

Legal Analysis Of The Implementation Of Criminal Sanctions For Abusing Transportation And Trade Of Subsidized Fuel Oil (Study Of Decision Number 173/PID.B/LH/2024/PN RHL) Judge On The Practice Of Pharmacy Availability E Practice Of

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Abstract

The method used in this thesis research is normative legal research, namely research on problems by looking at the sources of applicable regulations related to the title legal analysis of the implementation of criminal sanctions for abusing transportation and trade of subsidized fuel oil (study of decision number 173 / pid.b / lh / 2024 / pn rhl . The judge's decision in case Number 173 / PID.B / LH / 2024 / PN RHL which has sentenced Defendant II Hendra Saputra alias Hendra bin Jasrianto to imprisonment for 1 (one) year 6 (six) months and a fine of Rp. 250,000,000.00 (two hundred and fifty million rupiah) each with the provision that if the fine is not paid it is replaced with imprisonment for 1 (one) month according to the researcher has reflected a sense of justice . The difference in punishment between the perpetrator and the person who participated in the crime is in accordance with Article 28 of Law Number 4 of 2004 concerning Judicial Power, which states: 'Judges are required to explore, follow and understand the legal values and sense of justice that exist in society. In considering the severity of the crime, judges are required to also pay attention to the good and evil nature of the defendant. Criminal decisions are not only punishment but also the basis for re-socializing the convict so that it is hoped that he will not commit crimes again in the future so that danger to society can be avoided.

Keywords: *Legal Analysis, Enforcement, Criminal Sanctions, Misuse, Transportation, Trade, Fuel Oil, Subsidized;*

INTRODUCTION

(Penyalahgunaan Pengangkutan Dan / Niaga Bahan Bakar Minyak Bersubsidi, 2024) Fuel Oil (BBM) is one of the fossil energy sources derived from oil and natural gas and processed into liquid fuel. Fuel Oil (BBM) is one of the important energies used by the world community, especially for motor vehicles, heating, solvents, and steam and electricity production (Siahaan et al., 2023).

Article 1 number 14 of the Oil and Gas Law states that: "trade is the activity of purchasing, selling, exporting, importing crude oil and/or its processed products, including natural gas trading through pipelines" (Buwana et al., 2020). Then Article 1 number 4 of the Oil and Gas Law states that "fuel oil (BBM) is fuel derived and/or processed from crude oil."

The object of research in this article refers to the case in the case register registered at the Rokan Hilir District Court 173/PID.B/LH/2024/PN RHL in which the defendant Ali Akbar alias Ali Bin Sopian together with Defendant II Hendra Saputra alias Hendra Bin Jasrianto on Friday, January 26, 2024 at around 23.50 WIB or at least at some time in January 2024 or at least at some time in 2023 at Jalan Lintas Bagansiapiapi-Sinaboi RT 012 RW 004 Kepenghuluan Parit Aman Kecamatan Bangko Kabupaten Rokan Hilir or at least at a place that is still included in the jurisdiction of the Rokan Hilir District Court, " those who do, who order to do and who participate in doing acts, who misuse the transportation and / or Trade of Fuel Oil, gas fuel and / or Liquefied Petroleum Gas which subsidized by the Government ", the act was carried out by the defendant in the following ways, namely starting on Friday, January 26, 2024 at around 23:50 WIB at Jl Lintas Bagansiapiapi - Sinaboi RT 012 RW 004 Kepenghuluan Paret Aman, Bangko District, Rohil Regency, Witnesses Arya Maulana.SH.MH and Witness Anang Tri Mulyo

