

The Legal Position of Registered Letters and Their Effectiveness in Realizing the Principle of Simple, Fast and Low-Cost Justice (Study at the Simalungun Religious Court)

Muhammad Husni Dalimunthe^{1*}, Henry Aspan², T. Riza Zarzani³

^{1,2,3} Department of Master of Law, Universitas Pembangunan Panca Budi, Indonesia

*E-mail: henryaspan@dosen.pancabudi.ac.id

ABSTRACT

This paper wants to see how the legal position of Perma No. 7 of 2022 is related to the summoning of the parties to attend the trial in court. The summons according to Perma Number 7 of 2022 is carried out through a registered letter where the summons is carried out by an officer outside the court bailiff, namely PT. Pos Indonesia, while in the previous regulation, namely in HIR/RBg. the person who is obliged to make a summons is a court bailiff, and Government Regulation Number 9 of 1975 the summons is carried out by an officer ordered by the chairman of the religious court. After the legal position, it was also examined how effective the PERMA was when applied in a judicial work unit, namely the Simalungun Religious Court. The method used in this study is normative-empirical juridical (*applied law research*) where for normative law it examines legal norms, rules and principles contained in laws and regulations, and finds out the facts in the field from the application of rules in a work unit, namely the Simalungun Religious Court. From the results of the research, the researcher obtained the results that although there is no legal void in the law that regulates the summons of litigants to attend the trial, the legal position of Perma Number 7 of 2022 remains strong because the rules governing the summons are not rigid and provide space to make a perma that regulates summonses through registered letters. For the effectiveness of its implementation, Perma number 7 of 2022 is very effective for the principle of simplicity and low cost but not effective enough for the principle of fast justice. This means that the issuance of Perma Number 7 of 2022 does not deviate from higher rules and its application is very effective for the realization of the principles of the judicial trilogy, especially in terms of simple and cost-effective principles.

Keywords:

Legal Standing; Summons; Registered letters; Simple; Fast; low-cost Principles

1. Introduction

The birth of the Supreme Court Regulation of the Republic of Indonesia Number 7 of 2022 concerning Amendments to Supreme Court Regulation Number 1 of 2019 concerning Case

Administration and Trials in Court Electronically raises questions regarding the executor of summoning litigants in court because the executor of summoning litigants in court has changed to no longer be a substitute bailiff/bailiff.

In the Perma, the summons of the parties is carried out by a third party from a document delivery service provider appointed by the Supreme Court through a registered letter mechanism in accordance with point 2 of SEMA Number 1 of 2023 concerning Procedures for Summoning and Notification Through Registered Letters which reads: "that the registered letter as referred to in number 1 is sent by the court using the services of a registered mail delivery service provider determined by the Court Great. The Chief Justice of the Supreme Court stated that in Perma Number 7 of 2022, there is more specifically an article that regulates the summons and notification of decisions through registered letters. This is a form of breakthrough and renewal in the mechanism of summoning the parties which has been still referring to HIR and Rbg," explained the Chairman of the Supreme Court.

Meanwhile, in the law before the birth of the perma, namely in article 388 paragraph (1) HIR/RBg, the executor of the summons is the bailiff of the court, also in article 26 paragraph (2) of Government Regulation Number 9 of 1975 it is stipulated that the executor of the summons for the district court is the bailiff while for the religious court is an officer appointed by the chairman of the religious court, and in article 138 paragraph (2) of the Compilation of Islamic Law, the executor of the summons is an officer appointed by the chairman of the religious court. In fact, according to Yahya Harahap, only summons made by bailiffs are considered valid and official.

Perma number 7 of 2022 itself has been implemented at the Simalungun Religious Court since May 2023, and the third party that is the executor of the summons of the registered letter is PT. Pos Indonesia. This is strengthened by the collaboration between the Simalungun Religious Court and PT. Pematangsiantar Branch Post.

In terms of benefits, the implementation of the summons system is expected to be for judicial simplicity, acceleration of case examination, and also to alleviate the costs incurred by litigants in litigating in court according to the principles of the judicial trilogy .

