

Legal Analysis of The Judge's Decision on The Implementation of Article 93

Paragraph 1 Based on Law No. 45 of 2009 Concerning Fisheries

(Decision Study No. 317/Pid.Sus5/2013/PN. RHL)

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Abstract.

This study aims to analyze the application of Article 93 paragraph (1) of Law No. 45 of 2009 concerning Fisheries in Decision No. 317/Pid.Sus/2013/PN.RHL. The focus of the study is on proving the elements of the crime, the suitability of the evidence used, and the judge's legal considerations in issuing the decision. The method used is normative legal research with a statutory approach and a case approach. The results of the study indicate that all elements of the crime regulated in Article 93 paragraph (1) have been fulfilled through valid evidence based on Article 184 of the Criminal Procedure Code. The judge in this case is considered to have applied the provisions of the article appropriately, both in terms of evidence and legal considerations. However, the decision still has weaknesses in terms of strengthening ecological aspects and deterrent effects on perpetrators of fisheries crimes. Therefore, a more comprehensive legal approach is needed that not only provides criminal sanctions, but also considers environmental losses and the need for sustainable protection of marine resources.

Keywords: Legal Analysis; Court Decisions; Illegal Fishing and Proving the Elements of the Crime.

I. INTRODUCTION

Indonesia is an archipelagic country with a very large sea area and has abundant potential fish resources.[1] As a maritime nation, the fisheries sector plays a strategic role in national economic development, including providing employment, increasing foreign exchange, and meeting the community's protein needs.[2] However, this potential is often threatened by various illegal practices, such as illegal fishing, the use of prohibited fishing gear, and overexploitation by irresponsible parties. One of the most frequent forms of violations is operating a fishing vessel without a Fishing Permit (SIPI) or Fish Transporting Vessel Permit (SIKPI).[3] In fact, this permit is an important instrument in sustainable fisheries management, because it is the basis for the government to control the number of vessels, operational areas, and types of fishing permitted.[4] Non-compliance with licensing regulations not only harms the country economically, but also threatens the sustainability of marine resources. To prevent and prosecute such violations, the government has regulated criminal provisions through Law No. 45 of 2009 concerning Fisheries, specifically Article 93 paragraph (1) which provides criminal sanctions for anyone who operates a fishing or fishing vessel without a permit. This provision not only functions as a law enforcement tool, but also aims to maintain the sustainability of the marine ecosystem.[5]. Decision No. 317/Pid.Sus/2013/PN.RHL is a concrete example of the application of this article in judicial practice. This case is important to study because it illustrates how judges assess the elements of a crime, interpret licensing provisions, and consider evidence in issuing a verdict.[6].

Through analysis of the decision, it can be seen whether law enforcement in the fisheries sector has been effective and consistent with the objectives of the law's formation. This research is relevant because proper law enforcement is needed to provide a deterrent effect for perpetrators, maintain the sustainability of fish resources, and support sustainable fisheries governance.[7]. Furthermore, this study can provide input for policymakers, law enforcement officials, and academics in understanding the implementation of fisheries law in Indonesia. Management of fishery resources in Indonesia is strictly regulated to achieve the greatest possible benefit for the welfare of the people, as mandated by Article 33 paragraph (3) of the 1945 Constitution and Article 2 of Law No. 45 of 2009 concerning Amendments to Law No. 31 of 2004 concerning Fisheries.[8]. Illegal fishing, including fishing without a permit, causes state economic losses

reaching billions of rupiah and damages marine ecosystems, thus requiring strict law enforcement through criminal provisions such as Article 93 paragraph (1). Decision No. 317/Pid.Sus/2013/PN.RHL The Rokan Hilir District Court sentenced the defendant Nelson Panjaitan bin Manokkon Panjaitan for the crime of fishing without a valid Fisheries Business Permit (SIUP) in the fisheries management area of the Republic of Indonesia. This case reflects the application of the principles of legal certainty, justice, and sustainability of fish resources, where permits such as SIUP are mandatory to prevent over-exploitation.[9].

II. METHODS

This research uses a normative juridical approach that examines law as applicable norms, rules and values, with a focus on analyzing judges' decisions regarding the application of Article 93 paragraph (1) of Law No. 45 of 2009. The type of research is descriptive-qualitative through library research, which explores primary legal materials such as laws, court decisions and implementing regulations.[10].The primary approach includes a statute approach to analyze the hierarchy of fisheries legal norms, as well as a case approach centered on Decision No. 317/Pid.Sus/2013/PN.RHL. Primary legal materials consist of Law No. 45 of 2009 and related decisions, while secondary materials include books, journals, and fisheries criminal law doctrine.The analysis was conducted qualitatively and descriptively using a deductive method, namely outlining the case facts, legal norms, and legal implications to assess the consistency of the application of the articles. Data sources were collected from the Supreme Court Decisions Directory, academic repositories, and official government websites.[11]This approach ensures objectivity and relevance to the issue of legal certainty in the fisheries sector.[12].

