Based on Law Number 6 of 2018 concerning Health Quarantine, PPKM is a regional quarantine.⁶

The area that is blocked is for people who have no interest to stay at home. This is done to break the chain of spread of COVID-19. The 31 points of area that are blocked in the city of Medan are:

1. The road around the Merdeka Square
2. Zainul Arifin Street to Sun Plaza
3. Dr. famous road
4. Faithful way
5. ring road
6. Muslim captain's way
7. Adam Malik Street
8. Brigadier General Katamso Street
9. Jalan HM Joni
10. Misbah Street
11. STM Road
12. Hasanuddin road
13. Diponegoro Street
14. Jalan SM Raja intersection wholesale
15. Suprpto road, Imam Bonjol intersection
16. youth road
17. Lubis Way
18. Other way

During the regional quarantine, every necessities of life for people and food for livestock that are in the quarantine area are the

here: <https://www.cnnindonesia.com/nasional/20210705125751-12-663307/pelanggar-ppkm-darurat-bisa-dipidana-1-tahun-prison> .

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<https://www.alodokter.com/information-variety-vaccine-covid-19-di-indonesia>

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responsibility of the central government. this is covered in Article 55 paragraph 1 of Law Number 6 of 2018. Meanwhile, Article 55 paragraph 2 states that the responsibility of the central government in implementing the regional quarantine as referred to in paragraph 1 is carried out by involving the regional government and related parties.⁷

In addition to the circular No. 443.2/61134 of 2021 concerning the main things to be complied with during the Emergency PPKM signed by the Mayor of Medan, which was issued in early March, the Instruction of the Governor of North Sumatra No. 188.54/9/INS/2021 concerning Extension of the Implementation of Restrictions on Community Based Activities micro in order to control the spread of corona virus disease 2019 (COVID 19) in North Sumatra Province.

Micro PPKM as referred to in the First Dictum is carried out considering the zoning criteria for regional control up to the RT Level with the following criteria:

- 1) Green Zone, with the criteria that there are no COVID-19 cases in one RT, the control scenario is carried out with active surveillance, all suspects are tested and case monitoring is still carried out regularly and periodically;

- 2) Yellow zone, with criteria 1-5 houses with positive confirmed cases in 1 RT for the last 7 days, the control scenario is to find suspected cases and trace close contacts and then self-isolate for positive patients and have close supervision;
- 3) Orange zone, with the criteria that if there are 6 to 10 houses with positive confirmed cases in 1 RT for 7 days, the control scenario is to find cases of suppositories and close contact tracing, then self-isolate for positive and contact patients and close houses of worship, children's playgrounds and places of worship. other general except essential sectors;
- 4) Red zone with criteria if there are 10 houses with positive confirmation cases in 1 RT for the last 7 days then the control scenario is the implementation of PPKM at RT level which includes:
 - a) Finding superfluous t-shirts and close contact tracing;
 - b) Conduct independent/centralized isolation with close supervision;
 - c) Closing houses of worship, children's play areas and other public places except for essential sectors;
 - d) Prohibit crowds of more than 3 people;
 - e) Limiting entry and exit from the RT area to a maximum of 20.00 wibl
 - f) Eliminating community social activities in the RT

⁷ This article has been published on Kompas.com with the title "Regional Quarantine: Cost of Food and Basic Needs Borne by the State", Click to read: <https://money.kompas.com/read/2021/07/10/11039426/karantina-region-country-borne-meal-and-basic-needs-cost?page=all> .

environment that cause crowds and have the potential to cause transmission.

The 10th point covers the regulation on the implementation of regency/city restrictions that meet the following elements:

- a) The death rate is above the national average death rate;
- b) Cure rate below the national average active case rate
- c) The active case rate is above the national average active case rate;
- d) The occupancy rate of hospital beds for intensive care units (ICU) and isolation rooms is above 70% and
- e) Positive rate (proportion of positive tests) above 5%.

