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Legal Analysis of Criminal Punishment for Perpetrators of Illegal Mining Criminal Acts Resulting in Forest Damage (Decision Number 495/Pid.Sus/2022/PN Kdi)

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Abstract: This research focuses on the analysis of forest damage due to mining activities carried out without permits, which is considered a criminal act. Apart from that, this research also discusses criminal liability and the judge's considerations in imposing penalties related to forest damage caused by illegal mining based on Decision Number: 495/Pid.Sus/2022/PN Kdi. The approach used in this research is normative, involving a statutory approach, conceptual approach, and case approach, as well as utilizing primary and secondary legal sources from literature studies, with prescriptive analysis. From this research, several conclusions were found. Firstly, mining carried out without a permit in the forest is classified as a criminal act of illegal mining which is regulated in Law Number 3 of 2020 which amends Law Number 4 of 2009 concerning Mineral and Coal Mining, especially relating to the management of forest areas without permits as stated in listed in Article 78 paragraph (2) letter , in conjunction with Article 50 paragraph (3) letter a, of Law Number 41 of 1999 concerning Forestry. Second, for criminal liability resulting from misuse of mining business permits which causes forest damage, the sanctions imposed are in the form of prison sentences and fines, which can result in imprisonment for six months and a fine of Rp. 500,000,000.00. If the fine is not paid, it will be replaced by a prison sentence of two months. This is due to the fact that the defendant was legally and convincingly proven to be involved in the act of "taking part in carrying out, using and occupying forest areas illegally".

Keyword: Forest, Forest Damage, Mining Without Permit.

INTRODUCTION

Forests are a gift from God to Indonesia and we should be grateful for them. Appreciation of natural resources can be done in various ways, such as forest conservation. If forests are well protected, the impact will not only affect the current generation but also future generations (Naradita, 2021). According to Article 1 paragraph 2 of Law Number 41 of 1999 concerning Forestry, a forest is a cohesive ecosystem that takes the shape of a stretch of land

that contains natural biological resources that are dominated by trees in a natural setting. These resources cannot be separated from one another.

From the explanation of the definition of a forest, there are several elements included, namely: A field area, there are plants and animals along with their natural habitats, the government designates this area as a forest, can provide sustainable benefits. The four main characteristics of an area called a forest are a series of intact components that are interdependent on the function of the ecosystem on earth. The forest ecosystem is very important as the lungs of the world. Forest areas are areas that are protected by the government as permanent forest areas. Next, forest areas are areas that have been overgrown with trees or not, then ownership is given to the state. Forest areas are determined for use in land use planning based on the needs of the Indonesian people. In a more general sense, each forest area is not always considered a forest as a whole or can be designated as a forest area. Instead, forest areas are formed by the government based on interests and uses that are considered legitimate through the approval of the Minister of Forestry.

Therefore, forests as a means of livelihood should be protected based on Article 33 paragraph (3) of the 1945 Constitution which reads: "The land, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. The welfare of the people is related to the management of natural resources that provide maximum benefits for the entire population of Indonesia. However, prosperity does not mean that natural resources must be exploited excessively for economic gain. Natural resources are a legacy for future generations that must also provide long-term benefits, not only for the current generation but also for future generations. The state has power over forests so that the government can regulate all matters related to forests. This includes determining forest areas, changing the status of forest areas, and regulating the legal relationship between humans and forests. The government is also responsible for regulating all legal acts related to forests.

In Article 23 of Law Number 41 of 1999 concerning Forestry, it is explained that forest utilization is aimed at achieving maximum benefits for the welfare of the community in a fair manner while maintaining forest sustainability. The use and benefits of forest areas should only be for activities in the forestry sector that can be carried out in all areas, except in nature reserve forests and core zones and jungle zones in national parks. However, Article 38 paragraph (3) of Law Number 41 of 1999 concerning Forestry provides opportunities for the utilization of forest areas for development purposes outside the forestry sector, carried out in production forests and protected forests, without changing the main function of the area, through the granting of Forest Area Use Permits (IPPKH) by the Minister of Forestry by taking into account the limitations of area and duration as well as aspects of environmental sustainability.