Hasibuan.SH (Each Member of the Rohil Police) have secured 1 (one) Defendant I Ali Akbar alias Ali Bin Sopian who was transporting subsidized Bio Solar fuel oil as many as 22 (twenty-two) jerry cans using a motorbike that had been modified with a transport cart where the fuel was taken from the PD SPBU Sarana Pembangunan Rohil (SPR) Bagansiapiapi. Then the Officer conducted an interrogation and it was discovered that the fuel belonged to Defendant II HENDRA SAPUTRA alias HENDRA Bin JASRIANTO whose address is in Sinaboi. That Defendant I ALI AKBAR alias ALI Bin SOPIAN played a role in helping Defendant II HENDRA SAPUTRA alias HENDRA Bin JASRIANTO to transport the subsidized fuel from the gas station to Sinaboi by obtaining a profit of Rp 50,000 to Rp 100,000 for each delivery trip, while Defendant II HENDRA SAPUTRA alias HENDRA Bin JASRIANTO obtained a profit from the price difference from the gas station and the selling price in Sinaboi which averaged around Rp 450,000 per trip. That Defendant II HENDRA SAPUTRA alias HENDRA Bin JASRIANTO obtained the subsidized fuel of the Bio Solar type by collaborating with a gas station operator named Mr. ALEX SANDRA and the payment was made by means of a BON. The profit sharing was that Mr. ALEX SANDRA received a profit of Rp. 6,000 per jerry can. The Defendants were then taken to the Rokan Hilir Police for further investigation.

Based on information from Expert ATIQ MUJTABA, ST, expert from Oil and Gas at the Oil and Gas Downstream Regulatory Work Unit explained that the Government-subsidized Fuel Oil (BBM) in the form of diesel/Bio Solar sold through a distributor of a Business Entity Holding a Trading Business License in this case Defendant I Ali Akbar Alias Ali Bin Sopian was transporting 22 (twenty-two) jerrycans of subsidized Bio Solar Fuel Oil using a motorbike that had been modified with a transport cart, where the BBM was taken from the PD SPBU Sarana Pembangunan Rohil (SPR) Bagansiapiapi. Then the Officer conducted an interrogation and it was discovered that the BBM belonged to Defendant II Hendra Saputra Alias Hendra Bin Jasrianto whose address is in Sinaboi. That Defendant I Ali Akbar Alias Ali Bin Sopian played a role in helping Defendant II Hendra Saputra alias Hendra Bin Jasrianto to transport subsidized fuel from the gas station to Sinaboi by obtaining a profit of IDR 50,000 to IDR 100,000 for each delivery trip, while Defendant II Hendra Saputra alias Hendra Bin Jasrianto obtained a profit from the price difference from the gas station and the selling price in Sinaboi which averaged around IDR 450,000 for each trip. That Defendant II Hendra Saputra alias Hendra Bin Jasrianto obtained subsidized fuel of the Bio Solar type by collaborating with a gas station operator named Mr. ALEX SANDRA and the payment was made by BON, the profit sharing was that Mr. ALEX SANDRA received a profit of Rp. 6,000 per jerry can, which is an activity of misusing fuel subsidized by the government, namely subsidized diesel (JBT) and Peralite which is a type of Special Assignment Fuel (JBKP) in a manner that is detrimental to the interests of the wider community and the state in the form of deviations from fuel allocations and by selling to obtain personal gain, fulfilling the elements of misuse of transportation and trade of subsidized fuel as referred to in Article 55 in Article 40 number 9 of the Government Regulation in lieu of Law of the Republic of Indonesia Number 6 of 2023 concerning the stipulation of the Government Regulation in lieu of Law Number 2 of 2022 concerning Job Creation amending Law of the Republic of Indonesia Number 22 of 2001 concerning Oil and Natural Gas . *The Defendant's actions as regulated and threatened with criminal penalties according to Article 55 in Article 40 number 9 of the Government Regulation in Lieu of Law of the Republic of Indonesia Number 6 of 2023 concerning the stipulation of the Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation amending Law of the Republic of Indonesia Number 22 of 2001 concerning Oil and Natural Gas in conjunction with Article 55 Paragraph (1) Ke-1 of the Criminal Code.*

(Muhammad Zamroni, 2018)The interesting thing to do research in this case is related to the charges and demands of the public prosecutor who has used the provisions of Article 363 paragraph (1) 5 of the Criminal Code, while the position of the stolen object belongs to PT.