Therefore, the government should not just let go of seeing its citizens who are quarantined. This means that the local government is also involved in this case, the Medan City Government. If PPKM in Medan City is isolated and the community is not free, the government should provide guarantees in the trade sector, because trade and the economic sector are non-essential sectors. PPKM points for emergency sector essential 50% maximum staff work from office, supermarket, traditional market, grocery store operating until 20.00 wib. In fact, places to eat are only allowed to be wrapped or ordered (take away/delivery) starting on July 12, 2021 until July 20, 2021. If COVID-19 cases decline, on July 26, 2021, the PPKM will be relaxed.

METHOD

The approach method used in this research is the empirical normative juridical method, namely

Legal Research which is carried out by examining library materials or secondary data, and conducting interviews in the field.

DISCUSSION

Insulation includes Territorial Quarantine

The emergence of Law Number 2 of 2020 on the basis of the implications of the Covid 19 pandemic which has greatly decreased at the economic level, a decrease in state financing and income, so that the government is asked to save health and the social economy because the business world and society have indeed shown a very high impact.

Whereas in Law Number 6 of 2018 the terminology of PPKM is known as quarantine and PSBB. In order to overcome the COVID-19 pandemic, which is already in a critical phase, the policy must have consequences because if it is only half implemented, it will dissolve.

The contents of that regulation are as follows:

- 1) Teaching and learning activities are carried out online
- 2) The implementation of activities in the workplace is carried out by 75% WDH and 25% from the Office (WFO) with strict health protocols;
- 3) The non-essential sector applies 100% of the house;
- 4) Financial and banking activities, export-oriented industry operates a maximum of 50% staff;
- 5) Market activities, shopping centers, malls are temporarily closed except for access to food places.

- 6) Tourist activities, playgrounds, public areas and party activities are temporarily closed
- 7) Provisions for vaccination and antigen certificates are applied to immigrants from outside the Medan city area

If the term regional quarantine is used, the government will implement social restrictions. What is limited is all transportation and community activities to stay at home, but the government prepares the food. That is what must be implemented in the health quarantine law.

The word lockdown is not used but social assistance and government subsidies are given to beneficiary families (KPM), additional 2 months extra for basic food recipients, household electricity subsidies for 450V and 900V extended in December 2021, extension of internet quota subsidies for students, students, teachers / lecturer for 6 months and electricity subsidy extended in December 2021.

In maintaining public order and security in this Emergency PPKM situation, the Sabhara Polri unit is the front lining of the Police in escorting, special road patrols are also the Dirlantas Unit which performs roadblocks if people pass. Support for facilities and infrastructure in carrying out patrols, also prevents people from crossing the barriers that have been made by officers.⁸

At the points of the road sections that were blocked, a command post was established which

included elements of the TNI, Polri combined with the Director of Samapta, the Director of Traffic, the Intelligence and Security Unit, and the PP Police Unit. Department of Health, BPBD and sub-district muspika.

Every private vehicle and even vehicles that come from outside the city are prevented from being checked whether they carry a vaccine letter I and or not to wear a mask.

Medan is one of the cities that implements the Emergency PPKM rules by carrying out the mandate of the Circular Letter Number 443.2/61134 of 2021 concerning the main things that are complied with during the Emergency PPKM which is signed by the current Mayor of Medan.

In addition to the Law No. 443.2/61134 of 2021 concerning the main things to be complied with during the Emergency PPKM signed by the Mayor of Medan, which was issued in early March, the Instruction of the Governor of North Sumatra No. 188.54/9/INS/2021 concerning Extension of the Implementation of Restrictions on Community Based Activities micro in order to control the spread of corona virus disease 2019 (COVID 19) in North Sumatra Province.

Those allowed to produce vaccines for use in Indonesia are PT Bio Farma, AstraZeneca, China National Pharmateucical Group, Moderna, Novovax, Sinovac Biotech Ltd, Sputnik V. Vaccines are given in the community with a schedule that has been planned by the government:

Period I (January-April 2021), Phase I: 1.3 million doses for

⁸ Zainal, A Abidin, *Criminal Law I*, Jakarta: Sinar Graphic, 2014.