The editorial of Article 38 paragraph (3) of Law Number 41 of 1999 concerning Forestry has been modified through Law Number 6 of 2023 concerning Amendments to Law Number 11 of 2020 concerning Job Creation, where the Article states that the use of forest areas is carried out by borrowing by the Central Government, taking into account area limitations, certain periods and environmental sustainability. Problems that arise related to the use of space in the forestry sector include the use of forest space without permission and violations of certain forest areas such as protected forests. Article 38 paragraph (4) of the Job Creation Law stipulates that mining using open mining methods is prohibited in protected forest areas. Furthermore, Article 50 paragraph (1) of the Job Creation Law stipulates that every individual who obtains a Business Permit in a forest area is prohibited from carrying out activities that can damage the forest. Meanwhile, in paragraph (2) letter (a), every individual is prohibited from working on, utilizing, and/or occupying forest areas illegally. Unauthorized use of forest areas is an organized activity that takes place in forest areas for plantation and/or mining purposes without a Business License from the Central Government (Haris, 2023).

Forest destruction is mainly caused by mining activities without a permit which has a negative impact on the environment and is very detrimental to human life.

Various problems and damage that arise due to mining activities that are not managed properly result in damage to various environmental elements, including land, water, air, sea, and forests. Mining involves various activities related to the search, extraction (drilling), processing, utilization, and sale of mining materials such as minerals, coal, geothermal energy, gold, oil, nickel, and gas. Mineral mining activities in forest areas can damage existing ecosystems. If not managed properly, mining can cause wider environmental damage such as pollution of water, soil, and air (Ananda, 2022). If mining in a forest area without a permit results in forest damage, it can be said to be a criminal act. Criminal acts in the mineral mining sector in Indonesia, especially in Southeast Sulawesi, have become a well-known problem. Some of these illegal acts include mining without official permits, data manipulation during exploration, exploitation in protected forest areas and limited production forests and reclamation activities after mining.

Many mining operations are carried out illegally without obtaining permits from the government, which of course harms the community and the state. Environmental damage and pollution often occur due to unauthorized mining activities and miners who do not pay attention to the sustainability of nature, so that the state loses potential tax revenue. Illegal mining practices are often found in forest areas without complete permit documents. Based on this background, the author conducted a Normative study in this article entitled: "Juridical Analysis of Criminalization for Perpetrators of Illegal Mining Crimes Resulting in Forest Damage (Decision Number 495 / Pid.Sus / 2022 / PN Kdi)".

The purpose of this study is to analyze illegal mining in forest areas as a criminal act and to explore criminal liability and judges' considerations in imposing criminal penalties on perpetrators of illegal mining that results in forest damage.

METHOD

The method used in this writing is the normative legal method. Philipus M. Hadjon stated that normative legal research aims to find and formulate legal arguments by analyzing the main issues through research based on books and the contents of laws and regulations. In this writing, an analysis of primary and secondary legal sources is carried out by studying laws and other sources such as books, journals, and research results that are relevant to the issue of law enforcement related to illegal mining actions in order to maintain environmental sustainability in Indonesia. By applying the Legislation approach and case approach, the legal materials that have been processed are analyzed descriptively qualitatively by drawing deductive conclusions from general issues to specific problems faced.

RESULTS AND DISCUSSION

Illegal Mining as a Criminal Act

Law No. 41 of 1999 concerning Forestry regulates forest management, where the government gives some power to local governments. In terms of permits, administrative officials are responsible for issuing permits, which are related to the government's duties in providing public services to the community. Before a business permit is issued, there are conditions that must be met, namely an environmental permit. Approval for the use of forest areas is given by the minister based on the application received (Sembiring, 2024). The Decision of the Constitutional Court (MK) Number 18/PUU-XVII/2019 is closely related to the issue of illegal mining because it concerns the testing of the constitutionality of Article 162 of Law Number 4 of 2009 concerning Mineral and Coal Mining (UU Minerba).

1. Protection of Official Permits:

This decision emphasizes that only mining business activities that have official permits can be protected by Article 162. If the activity is illegal (unlicensed), then it is not entitled to legal protection from this article.

2. Potential for Abuse of Article 162

There are concerns that this article could be used to criminalize communities that reject mining activities, including illegal mining that damages the environment or ignores the rights of existing communities.

3. Strengthening Law Enforcement

This decision emphasizes the importance of fair law enforcement against mining activities, including the eradication of illegal mining. Mining activities that do not have official permits are not protected by law, and perpetrators can be subject to sanctions in accordance with statutory regulations.