Sindora Seraya which should be the article used is the Plantation Law. Therefore, it is interesting to do research with the title: " Legal Analysis Of The Implementation Of Criminal Sanctions For Abusing Subsidized Fuel Oil Transportation And Trade (Study Of Decision Number 173/Pid.B/Lh/2024/Pn Rhl) "

RESEARCH METHODS

This study uses a normative legal research method. Normative legal research is researching law from an internal perspective with the object of research being legal norms. In other words, legal research that places law as a building of a norm system. The norm system in question is regarding the principles, norms, rules of laws and regulations, court decisions, agreements and doctrines (teachings). This study uses a legislative approach and a conceptual approach . The legislative approach is used to obtain an overview of the Legal Analysis Of The Implementation Of Criminal Sanctions For Abusing Subsidized Fuel Transportation And Trade (Study Of Decision Number 173/Pid.B/Lh/2024/Pn Rhl).

RESULT AND DISCUSSION

1. Position Of The Case Of Abusing Transportation And Trade Of Subsidized Fuel Oil

Carrying out Misuse and transportation and trading of subsidized fuel is a criminal act as referred to in Article 55 in Article 40 number 9 of the Government Regulation in Lieu of Law of the Republic of Indonesia Number 6 of 2023 concerning the stipulation of the Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation amending Law of the Republic of Indonesia Number 22 of 2001 concerning Oil and Natural Gas.

In the provisions Article 55 of the Job Creation Law regulates criminal penalties for perpetrators of misuse of subsidized fuel oil (BBM) which states that: Anyone who misuses the transportation or trade of BBM, gas fuel, or liquefied petroleum gas (LPG) subsidized by the government, shall be punished with a maximum imprisonment of 6 years. The perpetrator is also subject to a maximum fine of IDR 60,000,000,000.00 (sixty billion rupiah).

The position of the case which is the object of this research is that Defendant I Ali Akbar alias Ali Bin Sopian played a role in helping Defendant II Hendra Saputra alias Hendra Bin Jasrianto to transport subsidized fuel from the gas station to Sinaboi by obtaining a profit of Rp. 50,000 to Rp. 100,000 for each delivery trip, while Defendant II Hendra Saputra alias Hendra Bin Jasrianto obtained a profit from the price difference from the gas station and the selling price in Sinaboi which averaged around Rp. 450,000 for each trip. That Defendant II Hendra Saputra alias Hendra Bin Jasrianto obtained subsidized fuel of the Bio Solar type by cooperating with a gas station operator named Mr. ALEX SANDRA and the payment was made by means of a BON, while the profit sharing was that Mr. ALEX SANDRA received a profit of Rp. 6,000 per jerry can, which is an activity of misusing fuel subsidized by the Government, namely subsidized diesel (JBT) and Pertalite which is a type of Special Assignment Fuel (JBKP) in a manner that is detrimental to the interests of the wider community and the State in the form of deviation from fuel allocation and by selling to obtain personal gain, fulfilling the elements of misuse of transportation and trade in subsidized fuel.

After going through the trial examination mechanism at the Rokan Hilir District Court, the Public Prosecutor at the Rokan Hilir District Attorney's Office prosecuted the defendant. So that the Panel of Judges at the Rokan Hilir District Court who examined and tried the case : 173/Pid.B/LH/2024/PN RHL decided, namely:

DEMAND;