This journal will focus on research on the legal position of Perma Number 7 of 2022 and the effectiveness of its implementation in realizing judicial principles that are simple, fast and low-cost. The existence of the Norma, especially related to the executor of the summons in the Perma and its effectiveness when applied in the work unit, namely the Simalungun Religious Court, will be analyzed interpretively in relation to the civil procedure legal process and its implementation in the work unit.

From the results of the analysis and analysis of the differences in the implementation of the summons of the litigants above and the implementation of Perma Number 7 of 2022 since May 2023, it is hoped that through this research it will be known the legal arrangements related to the summoning of the parties when litigating in Court? What is the legal position of the Supreme Court Regulation that regulates the summons of a registered letter as a procedural law rule? And how the

implementation of summons through letters is recorded at the Simalungun Religious Court and its effectiveness in realizing the principle of a simple, fast and low-cost judiciary.

2. Research Methodology

According to Sutrisno Hadi, research is a way of finding, developing, and testing the truth of a science, an effort where it is carried out by scientific methods. This research is carried out using an empirical normative juridical research methodology (*applied law research*). Normative research is research that examines legal norms, rules, and principles contained in laws and regulations. This research is also known as library or doctrinal research. As for the application of the law, the researcher uses empirical legal research. With a socio-legal approach. Knowing the facts that occur in the field, namely a type of sociological research and can be called field research, namely examining the applicable legal provisions and what happens in reality in society.

Based on the above methodology, the stages in this study include a literature study, this study is carried out by collecting secondary data which includes primary legal materials, secondary legal materials, and tertiary legal materials. Then interviews with stakeholders and finally documentation studies, this study is a method of data collection by studying documents obtained from work units related to the problem being researched.

3. Results And Discussion

A. Summoning of the Parties Before the Birth of Perma Number 7 of 2022

The summons of litigants before the birth of Perma Number 7 of 2022 is regulated in several rules, including in HIR/RBg Article 388 paragraph (1) "All bailiffs, commissioners who serve in court assemblies, and public power employees have the same right and obligation to execute, notify and all other bailiff letters and to carry out the orders and decisions of the judge", Government Regulation Number 9 of 1975 article 26 paragraph (2) "For the District Court, the summons is carried out by the bailiff; for the Religious Court, the summons is made by an officer appointed by the Chairman of the Religious Court, and the Compilation of Islamic law article 138 paragraph (2) "The summons to attend the hearing as mentioned in paragraph (1) is made by an officer appointed by the Chairman of the Religious Court".

B. Summoning of Parties in Perma Number 7 of 2022

The arrangement for the summons of the parties in Perma Number 7 of 2022 is carried out through a registered letter, this is explained in Article 17 paragraph (2) "In the event that the Defendant does not have an electronic domicile, the summons/notification is delivered through a registered letter". Article 20 paragraph (8) "Notification of the verdict to the defendant as referred to in paragraph (6), is made through a registered letter". And article 28 paragraph (8) "Notification of the decision/determination against the defendant who does not agree to the trial is delivered electronically through a registered letter". Meanwhile, the procedure for summoning/notifying letters is recorded in SEMA Number 1 of 2023 as a derivative of Perma Number 7 of 2022.

The Supreme Court Circular Letter is a form of circular letter from the Supreme Court Leadership to all levels of the judiciary which contains guidance in the implementation of a more administrative judiciary. In essence, Sema is internal, namely aimed at the judicial body under the Supreme Court to provide instructions and directions to all elements of judicial administrators in carrying out their duties.