This decision is an important basis for protecting the environment, community rights, and better mining governance, including in eradicating illegal mining that is detrimental to the state and the community. Regulation of the Minister of Energy and Mineral Resources (Permen ESDM) Number 23 of 2021 concerning the Implementation of Mineral and Coal Mining Business Activities is significantly related to the issue of Illegal Mining (mining without a permit). This regulation is a derivative of Law Number 3 of 2020 which revises Law Number 4 of 2009 concerning Mineral and Coal Mining, and aims to strengthen governance in the mining sector. Important things in PerMen ESDM No. 23/2021, namely only parties who have IUP, People's Mining Permit (IPR), or Special Mining Business Permit (IUPK) can carry out exploration activities, production operations, and utilization of mining products. Activities without official permits are considered *illegal* and can be subject to criminal sanctions as regulated in the Minerba Law.

This PerMen stipulates that communities around mining areas must be involved in granting permits, especially in people's mining areas (IPR). Illegal mining carried out by individuals or groups without permits can be detrimental to the community because it has the potential to damage the environment and does not provide legitimate economic contributions. The articles in this regulation strengthen law enforcement against illegal mining actors, both individuals and companies operating without permits. However, if the use of forest areas for mining activities is carried out without a permit, then it will be a criminal act. Forest Area Borrow-Use Permit (IPPKH) in the mining sector is still an obstacle due to the many complicated stages. The problem that arises is that the entire area in one Mining Business Permit (IUP) will be considered problematic even though only a small part of the IUP area is located in the Forest Area and does not yet have an IPPKH.

Mining activities regulated by legal provisions are stated in Law of the Republic of Indonesia Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, which explains issues related to mining in Article 1 paragraph (1), paragraph (6), and paragraph (19); Paragraph (1) explains that 'Mining is a series of activities that include research, management, and utilization of minerals or coal, including general investigations, exploration, feasibility studies, construction, mining, processing and refining, transportation, and sales, as well as post-mining activities' (Istani, 2022).

The form of misuse of mining business permits that causes forest damage as a criminal act is a category of illegal mining crimes. The action is regulated by Article 158 of Law Number 3 of 2020 concerning Mineral and Coal Mining, and involves mining without a permit in certain areas as regulated in Article 89 paragraph (1) letter a, Jo Article 17 paragraph (1) letter a, Law Number 18 of 2013 concerning Prevention and Eradication of Forest Damage. Illegal Mining or mining without a permit, is defined as a criminal act carried out by individuals, groups, or companies that do not have a permit from the authorities in accordance with applicable regulations, with the threat of punishment for anyone who violates the prohibition due to their

mistakes. Business Licensing is also regulated in this Government Regulation and other related laws and regulations. In addition, Government Regulation Number 24 of 2018 Affirms that the Online Single Submission (OSS) Institution has the authority to issue Business Licensing through the Online Single Submission (OSS) system, determine the implementation policy for Business Licensing through the Online Single Submission (OSS) system, determine the implementation instructions for issuing Business Licensing on the Online Single Submission (OSS) system. Manage and develop the Online Single Submission (OSS) system and Collaborate with other parties in the implementation, management, and development of the Online Single Submission (OSS) system.

Supported by the provisions of Article 152 paragraph 1 and 2 of Government Regulation Number 23 of 2021 concerning Forest Planning, namely that every Forest Utilization activity in Production Forests as referred to in Article 149 must have a Forest Utilization Business Permit from the Minister. Forest Utilization Business Permits in Production Forests are processed through the OSS System in accordance with the provisions of laws and regulations. Therefore, permits, recommendations, or any form given to individuals, groups, or companies by government authorities outside the provisions of applicable law can be considered illegal mining. The affirmation contained in Article 50 of Law Number 41 of 1999 concerning Forestry states that:

- 1) Every individual who is given a business permit in a forest area is prohibited from carrying out activities that can damage the forest;
- 2) Everyone is prohibited from working on, using, and/or occupying forest areas illegally.

In Article 78 of Law Number 41 of 1999 on Forestry, there are provisions regarding criminal sanctions which state that:

- 1) Anyone who intentionally violates the provisions as referred to in Article 50 paragraph (1) or Article 50 paragraph (2), shall be subject to a maximum imprisonment of 10 (ten) years and a maximum fine of Rp. 5,000,000,000.00 (five billion rupiah).
- 2) Anyone who intentionally violates the provisions as referred to in Article 50 paragraph (3) letter a, letter b, or letter c, shall be subject to a maximum imprisonment of 10 (ten) years and a maximum fine of Rp. 5,000,000,000.00 (five billion rupiah).