III. RESULT AND DISCUSSION

Based on Decision No. 317/Pid.Sus/2013/PN.RHL, defendant Nelson Panjaitan was legally and convincingly proven to have committed a fisheries crime by operating an Indonesian-flagged fishing vessel without a valid Fishing Permit (SIPI) in the fisheries management area of the Republic of Indonesia. The trial facts show that the KM. Panbers vessel captained by the defendant operated with SIUP and SIPI documents whose validity period had expired since February 10, 2013, even though the fishing was carried out in May 2013.[13]Testimony from witnesses and fisheries supervisory experts confirms that a SIPI is a mandatory document that must be owned and presented as formal proof during fishing operations. Ownership of a SIPI is vested in the vessel operator, not the vessel itself. Therefore, the absence of a SIPI during operations is tantamount to the vessel operating without official permission.The panel of judges sentenced the defendant to six months in prison and a fine of Rp 50 million, with the condition that if the fine is not paid, a one-month prison sentence will be imposed.

This decision took into account the fact that the defendant had admitted his actions, promised not to repeat the offense, and that the vessel's documents were being renewed at the time of his arrest. The decision also reduced the pre-sentence period and ordered that the vessel and its equipment be returned to the owner.From a legal perspective, the application of Article 93 paragraph (1) of Law No. 45 of 2009 in this decision demonstrates the principle of firm law enforcement against violations of fisheries administration, while also taking into account objective conditions such as the document extension process by the defendant.[14]This demonstrates the judge's balancing of marine resource protection with justice for fisheries business actors. Furthermore, the consideration of returning crucial evidence as business capital further supports the restorative function of law in establishing the economic sustainability of fishermen. This ruling sets an important precedent for applying criminal sanctions for violations of fisheries business permits without ignoring the defendant's social and economic context.[15].

Analysis of Evidence of Criminal Act Elements

The judge considered the elements of the crime in Article 93 of the Fisheries Law and assessed the evidence as follows:

1. The “Everyone” Element

This element was met because the defendant was an individual legal subject who actually operated the vessel. The judge confirmed the defendant's identity based on the examination at trial.

2. Elements of "Operating a Fishing Vessel"

The court record shows that the vessel the defendant was carrying was found engaged in fishing/transportation activities. Fisheries supervisory witnesses provided consistent testimony regarding the vessel's activities.

3. Elements of "In the Fisheries Management Area of the Republic of Indonesia"

The judge examined the location of the arrest which was still within Indonesian jurisdiction based on the arrest report and location map.

4. The element "Does not have a SIUP and SIPI"

This is the core element. The defendant could not show permission:

- SIUP → mandatory for fisheries businesses,
- SIPI → mandatory for fishing activities. Both were declared not to be owned by the defendant, based on the examination of files and statements from fisheries supervisory witnesses. Because there was no permit at all, this element was deemed to be perfectly proven.

- Thus, all elements of the crime have been proven.

Judge's Legal Considerations

From the decision, several important points of consideration for the judge are:

- The defendant's actions caused state losses and damaged the management of fish resources..The judge assessed that unlicensed vessels have the potential to overfish and undermine government control over the size of the fishing fleet.
- There is an element of intent (dolus)because the defendant knew that the ship had to have a permit but continued to operate without taking care of it.
- The evidence is mutually reinforcing., especially the statements of field witnesses and administrative documents which show the absence of a permit, so that there is no doubt in the judge declaring it proven.

If the elements of the crime are fulfilled, the judge will impose a sentence in accordance with the provisions of Article 93 of Law 45/2009.[16][17].

IV. CONCLUSION

Based on the results of the legal analysis of Decision No. 317/Pid.Sus/2013/PN.RHL regarding the application of Article 93 paragraph (1) of Law Number 45 of 2009 concerning Fisheries, the following conclusions can be drawn:

1. The Implementation of Article 93 Paragraph (1) is in Accordance with the Elements of the Crime
The judge in this decision has applied Article 93 paragraph (1) of the Fisheries Law correctly because all elements of the crime—especially the element of “carrying out fish without a fisheries business permit”—have been legally and convincingly proven based on the facts of the trial. Evidence in the form of ship documents, witness statements, and evidence shows that the defendant was operating without a valid permit. The judge should have been more progressive by including the aspect of ecological loss and imposing additional fines or restitution obligations that reflect the value of the damage.

2. Judge's Legal Considerations

Demonstrating a Balance Between the Principles of Legal Certainty and Justice: Judges base their decisions not only on formal legality but also consider the impact of illegal fishing activities on the fisheries ecosystem and the losses to the state. The ruling reflects efforts to maintain the sustainability of marine resources and provide a deterrent effect to perpetrators of illegal fishing.Ships with a size of ≥ 5 GT (Gross Tonnage) This is the main category of ships that are required to have a permit and can be punished if they do not have a SIPI (Fishing Permit) or SIUP. Small fishermen are NOT subject to Article 93 paragraph (1) because ships < 5 GT are NOT subject to SIPI/SIKPI obligations.

3. The sanctions imposed are proportional

The punishment imposed is in accordance with the criminal provisions in Article 93 paragraph (1), namely imprisonment and/or a fine. The judge imposed a sanction that was considered proportional by taking into account the aggravating circumstances (actions detrimental to national fisheries resources) and

mitigating circumstances (the defendant's cooperative attitude). This demonstrates the application of the principle of proportionality in fisheries criminal law.

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