The provisions stipulated in SEMA Number 1 of 2023 above, if classified for their designation, are as follows:

It	Number	Explaining About
1	1 (one) and 2 (two)	Definition of registered letter and summons executor in the form of registered letter delivery service provider
2	3 (three) to 8 (eight)	Mechanism for delivery of summons by registered mail service provider
3	9 (nine)	General calls
4	10 (ten)	If the party is not found or dies.
5	11 (eleven)	About the call-in grace period
6	12 (twelve)	Contents of the summons/notification minutes
7	13 (thirteen)	Proof of acceptance

C. Legal status of Perma number 7 of 2022

Departing from the background above, there are 2 things that are important points of discussion regarding the legal position of Perma Number 7 of 2022, namely

1. Authority of the Supreme Court to Issue Supreme Court Regulations:

The Supreme Court's authority to issue Perma is based on

- a) Article 24A of the 1945 Constitution,
- b) Article 79 of Law Number 14 of 1985 concerning the Supreme Court, and
- c) Articles 7 and 8 of Law Number 12 of 2011 concerning the Establishment of Laws and Regulations of the Supreme Court have the authority to issue Supreme Court Regulations.

In Law Number 12 of 2011 concerning the Formation of Laws and Regulations, article 7 explains the hierarchy of legislation, the construction of the system of laws and regulations in Indonesia is regulated in a hierarchical or tiered manner. This shows the force of legal enforceability or binding power of each legal product concerned. The method of higher legal norms must be the juridical basis for legal norms of lower status. Therefore, legal products of lower level, the content must not deviate, let alone contrast with legal methods of higher rank. Perma itself is not included in the hierarchy in article 7. However, in article 8 paragraph (1) it is explained about the institutions that have the authority to determine laws and regulations, including the Supreme Court. Then in Article 8 paragraph paragraph (2) which explains very clearly that the existence of laws and regulations other than those mentioned in Article seven paragraph (1) is recognized for its existence and has binding legal force as long as it is ordered by a higher Legislation or formed based on authority.

The types of regulations regulated in Article 8 paragraph (1) include the authority of attribution and delegation. According to Bagir Manan, "the authority of attribution exists if the Constitution or Law (in a formal sense) gives to a body with its own power and its own responsibility (independent) the authority to make/form laws and regulations". The authority of attribution itself is the granting of authority by lawmakers to government organs. This authority is given to carry out government duties and the interests of government administrative services.

This means that the Supreme Court is a state institution that is authorized by law to make a law and regulation. These laws and regulations are recognized for their existence and have binding legal force as long as they are ordered by higher laws and regulations or are formed based on authority.

Departing from the explanation above, based on article 24A of the 1945 Constitution, Article 79 of Law Number 14 of 1985 concerning the Supreme Court and articles 7 and 8 of Law Number 12 of 2011 concerning the Establishment of Laws and Regulations, the Supreme Court has the authority to issue Supreme Court Regulations with the provisions that have been explained in the regulations mentioned above.

2. Legal Reasons for the Supreme Court to Issue Supreme Court Regulation Number 7 of 2022

The considerations for the issuance of Perma number 7 of 2022 as mentioned in the Perma are as follows:

- a) that based on article 2 paragraph (4) of Law Number 48 concerning Judicial Power, it states that the judiciary is carried out simply, quickly and at a low cost, to realize this, it is necessary to carry out reforms to overcome obstacles and obstacles in the process of administering the judiciary.
- b) that after evaluating the implementation of Supreme Court Regulation Number 1 of 2019 concerning Case Administration in Courts Electronically, there are still obstacles that need to be improved.
- c)

The above considerations are abstract considerations, because the reasons allowed by law should refer to article 79 of Law Number 14 of 1985 which states that the Supreme Court can further regulate matters necessary for the smooth administration of justice if there are matters that have not been sufficiently regulated in this law. The explanation of article 79 is that "if in monitoring there is a legal deficiency or void in a case, the Supreme Court is authorized to make a regulation as a complement to fill the deficiency or vacancy", then the question that arises is whether there is a legal deficiency or void related to the implementation or implementation of the summons of litigants in court so that the issuance of the summons rule through a registered letter is carried out by a third party whose executor is no longer a bailiff?

To answer this question, it is necessary to trace the legal rules that govern the summoning of the parties, especially the summons.