Article 36 paragraph 1 of Law Number 32 of 2009 concerning Environmental Protection and Management states that every business and/or activity that is required to have an AMDAL or UKL-UPL must have an environmental permit. Article 109 of Law Number 32 of 2009 concerning Environmental Protection and Management explains that "Any person who carries out a business and/or activity without having an environmental permit as referred to in Article 36 paragraph (1), shall be punished with imprisonment of at least 1 (one) year and a maximum of 3 (three) years and a fine of at least IDR 1,000,000,000.00 (one billion rupiah) and a maximum of IDR 3,000,000,000.00 (three billion rupiah)".

In Article 17 paragraph 1 letters a and b of Law Number 18 of 2013 concerning Prevention and Eradication of Forest Damage, it is explained that everyone is prohibited from bringing heavy equipment and/or other equipment that is commonly or reasonably suspected to be used to carry out mining activities and/or transport mining products in forest areas without the Minister's permission and is prohibited from carrying out mining activities in forest areas without the Minister's permission. In Article 89 paragraph 1 of Law Number 18 of 2013 concerning Prevention and Eradication of Forest Damage, it is emphasized that individuals who intentionally:

- a. Carry out mining activities in forest areas without the Minister's permission as referred to in Article 17 paragraph (1) letter b;
- b. Bringing heavy equipment and/or other equipment that is commonly or reasonably suspected of being used to carry out mining activities and/or transport mining products in forest areas without the Minister's permission as referred to in Article 17 paragraph (1)

letter a shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR 1,500,000,000.00 (one billion five hundred million rupiah) and a maximum of IDR 10,000,000,000.00 (ten billion rupiah). Article 158 of Law Number 3 of 2020 concerning Mineral and Coal Mining also emphasizes that anyone who carries out mining without a permit as referred to in Article 35 shall be subject to a maximum imprisonment of 5 (five) years and a maximum fine of IDR 100,000,000.00 (one hundred billion rupiah). From the statement above, it can be concluded that mining without a permit that results in forest damage is a criminal act and has criminal sanctions.

Judge's Considerations in Deciding on Case Decision Number: 495/Pid.Sus/2022/PN Kdi

Related to decision Number 495/Pid.Sus/2022/PN Kdi, the prosecutor filed this case in court with an indictment that was arranged alternatively. An alternative indictment is a form of indictment. In the legal process, alternative indictments are often referred to as charges that "exclude" each other or relative indictments, or can also be referred to as "optional" indictments (keuzetenlastelgging). In the case of alternative indictments, the judge has the authority to immediately choose which indictment is considered most appropriate to the results of the evidence during the trial.

Thus, the use of alternative indictments in decision Number 495/Pid.Sus/2022/PN Kdi has fulfilled the provisions of the Criminal Procedure Code because each existing criminal act excludes each other and has similar characteristics to one another. And based on the evidence presented in the trial, the panel of judges is of the opinion that the first alternative charge is the most appropriate to be applied in this case, namely that the defendant's actions have been proven legally and convincingly to have intentionally directed activities in the forest area to be carried out illegally, which is regulated and threatened with punishment in accordance with Article 78 paragraph (2) Jo.

Article 50 paragraph (3) letter a of Law Number 41 of 1999 concerning Forestry which has been updated in Article 36 number 19 Jo. Article 36 number 17 Article 50 paragraph (2) letter a Law Number 11 of 2020 concerning Job Creation Jo. Article 55 paragraph (1) point 1 of the Criminal Code. The imposition of criminal sanctions is an action that has a very broad impact and deeply touches on human rights. That the authority to impose such sanctions is a very vital power. As seen in the sanctions against perpetrators of illegal mining activities in forest areas imposed by the panel of judges in Decision Number 495/Pid.Sus/2022/PN Kdi as follows.