1. Declaring that Defendant I ALI AKBAR alias ALI Bin **SOPIAN** together with Defendant II HENDRA SAPUTRA alias HENDRA Bin JASRIANTO were proven legally and convincingly guilty of committing the crime " *those who committed, ordered the act to be committed and participated in the act, "who misuses the transportation and/or trade of fuel oil, gas fuel and/or liquefied petroleum gas subsidized by the government"*, as regulated and threatened with criminal penalties in the Single Indictment of the public prosecutor for violating *Article 55 in Article 40 number 9 of the Government Regulation in Lieu of Law of the Republic of Indonesia Number 6 of 2023 concerning the stipulation of the Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation amending Law of the Republic of Indonesia Number 22 of 2001 concerning Oil and Natural Gas in conjunction with Article 55 Paragraph (1) 1 of the Criminal Code* .
2. Sentencing Defendant I ALI AKBAR alias ALI Bin **SOPIAN** together with Defendant II HENDRA SAPUTRA alias HENDRA Bin JASRIANTO to a prison sentence of **8 (EIGHT) MONTHS** minus temporary detention and with an order that the defendant remain detained and a fine of Rp. 250,000,000 (Two Hundred Fifty Million Rupiah), subsidiary 1 (One) Month in Prison.
3. Stating evidence in the form of:
 - 22 (twenty two) jerry cans containing subsidized fuel oil (BBM) of the Bio Solar type + 29.78 liters
 - 1 (one) unit of black Honda Revo brand motorbike without a police number (**Confiscated For The State**)
 - 1 (one) wooden cart carrying jerry cans; (**Seized For Destruction**)
4. Charge the defendant with paying court costs of Rp. 2,000 (two thousand rupiah).

Then, regarding the Public Prosecutor's Demands, the Panel of Judges at the Rokan Hilir District Court issued a verdict as per the Rokan Hilir District Court Decision **173/PID.B/LH/2024/PN RHL**, the verdict of which reads:

TO JUDGE:

1. Declaring Defendant I Ali Akbar alias Ali bin Sopian and Defendant II Hendra Saputra alias Hendra bin Jasrianto above, proven legally and convincingly guilty of committing the crime of Misusing the Transportation and Trading of Subsidized Fuel Oil together, as in the Public Prosecutor's indictment;
2. Sentencing the Defendants therefore, Defendant I Ali Akbar alias Ali bin Sopian to a prison sentence of 8 (eight) months and Defendant II Hendra Saputra alias Hendra bin Jasrianto to a prison sentence of 1 (one) year 6 (six) months and a fine of Rp. 250,000,000.00 (two hundred and fifty million rupiah) each with the provision that if the fine is not paid it will be replaced with a prison sentence of 1 (one) month;
3. Determine that the period of arrest and detention that the Defendants have undergone will be deducted in full from the sentence imposed;
4. Determine that the Defendants remain in detention;
5. Establishing evidence in the form of: 22 (twenty two) jerry cans containing subsidized Bio Solar fuel (BBM) of approximately 29.78 (twenty nine point seventy eight) liters; 1 (one) unit black Honda Revo brand motorbike without a license plate; Confiscated for the State; 1 (one) wooden cart carrying jerry cans; Destroyed;
6. Ordering the Defendants to pay court costs of Rp. 5,000.00 (five thousand rupiah) each;

2. SUBSIDIZED FUEL IN DECISION NUMBER 173/PID.B/LH/2024/PN RHL

The decision of the Rokan Hilir District Court regarding the criminal act of Misusing the Transportation and Trading of Subsidized Fuel Oil jointly as in case register No: 173/PID.B/LH/2024/PN RHL with the verdict stating that the Judge Declares Defendant I Ali Akbar alias Ali bin Sopian and Defendant II Hendra Saputra alias Hendra bin Jasrianto above,

are proven legally and convincingly guilty of committing the crime of Misusing the Transportation and Trading of Subsidized Fuel Oil jointly, as in the indictment of the Public Prosecutor by Sentencing the Defendants therefore, Defendant I Ali Akbar alias Ali bin Sopian with a prison sentence of 8 (eight) months and Defendant II Hendra Saputra alias Hendra bin Jasrianto with a prison sentence of 1 (one) year 6 (six) months and a fine of Rp. 250,000,000.00 each (two hundred and fifty million rupiah) with the provision that if the fine is not paid it will be replaced with imprisonment for 1 (one) month;

(Sulaiman & Nento, 2023) Judges in their free position are required to be impartial *judges* . (Tindak et al., 2024) As impartial judges in carrying out their profession, it means that judges must always guarantee the fulfillment of treatment in accordance with human rights, especially for suspects or defendants. This has become the obligation of judges to realize equality before the law for every citizen (*equally before the law*) (Ijaya et al., 2023).