Executor of summons according to HIR/RBg. PP and KHI

No.	Legal basis	Information
1	HIR article 388 paragraph (1) jo.390 paragraph (1)	The executors of summonses are all bailiffs and commissioners employed in the court and public servants in the government
2	Government Regulation Number 9 of 1975 article 26 paragraph (2)	For the District Court, the summons is made by the bailiff; for the Religious Court, the summons is carried out by an Officer appointed by the Chairman of the Religious Court
3	KHI article 138 paragraph (2)	The summons to attend the hearing as mentioned in paragraph (1) is made by an officer appointed by the Chairman of the Religious Court.

From the table above, it can be understood that there are already rules regarding the executor of summoning the litigants. However, according to the author, the rules are not rigid and standard because:

1. in HIR/RBg or there is no express mention that the bailiff is the only one who is obliged to carry out the summons,
2. there is a difference in the implementation of summons in Government Regulation Number 9/1975 in two work units that
3. The two rules above cause uncertainty in the implementation of the summons.

It is not expressly stated in the HIR/RBg that the only executor of the summons is the bailiff and if it is not carried out by the bailiff, the summons is invalid and inappropriate. Then, in the Government Regulation, it is expressly stated that for district courts, summonses are carried out by bailiffs and for religious courts, they are carried out by officers appointed by the chairman of religious courts. The existence of these differences causes inconsistencies, because the district courts and religious courts both have their own bailiffs and also the same judicial institutions under the Supreme Court that have their own bailiffs. And added to this is the phrase "an officer appointed by the chairman of the religious court" which can be interpreted as an officer other than a bailiff or also an officer outside the judicial apparatus.

Especially for the Religious Court, it is indeed in book II of the Guidelines for the Implementation of Duties and Administration of Religious Courts Revised Edition in 2010 regarding the process of summoning the parties. In point 1, it is explained that on the order of the chairman of the assembly, the bailiff/substitute bailiff makes a summons to the parties or their proxies officially and appropriately. However, considering that book II is only a guideline for the implementation of the duties and administration of religious courts and is not a written legal rule, let alone referring to the hierarchy of legislation, it cannot be a reason that what is written in book II is a legal reason that bailiffs are the only ones who are obliged to convey a summons.

Based on the above postulation, which is to combine the considerations contained in Perma number 7 of 2022 where there is a technological advancement that requires adjustments to realize the principles of the judicial trilogy coupled with the non-rigidity of the rules that govern the

implementation of the summons of litigants in the existing law, causing in addition to the existing rules not to be rigid but also to cause a blank space that must be immediately investigated by the Supreme Court, therefore, according to the author, Perma Number 7 of 2022 has a strong legal position and can be the legal basis for the implementation of summonses through registered letters.

However, even though the existence of the legal position of Perma Number 7 of 2022 is strong and recognized, it would still be better if the rules contained in the Perma were included in the codification of civil procedure law in Indonesia more strongly. And before the existence of these standard provisions, under the legal umbrella to:

1. Article 26 paragraph (2) of Government Regulation Number 9 of 1975 by expanding the meaning of the phrase "for religious courts, the summons is carried out by an officer appointed by the chief justice". and
2. One of the duties of judges is to find the law, by expanding the meaning of judges to the chief justice, especially to the Religious Court. Legal discovery is a method to obtain the law in the event that the regulations already exist but it is not clear how it applies to a concrete case. Legal discovery (*rechtsvinding*) is the process of law formation by judges or other legal officials who are tasked with the application of general legal regulations to concrete legal events.

Therefore, it opens an opportunity for the Chairman of the Religious Court to appoint a postal officer as the executor of the summons of the parties by expanding the meaning of "appointing an officer" according to the order of article 26 mentioned above. This means that the chairman of the local religious court appointed an officer of PT. Pos Indonesia. This can be made a direct appointment letter that is special for the public and can be emphasized in the letter of cooperation between the two Religious Courts of PT. Local Branch Post.

C. The implementation of summons through a registered letter at the Simalungun Religious Court and its effectiveness in realizing the principles of simplicity, speed and low cost at the Simalungun Religious Court.

