

JURIDICAL ANALYSIS OF THE CRIMINAL OFFENSE OF HAZARDOUS AND TOXIC WASTE (B3) MANAGEMENT WITHOUT A PERMIT BY CV. JULIANA: A STUDY OF DECISION NUMBER 538/PID.SUS/2017/PN MDN

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Abstract

This study aims to juridically analyze the elements of the criminal offense of unauthorized hazardous and toxic waste (B3 waste) management committed by CV. Juliana, to examine the judges' legal considerations in imposing criminal sanctions, to assess the implementation of the principle of proportionality in sentencing, and to identify juridical obstacles in the application of environmental criminal law based on Decision Number 538/Pid.Sus/2017/PN.Mdn. The results of the study indicate that the elements of the criminal offense of unauthorized B3 waste management in the a quo case were lawfully and convincingly fulfilled, and that CV. Juliana, as a business entity, could be held criminally liable. The judges' considerations in imposing criminal sanctions took into account aspects of evidentiary assessment, the principle of legality, the precautionary principle, and environmental protection as a public interest. The application of the principle of proportionality in sentencing is reflected in the imposition of sanctions commensurate with the degree of culpability and the potential environmental impact, in line with environmental sentencing theory. Nevertheless, juridical obstacles remain in the enforcement of environmental criminal law, particularly with regard to technical evidentiary issues, corporate criminal liability, and inter-agency coordination, which require strategic efforts to enhance the effectiveness of environmental law enforcement.

Keywords: *Hazardous and Toxic Waste (B3 Waste); Unauthorized Management; Environmental Criminal Law*

1. INTRODUCTION

Hazardous and toxic waste (B3), as defined in Article 1 point 21 of Law on Environmental Protection and Management (UUPPLH), is “the residue of a business and/or activity containing hazardous and toxic substances which, due to their nature and/or concentration and/or quantity, either directly or indirectly, may pollute and/or damage the environment, and/or endanger the environment, health, as well as the survival of humans and

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other living beings.” This definition indicates that B3 waste possesses specific characteristics that distinguish it from non-B3 waste, thereby requiring special handling and management.

The management of B3 waste that does not comply with statutory regulations may cause very serious negative impacts on the environment and public health. These impacts include groundwater pollution, air pollution, ecosystem damage, public health disturbances, and may even result in death. Therefore, B3 waste management must be carried out in accordance with strict procedures and must obtain permits from the competent authorities.

Government Regulation Number 101 of 2014 concerning the Management of Hazardous and Toxic Waste, as an implementing regulation of the UUPPLH, regulates in detail the procedures for managing B3 waste. This regulation classifies B3 waste based on its characteristics, namely explosive, oxidizing, highly flammable, flammable, toxic, infectious, corrosive, and reactive.

One case that is particularly interesting to examine in depth is Decision Number 538/Pid.Sus/2017/PN.Mdn, which adjudicated a criminal case concerning the management of B3 waste without a permit committed by CV. Juliana. This case is significant because it illustrates the complexity of B3 waste management issues at the level of small and medium enterprises, and provides an overview of how law enforcement officers and judges apply environmental criminal law provisions in judicial practice.

2. METHODOLOGY

This research is a normative legal study conducted at the Medan District Court, with the object of analysis being Decision Number 538/Pid.Sus/2017/PN.Mdn concerning the criminal offense of managing hazardous and toxic waste (B3) without a permit by CV. Juliana. The study employs statutory and conceptual approaches with a descriptive-analytical character. It is based on library research data consisting of primary, secondary, and tertiary legal materials, particularly Law Number 32 of 2009 concerning Environmental Protection and Management and Government Regulation Number 101 of 2014 concerning the Management of Hazardous and Toxic Waste. Data were collected through documentation and literature studies, and subsequently analyzed qualitatively using various methods of legal interpretation in order to examine the principles, systematic structure, and synchronization of applicable legal provisions governing the management of B3 waste without a permit.

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3. RESULTS / CASE STUDY

In Decision Number 538/Pid.Sus/2017/PN.Mdn, the judges declared that CV. Juliana was proven guilty of managing hazardous and toxic waste (B3 waste) without a permit. The facts revealed during the trial showed that the defendant carried out activities involving the collection and storage of B3 waste. These activities were conducted without obtaining a permit from the competent authority. The judges considered that such actions had the potential to cause environmental pollution and damage. Therefore, the defendant's conduct was deemed to fulfill the elements of an environmental criminal offense.