Facts in the trial The Panel of Judges considered that the first alternative charge was the most appropriate charge to be applied in this case, namely the Defendant's actions as regulated and threatened with Criminal Law in Article 78 paragraph (2) Jo. Article 50 paragraph (3) letter a of the Republic of Indonesia Law Number 41 of 1999 concerning Forestry as amended in Article 36 number 19 Jo. Article 36 number 17 Article 50 paragraph (2) letter a Law Number 11 of 2020 concerning Job Creation Jo. Article 55 paragraph (1) ke-1 of the Criminal Code, which has the following elements:

- a. Element of every person;
 - b. Element of working, using, occupying a forest area illegally;
 - c. Element of the person who does, orders to do or participates in doing the act;
1. Element of Every Person,

As translated in the decision of the Supreme Court of the Republic of Indonesia No. 1398 K/Pid/1994 dated June 30, 1995 as a word that is congruent (same and similar) with the terminology of the word "whoever". The word every person here is every person or individual who is a legal subject who commits a criminal act or a subject of the perpetrator of a criminal act who can be held accountable for all his actions, that in essence the proof of the element of

every person is something that is very urgent as an anticipatory step to avoid "wrong person" or error in persona, therefore the Panel of Judges is of the opinion that there is no error of the person or legal subject in this case, so that the element of "every person" has been fulfilled, so that the Defendant is the perpetrator of the criminal act in the a quo case;

2. Element of Working, Using, Occupying Forest Areas Illegally;

That definitively, based on the provisions of Law No. 41 of 1999 concerning Forestry, Law No. 18 of 2013 concerning Prevention and Eradication of Forest Destruction or Law No. 11 of 2020 concerning Job Creation does not explain the meaning of Working on and or using. That the Forest Area Borrow-Use Permit (IPPKH) issued by the Minister as mandated by Law 41 of 1999 concerning Forestry Article 38 paragraph (3) which states "The use of forest areas for mining purposes is carried out through the granting of a borrow-use permit by the Minister by considering certain area and time limits and environmental sustainability.

Considering, that by examining the text of the Article, then connect the facts in the trial where the Defendant as Director of PT. Bahari Mineral Nusantara (PT.BMN) has carried out mining business activities or collected mining results in the form of nickel ore by acting as a Trader looking for nickel ore, to be sold to Mr. Marshal with the intention of paying the Defendant's debt of IDR. 1,300,000,000.00 (one billion three hundred million rupiah) to Mr. Marshal; That the Defendant has ordered and instructed his employees, namely Witness YUYUN and also ordered Witness IMRAN, the operator of the HITACHI brand excavator, Type ZAXIS 210 LC, Orange, to enter the mining area where the pile of nickel ore was located which had been carried out by PSI in May 2022 to carry out the launch and sampling of nickel ore where the nickel ore will later be transported to the Jetty PT.

Cinta Jaya where the barge is located to meet Mr. Marshal's nickel ore which is still around 2,000 MT; That the launching and sampling of nickel ore carried out by Witness IMRAN alias IMRAN Bin M. JAFAR has been carried out since Tuesday, August 9, 2022 and the presence of the HITACHI brand excavator, Type ZAXIS 210 LC Orange, at the location of the pile of nickel ore that has been PSI is on the orders of the Defendant because the existing LIUGONG brand excavator is damaged or has Low Power; That by the Joint Operations Officer from BPPHKLH Sulawesi Region who conducted security and law enforcement operations in the forest area on Thursday, August 11, 2022 at around 12.00 WITA, they managed to find heavy equipment in the form of 1 (one) HITACHI brand excavator Type ZAXIS 210 LC Orange, the Defendant's company operational car in the form of 1 (one) Black Hilux car with police number B 9971 KBA and 7 (seven) piles of nickel ore in the Mandiodo area, Molawe District, North Konawe Regency, located in the Limited Production Forest area in the Lasolo Forest Complex;

That from the description of the legal facts above, it is clear that the Defendant was aware of and intended to carry out mining activities or at least to collect mining results in the form of soil containing nickel ore. Considering, that thus the Defendant's actions may not be carried out before having permission from the relevant Minister, therefore, the Panel of Judges is of the opinion that this second element has been fulfilled;

3. Elements that do, order to do or participate in doing the act;

That because this element is arranged alternatively, namely the person who does, the person who orders to do and the person who participates in doing the act, so that if one of the alternatives has been fulfilled then this element is considered fulfilled, Then that in the explanation of Article 55 of the Criminal Code that in a criminal event, either a crime or a violation, those who are punished as the person who does it are the person who does it (pleger), the person who orders to do it (doen pleger), the person who participates in doing it (mede pleger), and the person who by giving, using power, intentionally persuades to do it (uit locker); Considering, that in the main elements that mark a medepleger, there are several requirements

that must accompany it, namely, The act is carried out by 2 (two) or more people, There is physical cooperation,

There is awareness when carrying out cooperation. Considering, that from the facts in the trial, it was revealed that the Defendant's actions were carried out together with Witness Imran Alias Imran Bin M. Jafar.S and Witness Yuyun Bin Nasrul Zulkarnain, based on the description above, it appears that the Defendant has consciously cooperated without any pressure from other parties so that the Defendant is the person who committed the act, thus this element is also fulfilled. The Panel of Judges is of the opinion that the Defendant has been proven legally and convincingly guilty of committing a crime as in the first indictment of the Public Prosecutor and therefore must be found guilty of "Participating in Working on, using, occupying a forest area illegally.