Based on the results of an interview with Mrs. Asri Handayani, S.H.I, M.E, Deputy Chairman of the Simalungun Religious Court, that since May 2023, the Simalungun Religious Court has carried out summonses through a registered letter in collaboration with PT. Pematangsiantar Post.. The stages of the summons process through a registered letter have SOPs set by the Simalungun Religious Court, which are recorded as follows:

1. The Chairman of the assembly through the Registrar/Substitute Registrar submits the summons instrument to the appointed Bailiff/Substitute Bailiff;
2. The bailiff/substitute bailiff submits the summons instrument that has been received to the payment officer/cashier;
3. The payment/cashier officer records and inputs data on the SIPP application and e-finance of the case, and submits the summons fee to the Bailiff/Substitute Bailiff in accordance with the instrument that has been received;
4. The Bailiff/Substitute Bailiff shall make a summons to be sent to the parties no later than 6 (six) days before the hearing via PT Pos Indonesia Pematangsiantar Branch;
5. The POS officer takes the summons of the hearing which will be delivered to (Respondent/Applicant);

6. Postal officers input relaas data;
7. The POS officer provides a receipt of proof of delivery of the summons to the Bailiff/Substitute Bailiff through the appointed officer;
8. The Bailiff/Substitute Bailiff inputs the receipt of proof of delivery and electronic documents into the SIPP application; and
9. The Bailiff/Substitute Bailiff submits proof of delivery, tracking history and relaas to the Panel of Judges through the Registrar/Substitute Registrar as the basis for the registered letter (maximum 1 day before the hearing).

The implementation of summonses through this registered letter has been carried out directly from May 2023 until now, but this study only takes data for 14 months of data on summonses of litigants at the Simalungun Religious Court conventionally and through registered letters, namely from May 2023 to June 2024, which are as follows:

No.	Party Summons May 2023-June 2024	1398 items
1	Conventionally	819 items
2	By registered letter	579 items

1. The application is reviewed on a simple principle

One of the principles contained in procedural law in relation to the judicial process is the principle of fast, simple, and low-cost justice. The principle of ceat, simple, and low-cost justice means that justice that must be carried out quickly, simply, and at low cost as well as free, honest, and impartial must be applied consequentially in all levels of justice.

However, so far the above law also does not stipulate the size, norm, or value used in measuring or determining how a judiciary can be categorized as simple, fast, and low-cost or cheap.

However, by looking at the data obtained from the Simalungun Religious Court, if from the substance of the case examination is tried, there is no significant difference when the summons is carried out conventionally through bailiffs or through registered letters. However, simplicity can be seen in the simplification of the recipient of the call. In accordance with the terms and conditions stipulated in Sema Number 1 of 2023 as a derivative of Perma Number 7 of 2022, the recipient does not have to be the principal or the litigant, but the relaas can be considered valid and appropriate even though it is accepted by an adult living in the same house as the principal, where originally the summons was only considered valid if it was accepted by the party concerned and if it did not meet, it was escorted to the head of the village/lurah.

Then, when the parties are domiciled outside the authority of the court examining the case, where the summons should be carried out by summoning a delegation to the religious court where the parties are domiciled, to request that the court through its bailiff summon the parties. So the implementation of the summons of the registered letter makes it simple, there is no need for the court to ask for assistance or call for delegation to the court of the defendants' domicile, because it is enough for PT. Pos Indonesia carried it out by suing a network of branch post offices in the area.

2. Implementation reviewed by the principle of rapid review

This study limits the time only from May 2023 to June 2024. The data obtained by the researcher about the settlement of cases at the Simalungun Religious Court, both cases with conventional summonses and through registered letters within the time span are as follows:

Case resolution time	Conventionally 819 items	%	Through letters, 579 cases were recorded	%
1 month	578 items	70,57 %	263 items	45,42 %
2 months	106 items	12,94 %	222 items	38,34 %
3 months	23 items	2,81 %	54 items	9,33 %
4 months	9 points	1,10 %	20 items	3,45 %
5 months	100 items	12,21 %	18 points	3,11 %
6 months	3 things	0,37 %	2 things	0,35 %

a. If simplified again

Case resolution time	Conventionally	%	By registered letter	%
1 month	578 items	70,57 %	263 items	45,42 %
2 months	106 items	12,94 %	222 items	38,34 %
3 months	23 items	2,81 %	54 items	9,33 %
Sum	707/819 cases	86,02 %	539/579 cases	93,09 %