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health workers. Phase II: 17.4 million doses for public officials, and 21.5 million doses for over 60 years of age. Period II (April-March 2022) Phase III: 63.9 million doses for people with high risk of transmission Phase IV: 77.4 million doses to the general public with a cluster approach, subject to vaccine availability.

Even though they have been vaccinated, people still have to comply with health protocols to prevent the transmission of COVID-19, such as washing hands, maintaining physical distance, and using masks when outside the home. Corona 19 can still attack public health even though they have received the vaccine.

As explained above, if the Emergency PPKM is extended, the government has not yet decided whether the next step is to complete the policy because the government must meet the basic needs of citizens.

As we know, in 2018 President Joko Widodo passed Law Number 6 of 2018 concerning Health Quarantine. The law was made to regulate the responsibility of the Central Government and Regional Governments to ensure the necessities of life for their citizens during the regional quarantine.

Quarantine is a system that prevents the movement of people and goods for a certain period of time preventing the transmission of disease. During the period of exile, usually in the area or around the port or airport, observations and health checks are carried out. The term quarantine is equated with medical isolation, namely the separation of

individuals suffering from infectious diseases from other populations who are still healthy.

Various countries regulate the implementation of quarantine in the country through laws. The first Quarantine Act was enacted in Marseille, France in 1383. In the United Kingdom, the Quarantine Act was enacted in 1710 and 1721. In the United States, the Quarantine Act was passed in 1878 which was later changed to the Public Health Services Act in 1944. Additionally, The US also enacted the Pandemic Readiness and All Hazard Reauthorization Act in 2013. Australia passed the Quarantine Act in 1908 which was changed to the Biosecurity Act in 2015. Japan passed the Quarantine Act in 1951, while Canada in 2005. Indonesia issued the Marine Quarantine Act and the Air Quarantine Act. in 1962 which was later repealed and replaced by the Health Quarantine Act in 2018.

Article 1 paragraph 10 reads: Regional quarantine is the restriction of the population in an area, including the entrance area and its contents, which are suspected of being infected with disease and/or contaminated in such a way as to prevent the possibility of spreading disease or contamination.

PSBB is a restriction on certain activities of residents in an area suspected of being infected with a disease and contaminated in such a way as to prevent the possibility of spreading disease or contamination.

Emergency PPKM violators cannot be imprisoned

Whereas Article 1 paragraph 1 of the Criminal Code regulates: "Nullum delictum noela poena sine previa lege poenali" that no act can be punished without the rules governing it. Criminal law is a rule that regulates the basics:

- 1) Determine actions that cannot be carried out, which are prohibited, accompanied by threats, or sanctions in the form of certain crimes that violate the prohibition.
- 2) Determine when and what rules have been violated and imposed as threatened.
- 3) Determine by imposing criminal sanctions if the person commits it.

What is implemented in the Emergency PPKM is to quarantine the area, it is clear that people who run some 50% especially shops, restaurants are not entitled to sanctions. Because if they provide delivery or delivery food, it is inappropriate for the perpetrator to be given a fine of Rp. 300,000 thousand rupiah.

Micro PPKM as referred to in the First Dictum is carried out considering the zoning criteria for regional control up to the RT Level with the following criteria:

- 1) Green Zone, with the criteria that there are no COVID-19 cases in one RT, the control scenario is carried out with active surveillance, all suspects are tested and case monitoring is still carried out regularly and periodically;
- 2) Yellow zone, with criteria 1-5 houses with positive confirmed cases in 1 RT for the last 7 days, the control

scenario is to find suspected cases and trace close contacts and then self-isolate for positive patients and have close supervision;