Considering, that the Defendant will be sentenced to imprisonment, then the length of detention will be deducted in full from the sentence imposed. Considering, that regarding the evidence in this case in the form of: - 1 (one) HITACHI Excavator Type ZAXIS 210 LC Orange, 1 (one) HITACHI Excavator ignition key Type ZAXIS 210 LC, 1 (one) HILUX brand car in black with plate number B 9971 KBA, 1 (one) Hilux car ignition key in black - 3 (three) fuel jerry cans, 1 (one) sack of Nickel Ore samples 1 (one) copy of PSI Geo Gea Laboratory Report No. PSI Work. 22040, dated May 18, 2022, 1 (one) sheet of proof of Transfer with the Livin by Mandiri application dated May 20, 2022 Recipient Geo Gea Laboratory Account Source FAKHRI Bank Mandiri Total Transaction Rp.18,000,000.00, 1 (one) Bag of Nickel Laterite Soil, 1 (one) Plastic Bag of Nickel Limonite Rock, Aggravating circumstances and mitigating circumstances for the Defendant: Aggravating circumstances: - The Defendant's actions can cause environmental damage; Mitigating circumstances: - The Defendant is polite during the trial; - The Defendant has family responsibilities; Considering Article 78 paragraph (2) Jo. Article 50 paragraph (3) letter a of the Republic of Indonesia Law Number 41 of 1999 concerning Forestry as amended in Article 36 number 19 Jo. Article 36 number 17 Article 50 paragraph (2) letter a Law Number 11 of 2020 concerning Job Creation in conjunction with Article 55 paragraph (1) point 1 of the Criminal Code and other relevant provisions.

CONCLUSION

Illegal mining is considered a criminal act because it causes damage to forests. According to Law Number 41 of 1999 concerning Forestry, the use of forest areas for mining purposes is carried out through the granting of Forest Area Use Permits (IPPKH) by the Minister. This is done by taking into consideration certain area and time limits and maintaining environmental sustainability. Illegal mining is considered a criminal act because it causes damage to forests. It turns out that the issue of mining without a permit in forest areas is not only regulated in the Forestry Law, but is regulated in Law Number 32 of 2009 concerning Environmental Protection and Management, Law Number 18 of 2013 concerning Prevention and Eradication of Forest Damage, and Law Number 11 of 2020 concerning Job Creation can be said to be a simplification of Forestry regulations where in Law Number 41 of 1999 concerning Forestry the use of Forest Areas without a permit is categorized as a criminal act, However, the Job Creation Law provides the option to take care of permits through an Administrative settlement mechanism. The imposition of criminal punishment will be carried out in the event that compliance is not achieved. Regarding Electronically Integrated Business Licensing Services (OSS), which is supported by Government rule No. 24 of 2018, this rule is in place. It is necessary for the OSS Institution to be responsible for carrying out the implementation of the authority to issue business licenses, as well as the issuance of other papers that are associated with business licenses.

However, in Decision Number: 495 / Pid.Sus / 2022 / PN.Kdi, the judge held that the defendant had been legally and convincingly established to have violated Article 78 paragraph

(2) Jo. This was the conclusion reached after taking into account all of the relevant factors. Article 50 paragraph (3) letter an of Law Number 41 of 1999 concerned Forestry as amended in Article 36 number 19 Jo. Article 36 number 17 Article 50 paragraph (2) letter a Law Number 11 of 2020 about Job Creation Jo. Article 55 paragraph (1) ke-1 of the Criminal Code. Due to the fact that the defendant was found to be legally and convincingly guilty of committing the crime of "Participating in working on, using, and occupying a forest area illegally," the legal consequences that were imposed on the violation were to impose a criminal sentence on the defendant. This sentence included a prison sentence of six months and a fine of Rp. 500,000,000.00 (five hundred million rupiah). Additionally, there was a provision that stated that if the fine was not paid, it would be subject to a prison sentence of two months.

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