Based on the data mentioned above, the settlement of cases by summons through registered letters is not significant compared to conventional summonses. Even for the settlement of cases within 1 month, the conventional summons far exceeds the settlement of cases whose summons are through registered letters. With a percentage of 70.57% compared to 45.42%

3. The application is reviewed on the principle of low cost

If viewed from the realization of the principle of low cost, the mechanism of summons through registered letters has been proven to be able to significantly reduce the cost of cases compared to conventional summonses through bailiffs.

As an example of comparison

Table of Differences in Case Rules between conventional summonses and summonses with a registered divorce letter for radius IV at the Simalungun Religious Court.

It	Cost components Radius V	Conventional calling/bailiff	Calls by registered mail
1	Registration	IDR 30,000	IDR 30,000
2	Administration fee/AtK	IDR 75,000	IDR 75,000
3	Plaintiff's Summons : 3 X Summons	IDR 675,000	-
4	Defendant's Calls: 4 x Calls	IDR 900,000	IDR 108,000

5	PNBP Relaas First Summons Plaintiff	IDR 10,000	IDR 10,000
6	PNBP Relaas First Summons Defendant	IDR 10,000	IDR 10,000
7	Seal	IDR 10,000	IDR 10,000
8	Editor	IDR 10,000	IDR 10,000
9	PNBP Relaas Notification of Decision	IDR 10,000	IDR 10,000
	Sum	IDR 1,730,000	IDR 263,000

The table above shows the difference in the number of cases between summons through bailiffs directly and summons through registered letters, where summons through registered letters can be more economical reaching almost 75%.

4. Conclusion

Based on the explanation that has been delivered in the discussion, the author hereby concludes that the summons of the parties when litigating is regulated in the law, namely HIR/RBg and PP Number 9 of 1975, namely those who carry out summonses against the parties when litigating in the District Court are bailiffs according to HIR/RBg and officers ordered by the Chief Justice of the Religious Court according to PP Number 9 of 1975 and the Compilation of Islamic Law.

That the legal position of Supreme Court Regulation Number 7 of 2022 as the legal basis for summoning the parties through a registered letter is strong and can be a legal postulate because it does not deviate or contradict HIR/RBg, let alone Government Regulation Number 9 of 1975 and the Compilation of Islamic Law. Because both in HIR/RBg or Government Regulation Number 9 of 1975 and the Compilation of Islamic Law, the rules that stipulate that the right to summon is only the bailiff are not *rigid*, there is even a difference in the law who must summon. In Government Regulation Number 1975 and the Compilation of Islamic Law, it is even stated that the summoning is an officer appointed by the chairman of the religious court.

That the implementation of Supreme Court Regulation Number 7 of 2022 at the Simalungun Religious Court is related to the trilogy of judicial principles, then:

a. In terms of simple principles

That there is a simple judicial increase in summonses through registered letters, in the form of summonses made by PT. The post that is used to delivering letters and documents has a wider reach covering the entire territory of Indonesia. Furthermore, in terms of the recipient of the summons, in addition to the principal or the principal's family, other people who are in the same house as the principal are also allowed with the applicable terms and conditions.

b. In terms of the principle of speed

That the effectiveness of summonses through registered letters is not so significant in speeding up the handling of cases compared to conventional summonses. Because the difference between the two only ranges from 7.07% if combined with the completion within one, two and three

months at once. Even if the speed of case settlement is calculated within one month, the summons through letters are recorded to be far behind, which is between 70.57% and 45.42%.

c. In terms of the principle of low cost,

That the implementation of summoning litigants through a registered letter is very helpful in easing the burden on the litigants. Where the effectiveness of summoning through a registered letter is very felt because the cost savings are very large, can reach six times compared to conventional summons.

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