In the explanation of Law Number 4 of 2004 concerning Judicial Power (Hasanah, 2022), it is stated that the freedom of judges in exercising their judicial authority is not absolute in nature. (Kriminologis et al., 2024) Because the judge's duty is to uphold the law and justice based on Pancasila by interpreting and seeking the foundations and principles that are the basis for it, through the cases presented to him so that his decision reflects a sense of justice (Gustasidarthagmailcom, n.d.).

A prison sentence of 8 (eight) months and Defendant II Hendra Saputra alias Hendra bin Jasrianto with a prison sentence of 1 (one) year 6 (six) months and a fine of Rp. 250,000,000.00 (two hundred and fifty million rupiah) each with the provision that if the fine is not paid it will be replaced with a prison sentence of 1 (one) month according to the researcher, this reflects a sense of justice .

(Safitri & Anisa, 2024) The difference in punishment between the perpetrator and the person who participated in the crime is in accordance with Article 28 of Law Number 4 of 2004 concerning Judicial Power, which states: Judges are required to explore, follow and understand the legal values and sense of justice that exist in society. In considering the severity of the crime, judges are required to also pay attention to the good and evil nature of the defendant. Criminal decisions are not only punishment but also the basis for re-socializing the convict so that it is hoped that he will not commit crimes again in the future so that danger to society can be avoided.

CONCLUSION

The judge's decision in case Number 173/PID.B/LH/2024/PN RHL which has sentenced Defendant II Hendra Saputra alias Hendra bin Jasrianto to 1 (one) year 6 (six) months in prison and a fine of Rp. 250,000,000.00 (two hundred and fifty million rupiah) each with the provision that if the fine is not paid it will be replaced with imprisonment for 1 (one) month according to researchers has reflected a sense of justice . The difference in punishment between the perpetrator and those who participated in the act is in accordance with Article 28 of Law Number 4 of 2004 concerning Judicial Power which states: Judges are obliged to explore, follow and understand the legal values and sense of justice that live in society. In considering the severity of the crime, the judge is also obliged to pay attention to the good and evil nature of the Defendant. Criminal decisions not only constitute punishment but also serve as a basis for reintegrating the convict into society so that it is hoped that he will not commit crimes again in the future so that danger to society can be avoided.