According to environmental law doctrine, B3 waste is waste that, due to its nature and concentration, may endanger the environment. The management of B3 waste must be carried out strictly through a licensing mechanism. Licensing functions as an instrument of control and prevention of environmental pollution. Without a permit, the management of B3 waste is considered an unlawful act. Consequently, violations of licensing obligations carry criminal consequences.

In this case, the judges elaborated that the waste managed by CV. Juliana fell within the category of B3 waste. This was proven through expert witness testimony and laboratory test results. The waste contained hazardous substances capable of contaminating soil and water. CV. Juliana was unable to present any official documentation authorizing the management of B3 waste. Accordingly, the objective element of the criminal offense was fulfilled.

In Decision Number 538/Pid.Sus/2017/PN.Mdn, the judges set out their legal considerations before imposing criminal sanctions on CV. Juliana. The court first assessed whether the elements of the offense had been satisfied based on legally valid evidence. These considerations were structured systematically and logically. The judges correlated the facts established at trial with the provisions of Law Number 32 of 2009 concerning Environmental Protection and Management. Such reasoning formed the legal basis for the imposition of punishment.

Judicial reasoning constitutes the core of a criminal judgment, as it reflects the concrete application of the law. In environmental criminal law, judicial considerations must take into account the specific characteristics of environmental offenses. Environmental crimes

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are often technical and complex in nature. Therefore, judges are required to exercise heightened caution. Comprehensive reasoning ensures the fairness of the decision.

In this case, the judges based their conviction on legally recognized evidence in accordance with the Criminal Procedure Code (KUHAP). The evidence included witness testimony, expert testimony, documentary evidence, and physical evidence. The judges assessed that the evidence was mutually corroborative and found no contradictions that would weaken the proof. Thus, the evidentiary aspect was considered to have been fulfilled.

4. DISCUSSION

This section analyzes the fulfillment of the elements of the criminal offense of managing hazardous and toxic waste (B3 waste) without a permit by CV. Juliana, as decided in Decision Number 538/Pid.Sus/2017/PN.Mdn. Based on the facts revealed during the trial, it was proven that CV. Juliana carried out activities involving the collection and storage of B3 waste without obtaining a permit from the competent authority. The waste was categorized as B3 waste based on expert testimony and laboratory test results, thereby fulfilling the objective element of the criminal offense. The licensing provisions under Law Number 32 of 2009 are regarded as preventive instruments against environmental pollution; thus, violation of licensing obligations is considered an unlawful act.

The judges interpreted the element of “every person” as encompassing business entities in the form of a limited partnership (CV), thereby enabling CV. Juliana to be held criminally liable as a corporation. Such liability is based on the recognition of corporations as subjects of criminal law in environmental law, through the application of corporate criminal liability theory. The element of “without a permit” was established through testimony from the environmental authority confirming that the defendant had never obtained a permit for B3 waste management. The defendant’s conduct was also classified as a formal offense (*delik formil*), since environmental criminal law emphasizes the violation of administrative obligations without requiring proof of actual environmental damage, in line with the precautionary principle.

The panel of judges concluded that all elements of Article 102 of Law Number 32 of 2009 had been legally and convincingly fulfilled, without the presence of any justifying or excusing grounds. The management of B3 waste was conducted continuously and had the

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potential to cause pollution and endanger the public, thereby fulfilling the elements of fault and unlawfulness. This decision underscores the role of environmental criminal law as an instrument for protecting public interests and preventing environmental violations, while reflecting the judiciary's commitment to ensuring environmental sustainability and justice.

The judges' legal reasoning in imposing criminal sanctions on CV. Juliana, as stated in Decision Number 538/Pid.Sus/2017/PN.Mdn, was first grounded on the fulfillment of the elements of the offense proven through legally valid evidence in accordance with the Criminal Procedure Code (KUHAP), including witness testimony, environmental expert testimony, documentary evidence, and physical evidence. These considerations were arranged systematically, rationally, and in conformity with Law Number 32 of 2009, thereby meeting the standard of judicial conviction as stipulated in Article 183 of the Criminal Procedure Code.

In determining the sentence, the judges assessed the fault of CV. Juliana as a business entity that failed to comply with licensing obligations for B3 waste management, taking into account the specific characteristics of environmental criminal law, which emphasize the precautionary principle and a risk-based approach. The judges also considered the potential environmental harm, even though no actual damage had yet occurred, consistent with the precautionary principle and the concept of formal offenses in environmental law. The status of CV. Juliana as a corporation required a higher standard of legal compliance, rendering corporate criminal liability appropriate and justified.