- 3) Orange zone, with the criteria that if there are 6 to 10 houses with positive confirmed cases in 1 RT for 7 days, the control scenario is to find cases of suppositories and close contact tracing, then self-isolate for positive and contact patients and close houses of worship, children's playgrounds and places of worship. other general except essential sectors;
- 4) Red zone with criteria if there are 10 houses with positive confirmation cases in 1 RT for the last 7 days then the control scenario is the implementation of PPKM at RT level which includes:
 - a) Finding superfluous t-shirts and close contact tracing;
 - b) Conduct independent/centralized isolation with close supervision;
 - c) Closing houses of worship, children's play areas and other public places except for essential sectors;
 - d) Prohibit crowds of more than 3 people;
 - e) Limiting entry and exit from the RT area to a maximum of 20.00 wibl
 - f) Eliminating community social activities in the RT environment that cause crowds and have the potential to cause transmission.

The 10th point covers the regulation on the implementation of regency/city restrictions that meet the following elements:

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- c) The active case rate is above the national average active case rate;
- d) The occupancy rate of hospital beds for intensive care units (ICU) and isolation rooms is above 70% and
- e) Positive rate (proportion of positive tests) above 5%.

This Governor's Instruction comes into force on March 23, 2021 until April 5, 2021 regarding the Extension of Restrictions on Community Activities in North Sumatra Province.

With an integrated recording and reporting system, the Covid 19 Task Force for the Handling of Covid 19 in North Sumatra also provides a report containing at least the following:

- a) Implementation of Micro PPKM
- b) Establishment of Village and Sub-District level Command Posts to control the spread of COVID-19
- c) Implementation of village and sub-district level post functions to control the spread of covid 19
- d) Data tracing
- e) Vaccination activities.

Vaccines are substances or compounds that function to form immunity against a disease. Vaccine content in the form of bacteria or viruses that are attenuated or killed

are given by injection, drinking drops or through steam.

Vaccination is the process of administering vaccines in the body. When a person gets a vaccine, his body can form antibodies against germs or viruses that cause disease, especially during this COVID-19 pandemic. Several types of vaccines that have been approved by the Indonesian Ministry of Health are:

- a) Pfizer, the basic ingredient of MRNA, clinically tested in the United States;
- b) Sinovac, clinically tested for the BPOM Emergency Use Permit, and suitable to be brought in Indonesia, which is included in the fastest vaccine.
- c) Moderna, clinically tested from the EAU and FDA originating from the United States;
- d) Oxford/AstraZeneca, Clinical trials from UK authorities
- e) Novavax,
- f) Sinopram, originally from China
- g) Red and white- Biopharma
- h) Sputnik V, originally from Russia

If we look at the criminal sanctions in the Health Quarantine Act, it is clear for the captain, pilot, and driver who violates the threat of a maximum of 10 years and a maximum fine of Rp. 15,000,000,000. while for individuals, the threat of a 1 year fine of Rp. 100,000,000,000.

Such an explanation is the same as the government relinquishing responsibility in ensuring that the State fulfills the fulfillment of the rights of citizens that must be protected and fulfilled.

Human rights are the basic rights of every human being that must be protected, despite the current situation, the outbreak of the infectious disease covid 19 which has occurred for the past 2 years.⁹

Business actors who fall into the non-essential category during Emergency PPKM are not allowed to open their businesses, and only work from home. The non-essential sector only works from home, it is forbidden to accept buyers to eat in and it is prohibited. If the Gakkum Team of the North Sumatra Police who patrols past 20.00 WIB or directly arrests a buyer who is eating on the spot, the business actor will be given a written warning and pay a fine.

The fines demanded vary, from Rp. 100,000 to Rp. 300,000,-. This fine is returned to the regional treasury. Even so that people do not leave their homes for unnecessary purposes, the main street lights are turned off starting from July 12, 2021 to July 21, 2021. The blackout of street lights in Medan City is carried out to implement Emergency PPKM through joint policies and agreements with the Regional Leadership Communication Forum. (Forkompimda) Medan City.