REFERENCES

- Buwana, I. D. G. S., Rideng, I. W., & Sukadana, I. K. (2020). Infosanksi Pidana Penyalahgunaan Bahan Bakar Minyak Bersubsidi. *Jurnal Konstruksi Hukum*, 1(2), 281–285.
- Gustasidarthagmailcom, E. (n.d.). *PENYELARASAN PERATURAN KITAB UNDANG – UNDANG ACARA PIDANA*. 10(1).
- Hasanah, U. (2022). *Fakultas Hukum Universitas Syiah Kuala Criminal Act of Abuse of Transportation and Subsidied Fuel Commercial (Bbm) (a Research in the Jurisdiction of the Takengon State Court)*. 6(3), 321–329.
- Ijaya, Y. A., Yasarman, Y., & Anggawira, A. (2023). Penegakan Hukum Pidana terhadap Penjualan Bahan Bakar Minyak Eceran secara Ilegal. *Jurnal Multidisiplin Dehasen (MUDE)*, 2(3), 625–638. <https://doi.org/10.37676/mude.v2i3.4722>
- Kriminologis, T., Penimbunan, T., Bakar, B., Bersubsidi, M., Solar, J., Peralite, D., Kabupaten, D., Dio, B., Ha'e, R., Leo, R. P., & Amalo, H. (2024). *ArtemisLawJournal Volume.1,Nomor.2*. 2024. <https://doi.org/10.9000/jupetra.v2i1.143>.
- Muhammad Zamroni. (2018). *Tinjauan Yuridis Tentang Fenomena Pertamina dalam Praktik Distribusi BBM Untuk Masyarakat (Studi di Kota Semarang)*. 3–4.
- PENYALAHGUNAAN PENGANGKUTAN DAN / NIAGA BAHAN BAKAR MINYAK BERSUBSIDI*. (2024). 776.
- Safitri, M., & Anisa, M. (2024). *Website : https://journal.unilak.ac.id/index.php/Respublica Analisis Pertanggung Jawaban Tindak Pidana Penyalahgunaan Bahan Bakar Solar Bersubsidi Tanpa Izin (Studi Putusan Nomor : 618 / Pid . B / LH / 2022 / PN . Tjk) Indonesia merupakan negara menempatkan hukum menjadi kekuatan tertinggi pada hidup bangsa serta negara . Negara hukum berkonsepkan membawa serta kebutuhan untuk merefleksikan aspek kehidupan bangsa serta negara , intinya pada bidang hukum acara pidana . Pada konteks proses peradilan pada kaitannya menggunakan jatuhkan sanksi pidana pada hakim , jatuhkan keputusan hakim tak lepas sesuatu berhubungan , diyakini serta dibuktikan pada persidangan . Hukum pidana menjadi instrumen atau sarana penyelesaian masalah diperlukan bisa menyampaikan solusi tepat . Maka , bangunan hukum , khususnya hukum pidana , perlu lebih ditingkatkan serta diupayakan secara terarah serta terpadu , termasuk kodifikasi serta satuan bidang hukum serta susunan aturan perundang-undangan baru dibutuhkan untuk memenuhi seluruh tingkatan kejahatan serta kembangan kejahatan . Dari Barda Nawawi , Arief berkata implementasi kebijakan peradilan pidana artinya faktor pendukung tegakan hukum pidana , khususnya tanggulangan kejahatan . Kebijakan hukum pidana menjadi bagian perjuangan social politik melawan kejahatan , tindakan hukum pidana untuk mengatur rakyat terkait erat menggunakan aneka macam bentuk politik pada proses social politik berkaitan menggunakan tujuan lebih luas . Menjadi salah atau caralain pencegahan kejahatan , kebijakan hukum pidana ialah “ kebijakan kriminal ”. Strategi ataupun upaya tanggulangan kejahatan di hakikatnya ialah integral dari upaya lindungan rakyat serta menuju sejahtera sosial . 1 Hukum pidana menjadi hukum publik sangat erat kaitannya menggunakan administrasi . Keeratan korelasi antar hukum pidana menggunakan bidang hukum lain , spesifikasinya pada hukum tata usaha negara , begitu eratnya sebagai akibatnya Wirjono Prodjodikoro mencatat bahwa batasan hukum pidana pada satu pihak pakai hukum tata usaha negara pada lain pihak di rasa keadilan . 2 Pandangan lainnya merupakan koralasi hukum pidana serta hukum administrasi , khususnya hukum pidana , menyampaikan sanksi spesifik untuk pelanggaran beberapa asas hukum , termasuk pelanggaran asas hukum administrasi . Satu bidang kehidupan pula terumuskan pada perpu merupakan selenggaraan kegiatan pada bidang minyak serta gas bumi yaitu UU No . 22*

Tahun 2001 perihal Minyak serta Gas Bumi muatan pokoknya.... 65–76.

Siahaan, P., Chandra, T. Y., & Ismed, M. (2023). Penegakan Hukum Terhadap Pelaku Tindak Pidana Penyalahgunaan Gas LPG Bersubsidi di DKI Jakarta. *Jurnal Global Ilmiah*, 1(2), 122–129. <https://doi.org/10.55324/jgi.v1i2.18>

Sulaiman, H., & Nento, Z. (2023). Analisis Hukum Tindak Pidana Pengangkutan dan Perniagaan BBM Bersubsidi Tanpa Izin Usaha Menurut Undang-Undang Nomor 22 Tahun 2001 Tentang Migas. *Journal Law And Justice*, 1(1), 1–6. <https://doi.org/10.59211/mjplj.v1i1.3>

Tindak, A., Penyalahgunaan, P., & Bakar, B. (2024). *Clavia clavia: journal of law*. 22, 61–68.