In addition to proportionally weighing aggravating and mitigating factors, the judges linked the sentencing to the objective of environmental protection as a public interest and to the goal of deterrence against similar violations. The decision balanced justice, legal certainty, and utility, while affirming that a healthy environment constitutes a human right that must be protected through criminal law enforcement. Accordingly, the judicial considerations in imposing criminal sanctions on CV. Juliana may be regarded as appropriate, proportional, and legally valid.

The application of the principle of proportionality in sentencing in Decision Number 538/Pid.Sus/2017/PN.Mdn demonstrates that the judges did not impose the maximum penalty provided under Law Number 32 of 2009. Instead, the sanctions were adjusted to the degree of fault, the character of the offender as a business entity, and the potential environmental impact

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of the act. This consideration indicates that the sentencing was proportionate and not excessive, in line with modern sentencing principles that require a balance between the offense and the punishment.

From the perspective of environmental sentencing theory, the judges emphasized the potential environmental risk even in the absence of permanent damage, consistent with the precautionary principle and risk-based approach. The judges also considered the capacity and scale of CV. Juliana's business so that the imposed sanctions would not be destructive to business continuity, yet would remain sufficiently severe to encourage legal compliance. The sentencing was therefore not solely retributive in nature, but also preventive and corrective, aimed at preventing the recurrence of similar violations by the offender and other business actors.

The implementation of the proportionality principle in this decision contributes to the effectiveness of environmental criminal law enforcement by maintaining a balance between justice, legal certainty, and societal benefit. The imposed sanctions were not merely symbolic, possessed deterrent value, and have the potential to serve as precedent in similar environmental cases. By positioning environmental protection as a public interest and an integral part of sustainable development objectives, this decision demonstrates that the application of proportional sentencing principles can support effective, consistent, and equitable environmental law enforcement.

5. CONCLUSION

Based on the foregoing discussion, it can be concluded that the elements of the criminal offense of managing hazardous and toxic waste (B3 waste) without a permit committed by CV. Juliana, as adjudicated in Decision Number 538/Pid.Sus/2017/PN.Mdn, were legally and convincingly fulfilled. The judges appropriately applied Article 102 of Law Number 32 of 2009 concerning Environmental Protection and Management by establishing the elements of the legal subject, the object in the form of B3 waste, the act of management, and the absence of a permit from the competent authority. CV. Juliana, as a business entity, was deemed capable of bearing criminal responsibility for actions carried out within the scope of its business activities. Thus, the application of substantive criminal law in this case was consistent with statutory provisions and the doctrine of environmental criminal law.

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The judges' legal reasoning in imposing criminal sanctions on CV. Juliana was conducted comprehensively, taking into account evidentiary aspects and the fundamental principles of environmental criminal law. The decision was based on legally valid evidence in accordance with the Criminal Procedure Code (KUHP), including witness testimony and environmental expert testimony, thereby establishing judicial conviction regarding the defendant's guilt. Furthermore, the judges applied the principles of legality, fault, precaution, and environmental protection as a public interest. Aggravating and mitigating circumstances were also assessed in a balanced manner, ensuring that the judgment is legally accountable.

The implementation of the principle of proportionality in sentencing in Decision Number 538/Pid.Sus/2017/PN.Mdn demonstrates that the judges adjusted the criminal sanctions to the degree of fault, the potential environmental impact, and the characteristics of the business actor. The sentence was not imposed at the maximum level, yet it was sufficiently substantial to create a deterrent effect and promote compliance with environmental law. This approach aligns with environmental sentencing theory, which emphasizes a balance between repressive, preventive, and educational objectives. Accordingly, the proportional sentencing in this case contributes to the effectiveness of environmental criminal law enforcement.

Jurisdictional challenges in the application of environmental criminal law to offenses involving the management of B3 waste without a permit include the complexity of technical evidence, the limited availability of environmental experts, difficulties in establishing corporate criminal liability, weak inter-agency coordination, and limitations in technical regulations. These obstacles have the potential to hinder the effectiveness of environmental criminal law enforcement. Nevertheless, through strategic efforts such as enhancing the capacity of law enforcement officials, strengthening the role of experts, fostering inter-agency synergy, and updating environmental regulations, these challenges may be addressed. Decision Number 538/Pid.Sus/2017/PN.Mdn provides both an evaluative and prospective perspective for strengthening environmental criminal law enforcement in Indonesia.

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