This condition is all in the city of Medan in order to break the chain of transmission of covid 19 in the city of Medan not to create tension between the apparatus and the community. Moreover, there are some coffee companies in Medan City as a place to hang out who are

still "jogal" or pretend to forget that they still accept buyers to eat on the spot. The sanctions are recorded by the company and will be reprimanded.

It is different again with Kimia Farma actors who commit fraudulent acts by recycling antigen swab sticks as found at Kualanamu Airport, Deliserdang. Rapid recycling of antigen tests can lead to transmission of infection and is a form of consumer fraud during the COVID-19 pandemic, which can be subject to Article 196 of the Health Law Number 36 Year 2009 in conjunction with Article 55 of the Criminal Code.

We know that the Circular of the Covid Handling Task Force requires a negative and free Covid 19 certificate in traveling for people within the country. The perpetrators who recycle sticks for swabs were ordered by the Head of the Regional Office of PT Kimia Farma Medan and PT Angkasa Pura in carrying out air travel. In accordance with his behavior, the illegal practice earned a profit of Rp. 1,800,000,000 (one billion eight hundred thousand rupiah) which has been carried out in December 2020.

Article 98 paragraph 1 of Law Number 36 of 2009 concerning Health, namely: "Pharmaceutical preparations and medical devices must be safe, efficacious, quality and affordable". Article 98 paragraph 3 of the Health Law states that: "storage, processing, promotion, distribution of pharmaceutical preparations and medical devices must meet the quality standards of pharmaceutical services stipulated by government regulations".

⁹ Hamzah, Andi, *Principles of Criminal Law*, Revised Edition, Jakarta: Rineka Cipta, 2014.

In addition to violating consumer rights, pharmaceutical officers as well as business actors violate Article 7 letters a and d of Law No. 8 of 1999 concerning consumer protection. In the process of enforcing the procurement and distribution of goods related to the handling of the covid pandemic, the Attorney General's Office has issued the Attorney General's Letter Number B-132/A/SKJA/06/2021 dated June 30, 2021 regarding the enforcement of the Emergency PPKM disciplinary law.¹⁰

Anyone who violates the rules of Emergency PPKM shall apply Article 14 of Law Number 4 of 1984 concerning Outbreaks of Infectious Diseases, and/or Articles 212 and 216 of the Criminal Code. Article 14 of Law No. 4/1984 concerning Infectious Disease Outbreaks states that: Whoever deliberately obstructs the implementation of the epidemic control as regulated in this Law, is threatened with a maximum imprisonment of 1 (one) year and/or a maximum fine of Rp. 1,000,000 (one million rupiah).

Article 212 of the Criminal Code, states: Any person who by force or threat of violence against an official who is carrying out his legal duties, or a person who according to statutory obligations or at the request of an official provides assistance to him, is threatened for fighting an official, with a maximum imprisonment of one year and four months or a fine at most Rp. 4,500.

¹⁰ Ali, Achmad, *Revealing the Veil of the Law, Second Edition*, Jakarta: Prenadmedia Group, 2015

CONCLUSIONS

Insulation is included in the Territorial Quarantine, therefore the government should not just look at its citizens who are quarantined. This means that the local government is also involved in this case, the Medan City Government. Emergency PPKM violators cannot be imprisoned, because violators who meet the 50% WFO criteria are blocked due to insulation, and criminal penalties such as Article 212 of the Criminal Code and the Infectious Disease Outbreak Law are only applied to anyone who has the potential to hinder or thwart the procurement and distribution of goods. The Government should have made the basis for Emergency PPKM a Regional Quarantine, not PSBB and PPKM. Bearing in mind the obligations of the contents of the article are clear, fulfill the basic life of every citizen. Local governments must also provide social assistance in the form of food and basic goods, in addition to medical devices. The ranks of the Covid 19 Task Force, the Police, the Prosecutor's Office, the Regional Government, the Civil Service Police Unit, the Court and other Regional Governments in carrying out judicial operations to enforce disciplinary law for Emergency PPKM must be in tandem with the coordination of the central government, because the authority of the regional government is the authority of the central government.

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